

Summary of Changes to the Criminal Litigation Syllabus 2023

Introduction

This short document summarises the main changes to the criminal litigation syllabus in 2023. This document is particularly intended to enable continuing students to understand which areas of the 2022 syllabus will form part of the centrally set assessments in 2023, and which parts of the 2022 syllabus will not be assessed.

This document provides a summary of the main changes to the syllabus. However, students should also refer to the new syllabus, which includes full updated references to Blackstone's Criminal Practice 2023, to understand the detailed requirements of the 2023 syllabus.

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HHJ Timothy Godfrey, Chelmsford Crown Court
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1. Overview of criminal procedure

1. The classification of offences (indictable, either-way and summary)
2. The structure of the criminal courts in England and Wales
3. The funding of criminal cases
4. The importance and application of the Criminal Procedure Rules, in particular the overriding objective and the case management functions of the court

Summary of Changes

The Notes for this section of the syllabus have been expanded and moved up the page.

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

There has also been clarification of the syllabus narrative to align with the relevant section of Blackstone's Criminal Practice 2023.

2. Preliminaries to prosecution

1. The Codes of Practice issued under the Police and Criminal Evidence Act 1984 (PACE) and their importance to criminal investigations
2. The provisions of Code C.10 (cautions and special warnings) and Code C.11 (interviews)
3. The main powers of arrest and the detention and treatment of suspects
4. The role of the Crown Prosecution Service and other prosecutors
5. The different methods of commencing criminal proceedings and time limits

Summary of Changes

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

The examinable material in paragraphs D1.21 and D5.8 of Blackstone's Criminal Practice 2023 has been clarified (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

There has also been clarification of the syllabus narrative to align with the relevant section of Blackstone's Criminal Practice 2023.

3. Bail and remands

1. adjournments and remands on bail and in custody
2. time limits applicable to remands in custody and applications for their extension (detailed knowledge of specific time limits not required)
3. the presumption in favour of bail and the occasions when it does not apply; the statutory grounds for withholding bail, and the matters that have to be considered by the court
4. bail conditions that can be applied and under what circumstances
5. the procedure for making a bail application, the practice and procedure on further application to the Crown Court following a decision to refuse bail in the magistrates' court
6. grounds upon which the prosecution can appeal to the Crown Court against a decision to grant bail
7. dealing with defendants who have failed to surrender to bail or breached their bail conditions

Summary of Changes

The examinable material in paragraph D7.67 of Blackstone's Criminal Practice 2023 has been clarified (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

4. Procedure in the magistrates' courts, allocation for trial, and sending to the Crown Court for trial or sentence

1. the rules relating to the provision of initial details of the prosecution case
2. preliminary hearings and entering a plea in the magistrates' court, including ambiguous pleas
3. the factors the defendant should be aware of in deciding whether to elect Crown Court trial
4. determining allocation (mode of trial) including the special rules for criminal damage and low value shoplifting cases
5. committal for sentence
6. sending indictable offences to the Crown Court
7. the sending of linked summary only offences and the procedure for dealing with them in the Crown Court

Summary of Changes

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

The examinable material in paragraphs D5.38, D6.28 and D10.4-10.12 of Blackstone's Criminal Practice 2023 has been clarified (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

5. Disclosure of unused material and defence statements

1. investigator's duty to retain unused material (detailed knowledge not required), prosecutor's duty of disclosure and the test for determining whether unused material should be disclosed by the prosecution
2. time limits for prosecution disclosure, applications to compel prosecution to disclose and the continuing duty to review
3. defence duties of disclosure, defence statements and consequences of defence disclosure failures
4. public interest immunity and third party disclosure

Summary of Changes

No syllabus changes.

6. Indictments

1. the indictment, including time limits and the structure and format of an indictment
2. rules governing joinder of counts in an indictment and the consequences of misjoinder
3. rules relating to specimen counts
4. joinder of accused in an indictment
5. applications to sever the indictment
6. applications to amend indictments
7. voluntary bills of indictment

Summary of Changes

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

7. Preliminaries to trial in the Crown Court

1. arraignment, change of plea and pleas to lesser offences
2. pre-trial and plea and trial preparation hearings
3. prosecution offering no evidence and leaving counts to lie on file
4. applications to dismiss

Summary of Changes

No syllabus changes, other than a clarification of the syllabus narrative to align with the relevant section of Blackstone's Criminal Practice 2023.

