

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

**BPTC syllabus and curriculum  
2018/19**

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# Civil litigation and evidence

## Introduction

The syllabus and curriculum for the centrally set assessment in Civil Litigation on the BPTC is based on the principle that the Civil Litigation course should prepare students for pupillage and the early years of practice at the Civil Bar, and that the syllabus and curriculum should focus upon the fundamental principles, key rules and core elements of civil litigation.

## Intended Learning Outcomes

On completion of this part of the course, students should be able to demonstrate a sound understanding and knowledge of the progress of civil litigation from initial considerations through trial to appeals. In particular, students should be able to demonstrate a sound understanding and knowledge of the following specific topics:

- Allocation of business between the High Court and County Courts, the overriding objective of the Civil Procedure Rules and the duty of the court to manage cases
- Limitation, pre-action conduct, and commencing proceedings
- Parties and statements of case
- Multiple causes of action, counterclaims and other additional claims
- Amendment and further information
- Default judgment and summary judgment
- Case management, sanctions and striking out
- Disclosure and inspection of documents
- Interim applications, interim payments, security for costs and interim injunctions
- Offers to Settle
- Evidence of fact and expert evidence
- Civil Trial and Evidence
- Judgments, Orders, Enforcement, Costs and Appeals

## Assessment

The summative assessment will be set and marked centrally by the BSB. It will consist of one paper with 75 multiple choice questions (MCQs) and the examination will last three hours. The standard for success is determined at each sitting based on the difficulty of the questions (using a criterion-referenced standard setting technique) and so may differ between sittings.

Assessment will be such that a broad range of the syllabus is assessed and that any part of it may be assessed. No indication must be given to students as to which parts of the syllabus will or will not be assessed. Students must be given the opportunity to attempt, and receive feedback on, formative (mock) assessments so as to provide appropriate preparation for summative (final) assessments.

## **1 General Matters**

- the allocation of business between the High Court and County Courts
- the overriding objective
- the duty of the court to manage cases

Examinable material will consist of where to start proceedings, the overriding objective, application by the court of the overriding objective, the duty of the parties to help the court further the overriding objective and the court's duty to manage cases.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 1.1-1.4, CPR 7.1 and PD7A paragraphs 1 and 2.1-2.5.

## 2 Limitation

- accrual of causes of action
- limitation periods in cases of tort, latent damage, personal injury, fatal accident, contract, and contribution claims

Examinable material will consist of limitation periods for actions in tort, contract, contribution claims, personal injury cases, fatal accident cases, and latent damage cases; extensions of limitation period in case of disability; postponement of limitation periods in cases of fraud, concealment or mistake; and discretionary exclusion of time limits for actions in respect of personal injuries or death.

The following statutory provisions will be assessed at a level limited to the wording of the relevant provisions: Limitation Act 1980 sections 2, 5, 10, 11, 12, 14, 14A, 14B, 24, 28, 32, 33 and 38(2).

### *Note*

Students should be familiar with the commentary at paragraph 8-38 (section 14(1) - date of knowledge) and the first two paragraphs of the commentary at paragraph 8-43 (knowledge of claimant in negligence actions) of Volume 2 of 'Civil Procedure' (the White Book) 2018.

### **3 Pre-action Conduct**

- the Practice Direction (Pre-Action Conduct)
- consequences of non-compliance

Examinable material will consist of the Practice Direction (Pre-Action Conduct), the approach of the courts, principles governing conduct of parties in cases not subject to a pre-action protocol, and guidance on pre-action procedure where no pre-action protocol applies.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Practice Direction: Practice Direction (Pre-Action Conduct) paragraphs 1-17.

## 4 Commencing Proceedings

- the Part 7 procedure
- validity, extension and service of claim forms
- service of other court documents within the jurisdiction
- the Part 8 procedure

Examinable material will consist of: where to start proceedings, how to start proceedings, the claim form, title of proceedings, start of proceedings, the right to use one claim form to start two or more claims, particulars of claim, statements of truth, extensions of time for service of a claim form, service of the claim form and other court documents within the jurisdiction, and the alternative procedure for claims under Part 8 CPR.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 7.6 (extension of time for serving a claim form). Relevant case law authorities are considered in the first two paragraphs of 7.6.2, and the first two paragraphs of 7.6.3 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 6.1-6-9, 6.11, 6.14, 6.20-6.22 and 6.25-6.27; CPR 7.2-7.5; CPR 8.1-8.2, 8.3-8.4, 8.5-8.6 and 8.8-8.9; PD6A paragraphs 1-4, 6, 8 and 10; PD7A paragraphs 1, 2.1-2.5, 4.1-4.2, 5.1-5.5, 6.1-6.2, 7.1-7.3 and 8.1- 8.2; and PD8A paragraphs 3 and 7.

