

## 2022 UNIT SPECIFICATION

	(Unit 18) Criminal Litigation
Level:	6
Credit Value:	15

Learning outcomes	Assessment criteria	Knowledge, understanding and skills
The learner will:	The learner can:	
<b>1. Understand the overall structure of the courts with criminal jurisdiction</b>	<b>1.1</b> Describe the jurisdiction of the courts	<b>1.1</b> <ul style="list-style-type: none"> <li>(a) Magistrates Court (including Youth Court), ie, initial appearance (bail and legal representation), sending cases to the Crown Court, plea before venue and allocation, summary trial and sentencing;</li> <li>(b) Crown Court, ie, proceedings relating to trial on indictment, appeals from the Magistrates Court;</li> <li>(c) Administrative Court, ie, judicial review of interim decisions, appeal by way of case stated;</li> </ul>

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	<p><b>1.2</b> Explain the processes for appeal and the circumstances where each is appropriate</p>	<p>(d) Court of Appeal, ie, appeal by defendant against conviction or sentence, Attorney-General's references on points of law, prosecution appeals against terminating rulings and unduly lenient sentences;</p> <p>(e) Supreme Court, ie, appeal on a point of law of general importance (certified question).</p> <p><b>1.2</b> Magistrates Court to Crown Court, ie, by defence and against conviction (rehearing by non-jury Crown Court) or sentence, time limits, powers of Crown Court;</p> <ul style="list-style-type: none"> <li>• Magistrates Court or non-jury Crown Court to Administrative Court, ie, point of law, nature of the case stated procedure, time limits, powers of Administrative Court;</li> <li>• Crown Court to Court of Appeal, ie, against conviction, sole ground is that conviction is unsafe, misdirection or error of law, power to order retrial against sentence, powers, function of guideline judgments, Attorney General's reference, establishing an authoritative but hypothetical ruling, terminating rulings, reopening cases, unduly lenient sentences, scope of 'unduly' lenient;</li> <li>• Administrative Court or Court of Appeal to Supreme Court, ie, point of law, by leave only.</li> </ul>
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	<p><b>1.3</b> Explain the roles of individuals involved in the court system</p> <p><b>1.4</b> Describe the principal provisions of the primary and secondary legislation establishing and regulating the criminal courts</p> <p><b>1.5</b> Describe the relevance of the Human Rights Act to criminal proceedings</p> <p><b>1.6</b> Explain the jurisdiction to stay proceedings as an abuse of process</p> <p><b>1.7</b> Analyse a given legal situation on the structure of the criminal courts in order to offer practical advice and assistance</p>	<p><b>1.3</b> Qualification and usual jurisdiction of Justices of the Supreme Court, Lords Justices of Appeal, High Court Judges, Circuit Judges, Recorders, District Judges (Magistrates Courts);</p> <ul style="list-style-type: none"> <li>• composition and function of the jury, Juries Act 1974;</li> <li>• Qualification and function of JPs, scope of criminal jurisdiction and role of the legal advisor.</li> </ul> <p><b>1.4</b> An understanding of the primary legislation, eg, Magistrates Court Act 1980, Courts Act 1971, Courts Act 2003, <b>Sentencing Act 2020</b> and secondary legislation, eg, Criminal Procedure Rules <b>2020</b> and the <b>Practice Directions</b>, in particular, the overriding objective and the obligations imposed on the defence in consequence.</p> <p><b>1.5</b> An understanding of the European Convention on Human Rights Arts 5-7.</p> <p><b>1.6</b> Relevant case law, eg, <u>Humphreys</u> (1975), <u>Beckford &amp; Daley</u> (1991), <u>R v Derby CC ex p Brooks</u> (1984), <u>A-Gs Reference</u> (No 1 of 1990), <u>R v Feltham MC ex p Ebrahim</u> (2001) , <u>DPP v S</u> (2002), <u>R v Parker</u> (2003), <u>Sofris v S</u> (2004).</p> <p><b>1.7</b> Analysis of a complex scenario to offer advice and assistance.</p>