8. Summary trial procedure

1. pre-trial rulings
2. proceeding in the absence of the defendant
3. abuse of process in the magistrates' courts
4. procedural steps in a summary trial, including role of the legal adviser, the procedure for raising points of law, and the different ways in which evidence may be presented or proved and speeches
5. submission of no case to answer
6. verdicts

Summary of Changes

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

9. Jury trial procedure

1. proceeding in the absence of the defendant
2. unrepresented defendants
3. abuse of process in the Crown Court
4. procedural steps in a jury trial, including the different ways in which evidence may be presented or proved, dealing with points of law during the trial and submission of no case to answer
5. speeches and summing up
6. verdicts, including majority verdicts and conviction of a lesser offence

Summary of Changes

No syllabus changes.

10. Preliminary evidential matters

1. basic principles of evidence
2. tribunals of fact and law
3. common law powers to exclude evidence and discretionary power to exclude under section 78 of PACE

Summary of Changes

No syllabus changes.

11. Burden and standard of proof

1. the distinction between the legal burden and the evidential burden of proof
2. the general rule concerning the incidence of the burden of proof in criminal cases and the exceptions to it
3. the standard of proof required in criminal cases when the legal burden rests on the prosecution
4. the standard of proof required when the legal burden rests on the defence

Summary of Changes

No syllabus changes.

12. Preliminary issues relating to Witnesses

1. competence and compellability
2. oaths and affirmations
3. issue of a witness summons and warrant of arrest

Summary of Changes

No syllabus changes.

13. The rules relating to the examination of Witnesses

1. examination in chief: form of questioning, memory refreshing, the use of previous consistent statements, hostile witnesses
2. cross-examination: form of questioning, previous inconsistent statements, restrictions on cross-examination, including finality on collateral matters
3. re-examination: form of questions
4. the special measures available to vulnerable witnesses and witnesses in fear of testifying

Summary of Changes

Paragraphs D14.1 and D14.2 of Blackstone's Criminal Practice 2023 are not part of the Criminal Litigation Syllabus 2023.

14. Hearsay Evidence

1. general principles of the rule against hearsay in criminal proceedings
2. exceptions to the hearsay rule, gateways to admissibility and safeguards in the Criminal Justice Act 2003
3. making and opposing applications to adduce hearsay evidence under the Criminal Procedure Rules

Summary of Changes

No syllabus changes.

15. Character evidence

1. evidence of bad character under the Criminal Justice Act 2003
2. gateways to admissibility of non-defendant bad character
3. gateways to admissibility and powers for exclusion of defendant bad character
4. procedure for adducing and opposing the introduction of bad character evidence
5. proof of convictions
6. bad character directions
7. evidence of good character and the good character direction

Summary of Changes

No syllabus changes.

16. Confessions and unlawfully or unfairly obtained evidence

1. the definition of confessions under the Police and Criminal Evidence Act 1984
2. admissibility and exclusion of confessions
3. determining the admissibility of confessions and the voir dire procedure
4. the admissibility of evidence obtained as a result of inadmissible confessions
5. the exclusion of other prosecution evidence at common law and under section 78 of the Police and Criminal Evidence Act 1984
6. common categories of evidence that may be the subject of applications to exclude under section 78
7. making or challenging applications to exclude evidence under section 78

Summary of Changes

No syllabus changes.

17. Inferences from the defendant's silence and other conduct

1. evidential significance of the defendant's lies and directions that should be given to the jury
2. inferences from the defendant's failure to mention facts when questioned
3. inferences from the defendant's failure to account for objects, substances and marks and from the defendant's failure to account for their presence at the scene of a crime
4. inferences from the defendant's failure to testify in their own defence during the trial, including the advice that should be given to a defendant about this issue

Summary of Changes

No syllabus changes.

18. Visual identification evidence

1. visual identification cases and the Turnbull Guidelines

Summary of Changes

No syllabus changes.

