

## 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 the question paper fully.** However, you may make notes on the 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 2008, 4<sup>th</sup> Edition, B Mitchell & S Farrar, Oxford University Press**
- Candidates must comply with the ILEX 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 ball point 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 ILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LAW AND**

## Question 1

Reference: Question 1 relates to **CASE 1 – Ateef Iqbal** in the case materials.

You attend the police station. Ateef's father is already there. You check the custody record and find that all is in order. You speak to the officer in the case and he informs you that Ateef matches the description of one of a group of youths seen attacking a group of RWB League members four days previously. He proposes to arrange a VIPER identification procedure, for a number of witnesses including both bystanders and victims. As Ateef is previously unknown to the police, he is happy to bail him to return to the police station once the procedure is complete.

- (a) How will you be remunerated for your work on this case, both in relation to the current investigatory stage and in relation to any prosecution which may result?

**(6 marks)**

- (b) Explain what a VIPER identification procedure entails, its advantages for Ateef, other options for identification if the VIPER procedure is not used, and your role in the VIPER procedure.

**(9 marks)**

- (c) Ateef is identified by three of the five witnesses who attend the VIPER procedure. Forensic examination of the jacket he was wearing on arrest confirms traces of petrol on the sleeve. Ateef denies being at the scene of the attack. He states he was with his girlfriend, but does not want to reveal this in the interview as his father has forbidden him to see her, as he disapproves of her. As far as the petrol is concerned, Ateef denies being involved with petrol bombs, but indicates that he believes that the petrol got onto his sleeve when he was jostled by one of a group of young Muslim men a few minutes before his arrest. He knows who they are but does not want to get them into trouble.

Advise Ateef whether he should answer questions in interview or remain silent, and the consequences of each approach if he is prosecuted and tried.

**(10 marks)**

**(Total: 25 marks)**

## Question 2

Reference: Question 2 relates to **CASE 1 – Ateef Iqbal** in the case study materials.

- (a) Ateef is charged with violent disorder in relation to the incident where he was identified as one of the attackers. One of the others involved, a man aged 19, has also been apprehended, and he and Ateef are each referred to in the charge sheet as jointly charged and acting together with persons unknown. Ateef intends to plead not guilty.

In which court will Ateef first appear and where will or may he be tried and, if found guilty, sentenced?

**(10 marks)**

**FOR THE PURPOSES OF THE REMAINING PARTS OF THIS QUESTION YOU MAY ASSUME THAT THE CASE IS PROCEEDING IN THE RELEVANT YOUTH COURT.**

- (b) Ateef's father has arranged for Ateef to be examined by a consultant clinical psychologist. His report indicates that in his opinion Ateef is of a very placid and timid character and 'incapable of significant aggressive behaviour, even under extreme provocation'.

Explain the extent to which this evidence is admissible and the procedure to be followed.

**(10 marks)**

- (c) At the pre-trial review the CPS discloses that there is a recording of CCTV coverage of the scene of the incident, but that they are not proposing to disclose it, as a police officer has viewed it and states that it is of no assistance. You apply for disclosure of the recording to analyse it independently, but the court refuses to order disclosure.

Explain the procedure by which you could seek to challenge this decision.

**(5 marks)**

**(Total: 25 marks)**

### Question 3

Reference: Question 3 relates to **CASE 2 – Lorraine Grainger** in the study materials.

- (a) Explain the procedures which will take place from first appearance to the commencement of the trial and the basis upon which any options available to the court, prosecution or defence will or could be exercised.

**(8 marks)**

- (b) Lorraine does not appear at the first hearing. You have no information as to why not, and a warrant not backed for bail is issued. The following day Lorraine contacts you to say she forgot about the hearing.

Explain what action you will take to bring the matter back before the court, and the actions which the court will or may take at the next hearing.

**(8 marks)**

- (c) Explain the evidential and other issues which will or may arise at trial in relation to (i) the previous convictions of the defendants and (ii) Lorraine wanting to give evidence that Eliza provided her with the money to pay for the holiday, rather than that she earned the money working in a massage parlour as she originally told you.

**(9 marks)**

**(Total: 25 marks)**

### Question 4

Reference: Question relates to **CASE 3 – Greg Barnes** in the case study materials.

- (a) Explain the function of a defence statement and indicate what the defence statement in Greg's case should contain.

**(7 marks)**

- (b) What special rules and procedures will apply to Kaspar and his evidence?

**(8 marks)**

- (c) After a trial, Greg is convicted on all charges. He receives a sentence of imprisonment significantly longer than the higher end of the range in the relevant guideline judgment. In his sentencing remarks, the judge indicates that he regards Greg's attempt to persuade the jury that Kaspar falsely accused him out of jealousy to be a significant aggravating feature. The judge's summing up also failed to refer to significant parts of the defence case, in particular the evidence relating to the behaviour of the other children.

Greg wishes to appeal against conviction and sentence. Explain the procedure to be adopted and the principles and criteria which the court will apply when disposing of the appeal.

**(10 marks)**

**(Total: 25 marks)**

**End of Examination Paper**