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<p><b>2. Understand police powers in relation to the investigation of crime</b></p>	<p><b>2.1</b> Explain the powers of stop and search</p> <p><b>2.2</b> Explain the powers to search premises and persons, and obtain samples (eg, fingerprints)</p> <p><b>2.3</b> Explain the powers of arrest and detention</p> <p><b>2.4</b> Explain the powers in relation to questioning</p> <p><b>2.5</b> Analyse a given legal situation on police powers in relation to the investigation of crime in order to offer practical advice and assistance</p>	<p><b>2.1</b> Availability and applicability of stop and search powers: Police and Criminal Evidence Act 1984 (PACE) ss 1-4 and Code A;</p> <ul style="list-style-type: none"> <li>• ss 43-47A Terrorism Act 2000.</li> </ul> <p><b>2.2</b> Availability and applicability of powers to search premises and persons: PACE ss8-23 and 32; 54-55 and Code B;</p> <ul style="list-style-type: none"> <li>• provisions relating to samples: PACE ss 61-65;</li> <li>• PACE Code C s 17 and Annex A.</li> </ul> <p><b>2.3</b> Availability and applicability of powers of arrest and detention: PACE ss 24-53;56-58 and Codes C, G and H.</p> <p><b>2.4</b> Availability and applicability of powers in relation to questioning: Codes C, E, F and H</p> <ul style="list-style-type: none"> <li>• Criminal Justice and Public Order Act 1994 ss 34-38;</li> <li>• drafting a written statement as an alternative to answering questions.</li> </ul> <p><b>2.5</b> Analysis of a complex scenario to offer advice and assistance.</p>
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<p><b>3. Understand the rules relating to public funding of advice and representation in criminal matters</b></p>	<p><b>3.1</b> Describe the scope of the work which can be done by one's own solicitors and duty solicitors under criminal legal aid.</p> <p><b>3.2</b> Explain the purpose of a representation order</p> <p><b>3.3</b> Outline the means criteria for the grant of representation</p> <p><b>3.4</b> Analyse a given legal situation on the public funding of advice and representation in order to offer practical advice and assistance</p>	<p><b>3.1</b> The principal features of the criminal legal aid scheme as operated by the Legal Aid Agency and the grant of representation in individual cases;</p> <ul style="list-style-type: none"> <li>• the scope of the police station and court duty solicitor schemes;</li> <li>• the Legal Aid, Sentencing and Punishment Act 2012 Part One.</li> </ul> <p><b>3.2</b> Its purpose;</p> <ul style="list-style-type: none"> <li>• applying for a representation order;</li> <li>• the merits section of an application for a representation order;</li> <li>• the statutory merits criteria.</li> </ul> <p><b>3.3</b> The statutory means criteria and the procedure for evaluation of applications.</p> <p><b>3.4</b> Analysis of a complex scenario to offer advice and assistance, eg, completing the merits section of an application for a representation order.</p>
<p><b>4. Understand the law relating to bail in criminal proceedings</b></p>	<p><b>4.1</b> Explain the powers of the police and the courts in relation to bail</p>	<p><b>4.1</b> Granting bail;</p> <ul style="list-style-type: none"> <li>• procedures to review or appeal bail decisions;</li> <li>• the consequences of breach of bail: Bail Act 1976;</li> <li>• PACE ss 37-8, provisions relating to street bail.</li> </ul>

