

## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 18 – CRIMINAL LITIGATION\*

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

#### Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper 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 question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. The question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- 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: Blackstones Statutes on Criminal Justice and Sentencing, 4<sup>th</sup> edition 2008.**
- 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 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 CILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL**

## Question 1

Reference: Question relates to **CASE ONE- Jason Grey** of the case study materials.

- (a) What matters will you take into consideration in ensuring that Jason Grey's interests are protected during his detention at the police station and any interview which is proposed to be undertaken? **(10 marks)**
- (b) In the event Jason Grey is charged with wounding with intent, contrary to s18 Offences Against the Person Act 1861. Explain what procedures and hearings will take place from the time of charging to the commencement of the eventual trial or sentencing hearing. **(6 marks)**
- (c) The custody officer has refused to grant bail, and you are instructed to make an application for bail at the first court appearance. At this point there is evidence that Jason Grey is taking medication that is maintaining him in a stable mental condition. He is the tenant of his flat, and his girlfriend, the complainant, has moved out. However, she is staying with her sister only a few hundred metres from Grey's flat.

On being charged Grey said, in your presence, 'I haven't finished with that bitch yet.' Grey has been granted bail in previous proceedings, and there is nothing to suggest he has failed to surrender or committed offences on bail.

Explain how the application for bail will be conducted, the likely objections and the submissions you will make to the court.

**(9 marks)**

**(Total: 25 marks)**

## Question 2

Reference: Question relates to **CASE TWO – Miranda Froggatt** of the case study materials.

- (a) Miranda Froggatt confirms to you that she intends to plead not guilty. Where will or may Miranda Froggatt be tried and what is the contribution of the prosecutor, the court and the defence to the decisions relevant to deciding this? You should indicate the factors you consider relevant to the exercise of any discretion or choice any participant may have. **(15 marks)**
- (b) Explain the basis on which Miranda Froggatt can seek Legal Services Commission (LSC) funding to cover the costs of her defence and the criteria to be applied to her application. If a contribution is payable, in what circumstances will or may it be refunded? **(10 marks)**

### Question 3

Reference: Question relates to **CASE TWO – Miranda Froggatt** of the case study materials.

- (a) By what means, and using what procedures, can the evidence of Grace Gieves be put before the court? **(8 marks)**

- (b) The case is to be tried on indictment.

A few weeks before the trial the prosecution advises you that Sam Cox, who has already pleaded guilty and been sentenced, will be called as a prosecution witness. They serve a fresh statement from Cox in which he states that he specifically informed Miranda Froggatt that the items he sold her were 'not legit, and I can't give you an invoice for them'.

How, in the light of this and all the other evidence and circumstances in the case, will you formulate and present the case for the defence? You should consider any issues of law, evidence and procedure.

**(10 marks)**

- (c) Miranda Froggatt is convicted.

When directing the jury in relation to the character of Miranda Froggatt, the judge merely said 'Ms Froggatt is, as you have heard, a woman of good character, and you must give such weight to that as you consider appropriate.' Trial counsel has advised that there are grounds for an appeal against conviction.

Explain the procedure for appeal and the criteria and principles which will be applied.

**(7 marks)**

**(Total: 25 marks)**

#### Question 4

Reference: Question relates to **CASE THREE – Sachin Kumar** of the study materials.

- (a) The second youth has now been traced and charged. Where will or may the case now be heard if he is:

- (i) 19 years old; or
- (ii) 16 years old?

**(10 marks)**

- (b) What measures will you be required to check in relation to the identification procedures in this case, in order to ensure compliance with the relevant PACE Codes, and what action can you take if there appears to be non-compliance?

**(8 marks)**

- (c) After evidence relating to the mobile phone records is disclosed, Sachin Kumar makes an appointment to see you, bringing with him a ten year old boy whom he describes as his cousin. This boy, who gives his name as Ashwin Kumar, tells you that he had borrowed Sachin Kumar's mobile phone on the day in question. He does, however, seem very nervous and unsure of his account, and is constantly glancing at Sachin Kumar.

You prepare a statement for Ashwin Kumar and ask him to come into the office to sign it. When he comes, he is accompanied by his elder sister. Ashwin tells you that he did not borrow the phone, but Sachin and some other relatives pressured him into agreeing to say that he had done so.

What action should you take?

**(7 marks)**

**(Total: 25 marks)**

**End of Examination Paper**