



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 18 – CRIMINAL LITIGATION\*

**Time allowed: 3 hours plus 15 minutes' reading time**

#### **Instructions to Candidates**

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Criminal Justice and Sentencing, 6th edition, Nicola Padfield, Oxford University Press, 2016.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

#### **Information for Candidates**

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

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## Question 1

Reference: Question relates to **CASE ONE – RAMON DELAP** of the case study materials.

(a) Explain the steps you will take to protect the interests of your client.

**(6 marks)**

When you are in a position to take instructions, Ramon Delap informs you that he had nothing to do with these incidents. He is not sure whether he could produce an actual alibi in relation to any of them, since although he spent a number of days away from Luton over the period when the offences were committed, he does not have his diary with him and cannot remember the precise dates.

He spent time visiting several friends, and is confident that they will confirm this, but cannot be certain. He does accept that he made unjustified complaints to two banks, and explains that at the time he was suffering from paranoid delusions. He states that these are now controlled by medication, which he is taking regularly. The police now wish to interview him.

(b) Advise Ramon Delap of his options in relation to the forthcoming interview and how you would advise him to proceed.

**(7 marks)**

Eventually, the police decide that they have sufficient information and evidence to charge. Ramon Delap appears in the magistrates' court and in due course the case is allocated to that court. Eventually, Ramon Delap pleads guilty to the charges.

There is a psychiatric report before the court, which indicates that while Ramon Delap does fully understand that he has committed criminal offences and that what he has done was wrong, he would nevertheless benefit from a disposal that would enable him to continue to receive appropriate medical treatment and psychiatric support.

(c) Explain the sentencing options available to the court, indicating which you would consider to be appropriate in your plea of mitigation.

**(7 marks)**

**(Total: 20 marks)**

**Turn over**

## Question 2

Reference: Question relates to **CASE TWO – JAMES SWIFT** of the case study materials

- (a) Explain the procedure and criteria for securing a representation order for James Swift.

**(5 marks)**

The case is adjourned for seven days. James Swift is re-bailed with a condition of residence and a curfew. Three days later, you are notified that James Swift has been arrested for breach of his curfew and will be presented to the court the following morning. James Swift advises you that he was visiting his mother, who is seriously ill in hospital, and missed the bus that would have got him home before his curfew time.

- (b) Explain the procedures for dealing with the situation that has arisen, the powers of the court, and the nature of any representations you will make.

**(8 marks)**

The plea before venue and allocation hearing eventually takes place. David Lee pleads guilty to all charges and is committed for sentence at the Crown Court. James Swift maintains his plea of not guilty and his case is allocated to the Crown Court for trial.

- (c) Explain the procedures that will take place from the conclusion of the allocation hearing until immediately before the arraignment in the Crown Court.

**(5 marks)**

You are preparing the case for trial in the Crown Court. You receive an email from an executive at the casino in Las Vegas confirming that a James Swift did win \$50,000 by way of a slot machine jackpot.

- (d) Identify the evidential issues in the case and how the defence should address them.

**(12 marks)**

**(Total: 30 marks)**

### Question 3

Reference: Question relates to **CASE THREE – GEMMA JONES** of the case study materials

- (a) Explain the procedure for allocation in this case, including the role of the prosecution, defence and court respectively, the criteria that will be applied, and what options should influence the exercise of any discretion which Gemma Jones may have.

**(12 marks)**

In the event, the case is allocated to the magistrates' court. Gemma Jones telephones you to say that her grandmother, the complainant, now wishes to make a statement confirming that she gave the bracelet to Gemma of her own free will. She asks whether you can interview the grandmother and take a statement from her.

- (b) Explain how you will respond to this request.

**(6 marks)**

Gemma Jones is convicted after a trial. From the reasons given by the magistrates for their decision, you conclude that they have misunderstood and misapplied the relevant authorities on dishonesty and appropriation in cases of this kind.

- (c) Explain the procedures and the grounds for appeal.

**(8 marks)**

**(Total: 26 marks)**

**Turn over**

#### **Question 4**

Reference: Question relates to **CASE FOUR – ENDA BRIGGS** of the case study materials

- (a) Explain in which courts this case may be heard and the criteria on which the allocation decision will be made.

**(8 marks)**

Enda instructs you that he accepts that he was present on the occasion of the thefts, although he denies being a ringleader, or indeed playing any leading role. He denies involvement in the robbery in the sense that he was unaware of the possibility of a weapon being used. He asks you whether it is possible for the matters to be disposed of on this basis.

- (b) Explain the procedures which could be used to resolve the case on this basis.

**(8 marks)**

The result is that Enda admits four counts of theft from the person, it being accepted that he was entirely unaware of the possibility of a weapon being used and that he was not a ringleader. A pre-sentence report has been produced and is largely positive. It indicates that Enda accepts that he was going through an antisocial phase at the time of the offences, and that he regrets this, and shows sincere remorse for his involvement in these offences.

The report confirms that he is well settled in his new foster placement and is doing extremely well at school. The Youth Offending Team acknowledges the seriousness of the offences, but indicates that a number of interventions are available as requirements of a Youth Rehabilitation Order.

- (c) Outline the matters that you would include in the plea in mitigation having regard to the disposals which the court is likely to consider.

**(8 marks)**

**(Total: 24 marks)**

**End of Examination Paper**

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