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	<p><b>4.2</b> Analyse a given legal situation on the law relating to bail in order to offer practical advice and assistance</p>	<p><b>4.2</b> Analysis of a complex scenario to offer advice and assistance, eg, preparing a bail application taking full account of all relevant factors and likely objections;</p> <ul style="list-style-type: none"> <li>• Bail Act 1976.</li> </ul>
<p><b>5. Understand the various stages of criminal proceedings</b></p>	<p><b>5.1</b> Explain the purpose and process of interview under caution</p> <p><b>5.2</b> Explain identification procedures</p> <p><b>5.3</b> Explain, in either way cases, the plea before venue and allocation procedures</p> <p><b>5.4</b> Explain the purpose and process of the defence statement and disclosure</p>	<p><b>5.1</b> PACE Code C;</p> <ul style="list-style-type: none"> <li>• principal provisions of PACE Codes E and F;</li> <li>• Criminal Justice and Public Order Act 1994 ss 34 - 38;</li> <li>• consequences of selective silence, total silence and providing written comments.</li> </ul> <p><b>5.2</b> PACE Code D;</p> <ul style="list-style-type: none"> <li>• the VIPER system;</li> <li>• relevant case law, eg, <u>Turnbull</u> (1977);</li> <li>• alternatives to a VIPER or parade identification.</li> </ul> <p><b>5.3</b> Magistrates Courts Act 1980 ss 5-8, 17-25;</p> <ul style="list-style-type: none"> <li>• Crime and Disorder Act 1998 ss50A-52;</li> <li>• Criminal Procedure Rules 2020 Part 9 <b>Sentencing Council guideline on Allocation</b>; Magistrates Courts Sentencing Guidelines.</li> </ul> <p><b>5.4</b> Criminal Procedure and Investigations Act Part I;</p> <ul style="list-style-type: none"> <li>• Criminal Procedure Rules 2015 Part <b>215 and Practice Directions Pt IV</b></li> <li>• Initial Details of Prosecution Case (IDPC) Criminal Procedure Rules 2020 Part 8.</li> </ul>

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	<p><b>5.5</b> Explain the relevant rules of evidence</p>	<p><b>5.5</b> Evidence of character of the accused or others;</p> <ul style="list-style-type: none"> <li>• alibi;</li> <li>• hearsay and absent or anonymous witnesses;</li> <li>• <u>Horncastle</u> (2009);</li> <li>• <u>Al Khawaja</u> (2011) <u>Donovan and Kafunda</u> (2012);</li> <li>• Coroners and Justice Act 2009 ss 86- 93;</li> <li>• burden and standard of proof;</li> <li>• nature of burdens of proof and evidential burdens;</li> <li>• unfavourable and hostile witnesses;</li> <li>• exclusion of evidence;</li> <li>• expert evidence: Criminal Justice Act 2003 Part 11;</li> <li>• competence and vulnerability: Youth Justice and Criminal Evidence Act 1999 Part 2;</li> <li>• PACE ss 76-78 and 84;</li> <li>• Criminal Justice Act 1967 ss 9-11;</li> <li>• Criminal Justice Act 1988 s 30;</li> <li>• Criminal Procedure Rules 2020 Parts 16 - 23;</li> <li>• impact of ECHR.</li> </ul>
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	<p><b>5.6</b> Explain the evidential issues associated with the availability of defences</p> <p><b>5.7</b> Analyse a given legal situation relating to the stages of criminal proceedings in order to offer practical advice and assistance</p>	<p><b>5.6</b> Awareness of the features of the principal defences, eg, self-defence, necessity, duress per minas, duress of circumstances;</p> <ul style="list-style-type: none"> <li>• automatism;</li> <li>• partial defences to murder under Homicide Act 1957 s 2 and Coroners and Justice Act 2009 s 54 and 55;</li> <li>• insanity;</li> <li>• Criminal Law Act 1967 s 3;</li> <li>• extent to which there is a legal or evidential burden on the defence.</li> </ul> <p><b>5.7</b> Analysis of a complex scenario to offer advice and assistance, eg, drafting a defence statement, instructions/brief to counsel or a formal admission under s 10 Criminal Justice Act 1967.</p>
<p><b>6. Understand sentencing and ancillary orders in criminal proceedings</b></p>	<p><b>6.1</b> Explain the principles and practice of sentencing</p>	<p><b>6.1</b> The principles of sentencing; the sentences available and the criteria for their imposition: <b>Sentencing Code (Sentencing Act 2020)</b></p> <ul style="list-style-type: none"> <li>• Sentencing Council Guidelines;</li> <li>• Magistrates Courts' Sentencing Guidelines;</li> <li>• guideline sentencing cases;</li> <li>• <b>Criminal Procedure Rules 2020</b> Parts <b>28-32</b> and <b>Practice Directions Part VII</b>;</li> <li>• offences to be taken into consideration;</li> <li>• pre-sentence and other reports;</li> <li>• basis of plea and <u>Newton</u> (1983) hearings. Compensation. Costs. Driving licence penalties (disqualification and endorsement). Ancillary orders, e.g. Criminal Behaviour Orders, Drinking</li> </ul>