The following statutory instrument will be assessed at a level limited to the wording of the relevant provisions: paragraphs 4, 4A, 5, 8 and 9 of the High Court and County Courts Jurisdiction Order 1991 (SI 1991/724)



## 5 Parties

- partnerships, sole traders, LLPs and companies, trusts and deceased persons
- children and persons suffering from mental incapacity

Examinable material will consist of bringing claims against partnerships, sole traders, LLPs and companies, trusts and deceased persons; and bringing and settling proceedings involving children and protected parties.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 7.2A; CPR 19.7A and 19.8; CPR 21.1-21.4 and 21.10-21.11; CPR 39.6; PD7A paragraphs 5A and 5C; and PD 21 paragraphs 5-6.

## 6 Statements of Case

- claim forms and particulars of claim
- acknowledgement of service, defences, replies, counterclaims
- the effect of not responding to an allegation in a statement of case

Examinable material will consist of contents of claim form, statements of value, contents of particulars of claim, contents of defence, defence of set-off, reply to defence, court's power to dispense with statements of case, particulars of claim in personal injury claims, matters to be included in particulars of claim, and matters which must be specifically set out in particulars of claim and the defence; acknowledgement of service, consequence of not filing acknowledgement of service, and period for filing acknowledgement of service; filing a defence, consequence of not filing a defence, period for filing defence, agreement extending of period for filing a defence, service of copy of defence, making a counterclaim, reply to defence, court permission for subsequent statements of case, claimant's notice where defence is that money claimed has been paid, and stay of claim if not defended or admitted.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 10.1-10.3; CPR 16.1-16.8; CPR 15.1-15.11; PD15 paragraphs 1-3; and PD 16 paragraphs 1-3, 4.1-4.3, 4.4 and 7-15.

The following statutory provisions may also be assessed: section 35A Senior Courts Act and section 69 County Courts Act.

## 7 Multiple Causes of Action, Counterclaims and Other Additional Claims

- multiple causes of action and multiple parties
- counterclaims against the claimant or an additional party
- contribution notices and claims against third parties and fourth parties

Examinable material will consist of multiple causes of action and multiple parties, changes of parties, provisions where two or more persons are jointly entitled to a remedy, adding and substituting parties, adding or substituting parties after the end of a relevant limitation period, removal of parties, transfer of interest or liability, counterclaims against the claimant or an additional party, and claims for contribution or indemnity from another party.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 19.5 (adding or substituting parties after the end of a relevant limitation period). Relevant case law authorities are considered in paragraphs 19.5.2, 19.5.3, 19.5.4, 19.5.5, 19.5.7 and 19.5.8 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 19.1-19.4; CPR 20.1-10; PD 19A paragraphs 1- 5; and PD 20 paragraphs 1-7.

The following statutory provision will be assessed at a level limited to the wording of the relevant provision: Limitation Act 1980 section 35.

## 8 Amendment

- permission or consent to amend
- costs consequences of amendment

Examinable material will consist of amendments to statements of case, the power of the court to disallow amendments made without permission, amendments to statements of case with permission of the court and amendments to statements of case after the end of a relevant limitation period.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 17.3 (amendments to statements of case with permission of the court) and CPR 17.4 (amendments to statements of case after the end of a relevant limitation period). Relevant case law authorities are considered in paragraphs 17.3.5-17.3.8 and 17.4.2 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 17.1-17.2; and PD17 paragraphs 1-2.

The following statutory provision will be assessed at a level limited to the wording of the relevant provision: Limitation Act 1980 section 35.

### *Note*

Students should be familiar with the words in italics immediately underneath the heading of PD17, which read as follows: “A party applying for an amendment will usually be responsible for the costs of and arising from the amendment”

## 9 Further Information

- requests for further information
- responding to a request for further information

Examinable material will consist of obtaining further information, requests for further information, responding to requests for further information and restriction on the use of further information.

The following provision of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 18.1. Relevant case law authorities are considered in paragraph 18.1.5 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 18.2; PD 18 paragraphs 1-5.