19. Opinion evidence and experts

1. the general prohibition on the use of opinion evidence in criminal cases and the exceptions to this rule
2. the use of expert opinion evidence at trial

Summary of Changes

The examinable material in paragraph F11.5 of Blackstone's Criminal Practice 2023 has been clarified (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

20. Privilege

1. the privilege against self-incrimination
2. legal professional privilege and waiver of privilege

Summary of Changes

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

21. Youth courts and the appearance of youths in other courts

1. the categorisation of youths into 'child' and 'young person'
2. procedure in the youth court
3. circumstances in which a youth will appear in the adult magistrates' courts and the Crown Court, including reference to how the dangerous offender provisions apply to youths
4. the sentences available to the youth court

Summary of Changes

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

The examinable material in paragraphs D24.16, D24.24 and D24.66 of Blackstone's Criminal Practice 2023 has been clarified (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023). There has also been a clarification of the syllabus narrative to align with the relevant section of Blackstone's Criminal Practice 2023.

22. Sentencing principles

1. purposes of sentencing and sentencing guidelines
2. assessment of seriousness, reduction in sentence for guilty plea, aggravating and mitigating features, the totality principle and prevalence
3. pre-sentence reports, medical reports, and victim personal statements
4. indications as to sentence
5. sentencing in the Crown Court
6. sentencing procedure in the magistrates' courts
7. committal for sentence

Summary of Changes

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

The examinable material in paragraphs E1.7 and D20.4 of Blackstone's Criminal Practice 2023 has been clarified (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

23. Non-custodial sentences

1. absolute and conditional discharges
2. fines and the consequences of default
3. community sentences and the consequences of breach of a community sentence

Summary of Changes

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

The examinable material in paragraphs E12.26-E12.35 of Blackstone's Criminal Practice 2023 has been clarified (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

There have also been clarifications of the syllabus narrative to align with the relevant sections of Blackstone's Criminal Practice 2023.

24. Custodial sentences

1. custodial sentences in the Crown Court and magistrates' courts
2. restrictions on imposing custodial sentences
3. length of sentence
4. mandatory and minimum sentences
5. suspended sentences

Summary of Changes

Some paragraphs of Blackstone's Criminal Practice have been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

Paragraph E18.4 of Blackstone's Criminal Practice 2023 is part of the Criminal Litigation Syllabus 2023.

Paragraphs E13.27 and E13.28 of Blackstone's Criminal Practice 2023 are not part of the Criminal Litigation Syllabus 2023.

The examinable material in paragraphs E18.2, E18.7 and E14.1 of Blackstone's Criminal Practice 2023 has been clarified (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

25. Ancillary orders and costs on conviction

1. costs on conviction
2. surcharge
3. compensation
4. forfeiture and deprivation orders
5. confiscation under the Proceeds of Crime Act 2002

Summary of Changes

Paragraph E2.31 of Blackstone's Criminal Practice 2023 has been re-numbered since the previous edition (for details see the 'tracked changes' version of the Criminal Litigation Syllabus 2023).

There have also been amendments of the syllabus narrative to align with other sections of the Criminal Litigation Syllabus 2023.

26. The dangerous offender provisions

1. specified offences
2. assessment of dangerousness

Summary of Changes

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27. Appeals from the magistrates' courts and from the Crown Court in its appellate capacity

1. the power of the magistrates to rectify mistakes
2. the general right of appeal from the magistrates' court to the Crown Court
3. the procedure in the Crown Court for dealing with the appeal
4. the powers of the Crown Court on appeal, including the power to increase sentence
5. appeal to the High Court by case stated and by judicial review
6. appeals from the Crown Court

Summary of Changes

No syllabus changes.

28. Appeals from the Crown Court

1. the power of the Crown Court to rectify mistakes as to sentence
2. the right to appeal to the Court of Appeal and the requirement to obtain leave
3. the more common grounds that can give rise to appeal against conviction and sentence
4. the procedural requirements for applying for leave to appeal, including the practical steps that counsel should take when advising and preparing grounds of appeal
5. renewal of application before full court after a refusal by single judge
6. the power of the Court to make a loss of time direction
7. the rules concerning the Court of Appeal hearing fresh evidence during the appeal
8. the principles the Court of Appeal will adopt when determining appeals against conviction and sentence
9. consequences of a conviction being quashed, including ordering re-trials
10. References of unduly lenient sentences
11. prosecution appeals against trial judge rulings
12. the Criminal Cases Review Commission
13. appeals to the Supreme Court

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