



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 12 – Public Law

Question paper

January 2025

Time allowed: 3 hours and 15 minutes (includes 15 minutes reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- A basic calculator is provided should you require the use of one.
- You can use your own unmarked copy of the following designated statute book - ***Blackstone's Statutes on Public Law and Human Rights, 34th edition, John Stanton, Oxford University Press, 2024.***
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

SECTION A

Answer at least one question from this section.

1. 'In the UK, we do not have a strict separation of powers. The branches of the state are closely linked... There are still checks and balances in place to ensure that no branch of government has too much power.'

Critically evaluate the degree to which this statement correctly describes the extent of the separation of powers in the UK between the executive, legislature and judiciary, including an assessment of whether the 'checks and balances' are effective or not.

Source: The British Institute of Human Rights, 'Separation of Powers, Parliamentary Sovereignty & the Rule of Law' <<https://www.bihhr.org.uk/get-informed/legislation/separation-of-powers-parliamentary-sovereignty-the-rule-of-law>> accessed 17 January 2024

(25 marks)

2. Critically assess, with reference to the other sources of the UK constitution, the importance of constitutional conventions in the UK constitution.

(25 marks)

3. Critically evaluate the extent to which the law on defamation enables the media to defend claims that restrict its ability to impart information and discuss matters of public interest.

(25 marks)

4. (a) Explain the strict liability offence created by the Contempt of Court Act 1981.

(11 marks)

- (b) Critically analyse the extent to which the strict liability offence constitutes a proportionate restriction on the media's freedom of expression.

(14 marks)

(Total: 25 marks)

SECTION B

Answer at least one question from this section.

Question 1

The Care Homes Standards Act 2022 (fictitious) has set up the Residential Quality Inspectorate ('the Inspectorate') with the stated aim of 'improving standards in care homes for older people'. The Inspectorate has the power to grant permits to establish and run care homes at its discretion. A business wishing to establish and run care homes must apply in advance to the Inspectorate for a permit to do so.

The business must obtain a separate permit for each county or unitary authority in which it intends to operate. The Inspectorate has issued guidelines stating that it will grant a maximum of only 15 permits per county or unitary authority. The explanation given for this limit is that a lot of care workers are low paid and it is undesirable to have an excessive number of low-paid jobs in a given county or unitary authority.

The Inspectorate has made the following decisions regarding applications for a permit.

- (i) The Inspectorate refused last week an application from Abide With Me Ltd ('AWM') for a permit to operate in Bristol (Bristol is a unitary authority). The Inspectorate gave its guidelines on the maximum number of permits as its reason for its refusal, as the limit had already been reached in Bristol. However, the demand in Bristol for care homes exceeds supply and AWM has an impeccable record of excellently managed care homes in the UK.
- (ii) The Inspectorate refused four months ago an application by Protea Light Ltd ('Protea') to set up a care home in Southampton, even though it had not issued the maximum number of permits for Southampton and had previously granted Protea a permit for Hartlepool. The Inspectorate gave no reasons for its decision. However, it has just come to Protea's attention that Neville, who was appointed six months ago as the chair of the Inspectorate, is married to Tessa, the ex-wife of the current Protea Managing Director. Tessa and the Managing Director's divorce was very acrimonious.

Advise AWM and Protea whether they can make a claim for judicial review against the Inspectorate in relation to the refusal of the Bristol and Southampton permits respectively.

(25 marks)

Turn over

Question 2

Wednesday 6 November – 9.00 pm

A fight broke out in The Burkett Arms, a pub in the town of Cradock. During the fight a glass was smashed over the head of Judith, a customer of the pub. The police were called and eyewitnesses to the fight informed PC Stern that a balding man wearing a blue fleece had smashed the glass over Judith's head, seriously wounding her. PC Stern radioed an alert to police in the vicinity, asking them to look out for a man of that description. PC Rudzinski spotted a man matching the description running along Cradock High Street; there appeared to be blood on his fleece. PC Rudzinski therefore stopped the man, Joe, and said to him, "You're coming with me, mate, because you have been attacking defenceless women."

PC Rudzinski summoned a police van. When the van arrived, Joe tried to run away but PC Rudzinski grabbed him by his arm and shoved him into the back of the van, causing bruising to his head in the process.

PC Stern then searched The Burkett Arms to look for the glass used to attack Judith. She found a broken beer glass, which she removed and took back to the police station.