## 10 Default Judgment and Summary Judgment

- default judgments
- applications to set aside
- summary judgments

Examinable material will consist of: claims in which default judgment may be obtained, conditions to be satisfied for default judgment, procedures for obtaining default judgment, nature of judgment obtained, default judgment in claims against more than one defendant, evidence on requests and applications for default judgment, setting aside or varying default judgment, grounds for summary judgment, proceedings in which summary judgment is available, procedure for obtaining summary judgment, evidence at a summary judgment hearing, the court's powers on a summary judgment application and setting aside orders for summary judgment.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 13.3 (cases where the court may set aside or vary default judgment) and CPR 24.2 (grounds for summary judgment) and 24.6 (court's powers when it determines a summary judgment application). Relevant case law authorities are considered in paragraphs 13.3.1-13.3.5, paragraphs 24.2.3-24.2.7 and paragraph 24.6.6 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 12.1-12.6, 12.8 and 12.10; CPR 13.1-13.2 and 13.4; CPR 24.1 and 24.3-24.5; PD 12 paragraphs 1-5; and PD 24 paragraphs 1-6 and 8-10.

## 11 Case Management, Sanctions and Striking Out

- the small claims track, fast track and multi-track
- allocation
- case management conferences
- costs management
- directions
- relief from sanctions
- striking out a claim
- discontinuance

Examinable material will consist of the court's case management powers, court's power to make orders of its own initiative, power to strike out statements of case, sanctions, relief from sanctions, power of court to rectify where there have been errors of procedure, costs management, case management, directions questionnaires, stays to allow for settlement, referrals to mediation, scope of the small claims track, fast track and multi-track, allocation, directions in fast track cases and case management in multi-track cases.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 3.4 (power to strike out as statement of case) and 3.9 (relief from sanctions). Relevant case law authorities are considered in paragraphs 3.4.1, 3.4.2, 3.4.3, the first two paragraphs of 3.4.3.2, the first paragraph of 3.4.3.3, and paragraphs 3.4.4.1, 3.9.1 and 3.9.2-3.9.8 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 2.11, CPR 3.1, 3.1A, 3.3, 3.5, 3.8, 3.10 and 3.12-3.18; CPR 26.1 and 26.3-26.10; CPR 28.3; CPR 29.1-29.9; CPR 38.1-7; PD 3E paragraphs 1-7; PD 26 paragraphs 7, 9 and 11; and PD 29 paragraphs 3-10.

### *Note*

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): *Denton*.

## 12 Disclosure and Inspection of Documents

- disclosure and inspection of documents
- specific disclosure
- collateral use of disclosed documents
- pre-action disclosure
- disclosure against non-parties
- legal professional privilege and without prejudice communications in civil cases

Examinable material will consist of disclosure and inspection, right of inspection of disclosed documents, the meaning of document, standard disclosure, duty of search, disclosure of documents in party's control, disclosure of copies, procedure for standard disclosure, disclosure lists, disclosure statements, withholding disclosure or inspection, specific disclosure or inspection, documents referred to in statements of case etc., inspection and copying of documents, pre-action disclosure, disclosure against non-parties, and other powers of the court to order disclosure.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 31.3 (right of inspection of a disclosed document); 31.6 (standard disclosure); 31.12 (specific disclosure); 31.16 (pre-action disclosure); 31.17 (disclosure against non-parties); and 31.18 (other powers of the court to order disclosure). Relevant case law authorities are considered in paragraphs 31.3.5-31.3.6, 31.3.12, 31.3.13, 31.3.14, 31.3.27 and 31.3.40; 31.6.2-31.6.4; 31.12.1.1 and 31.12.2; 31.16.3-31.16.5; 31.17.1, 31.17.2.1, 31.17.3 and 31.17.4; and 31.18.2 and 31.18.4-31.18.8 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 31.1-31.2, 31.4-31.5, 31.7-31.11, 31.14, -31.15 and 31.19-31.23; PD 31A paragraphs 1-2, 2A and 3-8.

The following statutory provisions will be assessed at a level limited to the wording of the relevant provisions: Senior Courts Act 1981 section 35, County Courts Act 1984 section 54.

### *Note*

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): Norwich Pharmacal.



