



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

Unit 18 – Criminal Litigation

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.
- You must answer **all** questions.
- 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 use your own printed copy of the pre-release case study materials, as long as the materials are not annotated in any way. Alternatively, you can access the electronic version of the pre-release case study materials available in the examination.
- 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 Criminal Justice and Sentencing, 6th edition, Nicola Padfield, Oxford University Press, 2016.***
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

Answer ALL questions

Question 1

Reference: Question relates to **CASE ONE – Carlo Mendoza** of the case study materials.

- (a) Explain the actions you must take in order to be in a position to represent Carlo Mendoza. **(5 marks)**

Having resolved the question of representation, you speak to the investigating officer who advises you that there are independent eyewitnesses to the incident who have given statements describing the participants in the violence. The police propose to undertake an identification procedure for Carlo Mendoza. They have also sent for forensic examination a quantity of white powder found in his possession when he was searched on arrival at the police station and which is suspected to be a controlled drug. They have no intention of conducting an interview at the present time.

- (b) Explain:
- the nature of the identification procedure likely to be proposed;
 - your role in protecting the interests of Carlo Mendoza; and
 - the possible implications if Carlo Mendoza is not prepared to cooperate with the procedure.
- (7 marks)**

You receive a call from the Defence Solicitor Call Centre, requesting that you act as duty solicitor at the police station for Santiago Palma.

- (c) Explain how you should best respond to this request. **(5 marks)**

Carlo Mendoza agrees to participate in the proposed identification procedure and is released on bail following completion of the arrangements for the identification procedure. Sometime later, you are informed that Carlo Mendoza was not identified by any of the witnesses in the identification procedure and no further action is to be taken in relation to him concerning the incident at the skateboard park. The white powder has, however, tested positive for ketamine; Carlo Mendoza is rearrested in relation to this. He is interviewed under caution in your presence and admits possession of the ketamine for his own use. He is then charged with possession of a Class B controlled drug and bailed unconditionally to appear at court.

- (d) Explain the nature, purpose and form of the first appearance at court and the likely outcome if he pleads guilty. **(8 marks)**

(Total: 25 marks)

Question 2

Reference: Question relates to **CASE TWO – Glenn Boston and DOCUMENTS 1 and 2** of the case study materials.

- (a) Explain the procedure for obtaining a representation order for Glenn Boston and the criteria which will be applied in determining his eligibility for such an order.

(5 marks)

The case is called on at the first appearance before the Magistrates' Court and the legal adviser undertakes the Plea before Venue procedure. Glenn Boston indicates a not guilty plea in relation to the two charges of burglary, the two charges of taking a vehicle without consent and the two charges of using a vehicle with no valid insurance.

- (b) Explain:

- the further procedures that will take place during the hearing;
- the criteria the magistrates will use to determine the venue for the proceedings; and
- the factors that will influence the exercise of any choices Glenn Boston may have in this respect.

(10 marks)

In the event, the case is to proceed in the Crown Court. Glenn Boston is remanded on conditional bail with the same conditions as before.

On the date fixed for the next appearance in the Crown Court, Glenn Boston fails to surrender to his bail. You attempt to contact him but he is not answering his phone. A warrant is issued for his arrest, not backed for bail.

Two days later, Glenn Boston telephones you and explains that he had been asked to assist a friend who owns a construction business with a project on a farm a number of miles away. He did not appreciate at the time that this would conflict with his court date. His phone had run out of battery and it was not until he returned home late the previous evening that he realised he had missed his court date.

- (c) Advise Glenn Boston as to:

- his legal position as a result of his failure to surrender to bail;
- the actions he should take; and
- the possible implications for the future conduct of this case.

(7 marks)

(Total: 22 marks)

Turn over

Question 3

Reference: Question relates to **CASE TWO – Glenn Boston and DOCUMENTS 1 and 2** of the case study materials.

You are preparing the Defence Statement. Glenn Boston advises you that he has contacted Nadine Phillips, the girl with whom he stated that he spent the evening of 14 October, and as she has terminated her relationship with her other boyfriend, is now willing to give evidence on Glenn Boston's behalf to confirm this. You make arrangements to interview Nadine Phillips (DoB 12 May 2000) and she gives you a statement which confirms that they spent the evening together at her flat, 27C Highbury Road, Cardington, and that Glenn Boston arrived there at 8.00 pm and did not leave until approximately 2.00 am.

- (a) Draft the Defence Statement based on the information in the case study materials and this question paper.

(7 marks)

You go through the prosecution case documentation with Glenn Boston and he tells you that there are a number of inaccuracies in the statement produced by his brother Carl Boston. In particular, he was given full authority by his brother to use the Land Rover and that this extended to allowing others to do so provided the insurance position was satisfactory. It remains the case that Carl Boston is in Dubai and has indicated that he is not in a position to return to the UK to give evidence in the case.

- (b) Explain how:

- the prosecution could put the evidence of Carl Boston before the court, including the procedures involved; and
- whether the defence could object to the evidence being adduced or challenge the content of it.

(8 marks)

The prosecution inform you that James Atkinson has now pleaded guilty to handling stolen property in relation to the excavator stolen on 28/29 October and has been sentenced. They serve on you a statement in which James Atkinson admits making arrangements for the safe storage of the stolen excavator and its shipping to the Middle East. The statement goes on to say that James Atkinson undertook these actions at the request of Glenn Boston and Richard Johnson, and received a payment of £500 in cash from Glenn Boston. Following a request, the prosecution confirm that James Atkinson has a number of convictions for dishonesty, including several commercial burglaries and several counts of handling stolen property. Glenn Boston tells you that he believes James Atkinson to be lying to protect the real offender.

- (c) Explain the issues in the case between the prosecution and Glenn Boston, and how you would anticipate counsel would formulate the case for the defence.

(14 marks)

(Total: 29 marks)

Question 4

Reference: Question relates to **CASE THREE – Sandra Smith** of the case study materials.

In preparation for the initial hearing before the Magistrates' Court you review the material contained in the Initial Details of the Prosecution Case, including the items of evidence referred to in the case study materials.

- (a) Explain any issues that arise in relation to the admissibility of these items of evidence.
(12 marks)

Sandra Smith advises you that she is guilty of the offence and wishes to enter a guilty plea at the first opportunity. You ascertain that she is of previous good character. You also ascertain that she is the principal carer for her elderly father who is effectively housebound. You also ascertain that Sandra Smith has been diagnosed as suffering from a personality disorder, which means that her awareness of, and insight into, the consequences of her actions are limited.

Your instructions are that Sandra Smith wanted to 'teach a lesson' to the occupier of the house, who she believed had been having a relationship with Sandra Smith's girlfriend. She was not seeking to cause serious damage, just send a warning, and knew the property was empty.

Following the Plea before Venue procedure at which a guilty plea was indicated, the Magistrates' Court accepts jurisdiction and the case is adjourned for the production of a presentence report.

- (b) Outline the matters that you would expect to see included in a plea in mitigation on behalf of Sandra Smith.
(7 marks)

The Magistrates' Court imposes an immediate custodial sentence, which the solicitor from Kempstons who represented Sandra Smith, considers to be wrong in principle.

- (c) Explain the procedure for appeal and the criteria on which any appeal will be determined.
(5 marks)

(Total: 24 marks)

End of the examination

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