Wednesday 6 November – 9.30 pm

When Joe arrived at the police station Sergeant Walker, the custody officer, informed him that he was under arrest for causing grievous bodily harm with intent as he was suspected of attacking Judith at the pub. Sergeant Walker complied with all statutory requirements for Joe's detention at the police station, including providing the requisite information regarding his rights. Joe asked to see his solicitor but Sergeant Walker, after consulting a superintendent, refused his request in writing, stating that the solicitor might contact witnesses to the fight and interfere with police attempts to discover exactly what had happened. Joe was left in his cell until Friday morning.

Friday 8 November – 8.15 am

PC Rudzinski interviewed Joe and told him, "If you play silly games with us, you'll go to prison for a long time. But if you admit to attacking Judith, then we'll reward your cooperation." Joe then signed a confession in which he admitted to smashing the glass over Judith's head. He was then released on bail.

[Note to candidates: Causing grievous bodily harm with intent is an indictable offence AND you should assume that nothing else of further legal significance has occurred.]

(a) Advise the police on the legality of their conduct.

(19 marks)

(b) Advise Joe whether at his trial for causing grievous bodily harm with intent, he can challenge the admissibility of the confession he made at the police station.

(6 marks)

(Total: 25 marks)

Question 3

Parker Homes plc ('Parker') recently purchased a 19th-century school building in the centre of Chatswood. It plans to demolish and replace it with a new high-rise block of flats. Many local residents have opposed the plan. Sanjay, the chair of the Chatswood Residents' Association, arranged a march from a local park going past the school building and ending at Parker's offices in Chatswood. Sanjay gave the police six clear days' notice of the proposed march. Superintendent Baptiste gave the Residents' Association directions that they should omit the school building from the route as the march might block access to market stalls that were in the vicinity.

The Residents' Association reluctantly complied with Superintendent Baptiste's directions and avoided the school building. At the end of the march about 100 protestors gathered outside Parker's offices in Chatswood protesting against Parker's proposals. They assembled on the pavement and began to wave placards and chant, "No flats here!"; some of them also blew whistles.

Sergeant Mensah and PC Goodman arrived at the scene. PC Goodman told Sanjay that because of the noise they were making, the protestors must move away from Parker's offices in the next 30 minutes.

Sergeant Mensah noticed that one of the protestors, Humphrey, appeared to be holding a large kitchen knife, which he put in a jacket pocket. Sergeant Mensah approached Humphrey and told him she wanted to search him as she suspected that he was carrying a knife. Sergeant Mensah then carried out the search and discovered a toy kitchen knife in Humphrey's jacket pocket.

(a) Advise the police on the legality of their conduct.

(16 marks)

For the next 20 minutes after PC Goodman's direction to Sanjay, the protestors stood in the road chanting for Parker's managing director to come out to speak to them. Martha, Parker's managing director, came out of the office and shouted abuse at the protestors, telling them to go home and mind their own business. Martha was then arrested by PC Goodman who told her the arrest was 'to prevent a breach of the peace'.

On the expiry of the 30 minutes, the protestors refused to disperse and so Sergeant Mensah arrested Sanjay for ignoring PC Goodman's direction.

(b) Advise on whether:

- Martha has committed a breach of the peace for which she could be arrested;
- Sanjay has committed an offence.

(9 marks)

(Total: 25 marks)

Turn over

Question 4

Frank Morris is the chief executive of 'Compassion in Clothing', a campaigning group that opposes the practices of the fast-fashion industry on environmental grounds and promotes environmentally sustainable practices such as second-hand clothing initiatives. However, an article recently appeared in the *Daily Argus* with the following opening section.

Frank the Environmentalist or Frank the Fake?

Self-avowed environmental warrior Frank Morris was yesterday exposed as a hypocrite when details emerged of his addictive buying of fast-fashion clothing. Our investigations uncovered that he is secretly a frequent user of online shopping services and has been buying upwards of 40 items of clothing per month, many of which are then recklessly disposed of in a skip close to his home.

Information from a source close to him suggests his shopping is so out of control that he has recently started having treatment for shopping addiction from Professor Bashir at her private clinic in the exclusive Centurion Park Medical Centre.

The article went on to give more details of Frank's shopping habits and was accompanied by a photograph of him leaving Professor Bashir's clinic. Frank admits that the content of the article is factually correct but he would like to bring proceedings for breach of his right to privacy against the *Daily Argus*.

Advise Frank regarding the likely basis of a claim in damages he could make against the *Daily Argus* and how the *Daily Argus* might seek to defend the claim.

(25 marks)

End of the examination