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		<p>Banning Orders, Financial Reporting Orders, Serious Crime Prevention Orders, Sexual Offences Prevention Orders, Violent Offender Orders.</p> <p><b>6.2</b> Analyse a given legal situation on sentencing and ancillary orders in order to offer practical legal advice and assistance</p> <p><b>6.2</b> Analysis of a complex scenario to offer advice and assistance, eg, advising on sentence in relation to defined circumstances and drafting a plea in mitigation</p>
<b>7. Understand the principles of legal professional ethics as they apply to criminal matters</b>	<p><b>7.1</b> Explain the duties of the advocate and adviser</p> <p><b>7.2</b> Analyse a given legal situation on professional ethics as they apply to criminal matters in order to offer practical advice and assistance</p>	<p><b>7.1</b> Confidentiality;</p> <ul style="list-style-type: none"> <li>• duty not to mislead the court;</li> <li>• duty to disclose adverse matters of law;</li> <li>• when the adviser must withdraw;</li> <li>• representing an absent client;</li> <li>• relationship with client, court, prosecution and others;</li> <li>• SRA Code of Conduct, esp Chs 1,3-6.</li> </ul> <p><b>7.2</b> Analysis of a complex scenario to offer advice and assistance.</p>
<b>8. Understand the special rules relating to juveniles</b>	<p><b>8.1</b> Explain the jurisdiction of the youth court and the circumstances in which a juvenile may be tried in an adult court</p> <p><b>8.2</b> Explain the rules operating for the protection of juveniles</p> <p><b>8.3</b> Explain sentencing in relation to a juvenile</p>	<p><b>8.1</b> Magistrates Courts Act 1980 ss 24, 24A, 29;</p> <ul style="list-style-type: none"> <li>• Children &amp; Young Persons Act 1933. Grave crimes and dangerous offenders: ss 250 – 255 Sentencing Act 2020.</li> </ul> <p><b>8.2</b> Youth Justice and Criminal Evidence Act 1999 Part 2 Chapters 4 and 5;</p> <ul style="list-style-type: none"> <li>• Legal Aid, Sentencing and Punishment Act 2012, Part Three Chapter Three.</li> </ul> <p><b>8.3</b> Sentencing Code 2020 (relevant provisions).</p>

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	<b>8.4</b> Analyse a given legal situation relating to the special rules for juveniles in order to offer practical advice and assistance	<b>8.4</b> Analysis of a complex scenario to offer advice and assistance, eg, advising on sentence in relation to defined circumstances for a juvenile.
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Additional information about the unit	
Unit aim(s)	To accredit a broad and detailed understanding of Criminal Litigation
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards; specifically, Unit 31 Criminal Law Advice and Casework
Details of the relationship between the unit and other standards or curricula (if appropriate)	Na
Assessment requirements specified by a sector or regulatory body (if appropriate)	Na
Endorsement of the unit by a sector or other appropriate body (if required)	Na
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	CILEx (The Chartered Institute of Legal Executives)
Availability for delivery	1 September 2009

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