## 13 Interim Applications

- with notice and without notice applications
- documentation required in interim applications
- periods of notice in interim applications
- the duty of full and frank disclosure in without notice applications

Examinable material will consist of how to apply for an interim remedy, applicant's disclosure duties in applications made without notice or on short notice, consequences of material non-disclosure, where to make an application, content of application notice, filing and serving application notice, applications made without notice, applications dealt with without a hearing, setting aside or varying orders made without notice, proceeding in absence of a party, dismissal of applications totally without merit, pre-action applications, evidence in interim applications, and supply by the applicant of a draft order.

The following provision of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 25.3 (how to apply for an interim remedy). Relevant case law authorities are considered in paragraphs 25.3.2-25.3.8 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 23.1-12; CPR 25.2; PD 23A paragraphs 2-5, 9, 12.1, 13; and PD 25A paragraphs 4 and 5.

## 14 Interim Payments and Security for Costs

- interim payments
- security for costs

Examinable material will consist of the procedure for applying for interim payments, conditions to be satisfied and matters to be taken into account, evidence on interim payment applications, powers of the court where it has made an order for interim payment, restrictions on disclosure of interim payments, applying for security for cost, and the conditions to be satisfied on an application for security for costs.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: 25.13. Relevant case law authorities are considered in paragraphs 25.13.1, 25.13.12-25.13.14 and 25.13.18 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 25.6-9; CPR 25.12; PD 25B paragraph 2.

## 15 Interim Injunctions

- interim injunctions
- American Cyanamid principles
- exceptions and variations to American Cyanamid
- usual undertakings and cross-undertakings

Examinable material will consist of applying for interim injunctions; American Cyanamid principles; exceptions and variations to American Cyanamid, including mandatory interim injunctions, interim injunctions that finally dispose of the case, and cases where there is no arguable defence; and usual undertakings and cross-undertakings in interim injunction cases.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 25.1 (orders for interim remedies) and 25.3 (how to apply for an interim remedy). Relevant case law authorities are considered in paragraphs 25.1.9-25.1.11, 25.1.14.1 and 25.1.15 of 'Civil Procedure' (the White Book) 2017. Relevant material on interim injunctions is also contained in paragraphs 15-7 to 15-18, 15-20 to 15-22, 15-24 to 15-27 and 15-29 to 15-30 of Volume 2 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 25.2.

### *Note*

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): American Cyanamid.

## 16 Offers to Settle

- Calderbank offers and offers to settle under Part 36
- consequences of accepting Part 36 offers
- withdrawing, reducing and increasing offers to settle
- consequences of failing to obtain judgment more advantageous than offer to settle

Examinable material will consist of Calderbank offers and offers to settle under Part 36, form and content of Part 36 offers, time when a Part 36 offer is made, clarification of a Part 36 offer, withdrawing or changing the terms of a Part 36 offer, acceptance of a Part 36 offer, costs consequences and effects of accepting a Part 36 offer, restrictions on disclosure of a Part 36 offer and costs consequences following judgment.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 36.2 (Part 36 Offers to Settle), 36.13 (costs consequences of acceptance of a Part 36 offer) and 36.17 (costs consequences following judgment). Relevant case law authorities are considered in paragraphs 36.2.1, 36.2.4, 36.13.1-3, 36.17.1-4, a 36.17.5 and 36.17.5.1 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 36.1, 36.3-11 and 36.14-16.

### *Note*

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): *Calderbank*.

## 17 Evidence of Fact

- evidence of fact in civil proceedings
- witness statements and witness summonses
- notices to admit facts and notices to prove documents

Examinable material will consist of the power of the court to control evidence, evidence of witnesses, service and use of witness statements at trial and other hearings, witness summaries, use of witness statements for other purposes, false statements in witness statements, notices to admit facts, notices to prove documents, issuing and serving witness summonses, and evidence by deposition.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 32.5 (use at trial of witness statements). Relevant case law authorities are considered in paragraphs 32.5.1-32.5.3.1 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 32.1-4, 32.6-16, 32.18-19, 34.1-12.

## 18 Expert Evidence

- the general exclusionary rule in relation to evidence of opinion
- the main exceptions to the rule
- expert opinion evidence in civil proceedings

Examinable material will consist of the general exclusionary rule in relation to evidence of opinion and main exceptions to the rule, the use of expert opinion evidence in civil proceedings, expert evidence at trial, the court's duty and power to restrict expert evidence, duties and responsibilities of experts, expert reports, written questions to experts, single joint experts, discussions between experts, consequences of failing to disclose an expert's report, and obtaining further expert evidence.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 35.1 (court's duty to restrict expert evidence), 35.3 (expert's overriding duty to the court), 35.7 (single joint experts) and 35.11 (use by one party of expert's report disclosed by another). Relevant case law authorities are considered in paragraphs 35.0.5, 35.1.1, 35.3.3, 35.7.6 and 35.11.1 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 35.2, 35.4-6, 35.10 and 35.12-14; PD35 paragraphs 1-9.

The following statutory provision may also be assessed: section 3 of the Civil Evidence Act 1972.

## 19 Civil Trial and Evidence

- burden and standard of proof
- the trial of civil cases
- hearsay evidence in civil proceedings
- convictions as evidence in civil proceedings

Examinable material will consist of the power of the court to control evidence, evidence of witnesses, evidence by video link, use of witness statements at trial, the use of hearsay evidence at trial, the use of plans, models and photographs as evidence, convictions as evidence in civil proceedings, and the trial of civil cases, including trial timetables, order of speeches, calling and examining witnesses, judgment, submissions on orders for costs and permission to appeal.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 32.5 (use at trial of witness statements). Relevant case law authorities are considered in paragraphs 32.5.1-32.5.3.1 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 32.1-3, 33.1-33.6; PD 28 paragraph 8; and PD 29 paragraph 10.

The following statutory provisions may also be assessed: section 11 Civil Evidence Act 1968, and sections 1-4 Civil Evidence Act 1995.

### *Note*

Students should be familiar with the discussion of the burden and standard of proof in civil cases at paragraphs 2.1 and 2.3 of the current edition of the BPTC *Evidence Handbook*, Oxford University Press.

## 20 Judgments, Orders and Enforcement

- judgment and orders, including Tomlin orders
- enforcing money judgments

Examinable material will consist of drawing up and filing judgments and orders, service of judgments and orders, when judgments and orders take effect, consent judgments and orders, Tomlin orders, applying to set aside or vary judgments and orders, time for complying with judgments and orders, correction of errors in judgments and orders, judgments on both claim and counterclaim, methods of enforcing judgments and orders, and transfer of proceedings for enforcement.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 40.6 (consent judgments and orders) and 70.3 (transfer of proceedings for enforcement). Relevant case law authorities are considered in paragraphs 40.6.2 and 70.3.2 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 40.3-4, 40.7-9, and 40.11-13; CPR 70.1-2A, 70.4 and 70.6; CPR 71.1-2, 71.6 and 71.8; CPR 72.1-3; CPR 73.3; CPR 83.2; CPR 84.3; CPR 89.3-4; PD 40B paragraphs 4 and 8; PD 70 paragraphs 1A.1 and 1.1; PD 71 paragraphs 1, 2, 4 and 5; PD 72 paragraph 1; and PD 73 paragraph 1.

### *Note*

Students should be familiar with the editorial introductions to CPR Parts 71-73, 83-84 and 89 at paragraphs 71.0.1, 72.0.1, 72.2.15, 73.0.1, 73.0.4 (1) and (2), 83.0.2-3, the second paragraph of 83.0.17, 84.0.2-3 and 89.0.1 of 'Civil Procedure' (the White Book) 2018.

The following statutory provisions may also be assessed: section 6(1)-(5) of the Attachment of Earnings Act 1971 at paragraph 9B-965 of Volume 2 of 'Civil Procedure' (the White Book) 2018



## 21 Costs

- summary and detailed assessment of costs
- standard and indemnity costs
- interim costs orders
- costs orders in civil cases

Examinable material will consist of costs budgets, costs management, filing and exchanging budgets, costs management orders, costs management conferences, court regard to budgets in making case management decisions, court discretion as to costs, interim costs orders, standard or indemnity basis of assessment, factors taken into account in deciding amount of costs, procedure for assessing costs, summary assessment of costs, detailed assessment of costs, time for complying with order for costs, court powers in relation to misconduct, and qualified one-way costs shifting.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 44.2 (court's discretion as to costs). Relevant case law authorities are considered in paragraphs 44.2.4, 44.2.5, 44.2.6 (first paragraph), 44.2.7 (first paragraph), 44.2.8 (first paragraph), 44.2.10 (first two paragraphs), 44.2.12 (first two paragraphs), 44.2.13 (first three paragraphs), 44.2.14 (first two paragraphs), 44.2.17 (first two paragraphs), 44.2.18 (first three paragraphs), 44.2.19 (first and fourth paragraphs), 44.2.20, and 44.2.28 (first, second and sixth paragraphs) of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 44.1, 44.3-4, 44.6-7, 44.11, and 44.13-16; CPR 47.1; PD 44 paragraphs 3-6, 8, 9.1-9.2, 9.5(1), (2) and (4), and 9.6.

### *Notes*

The following are the specific leading case authorities with which students should be familiar (and should be able to refer to by name): Sanderson, Bullock.

Students will not be assessed on the rules about costs before April 1, 2013.

## 22 Appeals

- civil appeals in England and Wales (excluding appeals to the Supreme Court)

Examinable material will consist of permission to appeal, routes of appeal, time for appealing, appellant's notice, grounds on which appeals may succeed, appeal court powers, hearing of appeals, fresh evidence in appeals, respondent's notice, and skeleton arguments.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 52.21 (hearing of appeals). Relevant case law authorities are considered in paragraphs 52.21.1 and 52.21.3 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 52.1, 52.3-7, 52.12-16 and 52.20; PD52A Section 3 (destinations of appeal), Section 4 (obtaining permission to appeal and allocation of appeals) and Section 5 (skeleton arguments).

# Criminal litigation, evidence and sentencing

## Introduction

The syllabus and curriculum for the centrally set assessment in Criminal Litigation on the BPTC is based on the principle that the Criminal Litigation course should prepare students for pupillage and the early years of practice at the Criminal Bar, and that the syllabus and curriculum should focus upon the fundamental principles, key rules and core elements of criminal litigation.

## Intended Learning Outcomes

On completion of this part of the course, students should be able to demonstrate a sound understanding and knowledge of the criminal process as a whole and how cases progress through the system. In particular, students should be able to demonstrate a sound understanding and knowledge of the following specific topics:

- Preliminaries to prosecution, bail and remands
- Procedure in the magistrates' courts, allocation for trial, and sending to the Crown Court for trial or sentence
- Disclosure of unused material and defence statements
- Indictments
- Preliminaries to trial in the Crown Court
- Summary and Jury trial procedure
- Preliminary evidential matters, and the burden and standard of proof
- Preliminary issues relating to witnesses and the rules relating to the examination of Witnesses
- Hearsay evidence, character evidence, confessions and unlawfully obtained evidence, inferences from the defendant's silence and other conduct, visual identification evidence, opinion evidence and experts, and privilege
- Youth courts and the appearance of youths in other courts
- Sentencing principles, non-custodial sentences, custodial sentences, ancillary orders and costs on conviction, and the dangerous offender provisions
- Appeals from the magistrates' courts and from the Crown Court

## Assessment

The summative assessment will be set and marked centrally by the BSB. It will consist of one paper with 75 multiple choice questions (MCQs) and the examination will last three hours. The standard for success is determined at each sitting based on the difficulty of the questions (using a criterion-referenced standard setting technique) and so may differ between sittings.

Assessment will be such that a broad range of the syllabus is assessed and that any part of it may be assessed. No indication must be given to students as to which parts of the syllabus will or will not be assessed. Students must be given the opportunity to attempt, and receive feedback on, formative (mock) assessments so as to provide appropriate preparation for summative (final) assessments.

# 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

1. Examinable material on the classification of offences will consist of definition of the classes of offences and determining which class an offence is in. The relevant material is addressed in paragraphs D6.1-6.4 of Blackstone's Criminal Practice 2019. Students will be required to know the classification of the following offences: theft, robbery, burglary, fraud, sexual assault, rape, common assault, ABH, GBH/wounding contrary to sections 18 and 20 OAPA 1861, criminal damage and possession, possession with intent and supply of Class A and B drugs.
2. Examinable material on the structure of the criminal courts in England and Wales will consist of the structure of the Crown Court, categories of judge in the Crown Court, the role of justices in the Crown Court, trial on indictment, appeals to the Crown Court, committal for sentence to the Crown Court, summary offences in the Crown Court, bail in the Crown Court, magistrates' courts, magistrates and district judges in the magistrates' courts, jurisdiction of magistrates' courts, jurisdiction of the Court of Appeal (Criminal Division) and appeals to the Supreme Court from the Court of Appeal (Criminal Division). The relevant material is addressed in paragraphs D3.1, D3.2, D3.4, the first paragraph of D3.10, D3.13-3.17, D3.19, D3.23, D26.1 and D30.3-30.4 of Blackstone's Criminal Practice 2019.
3. Examinable material on funding of criminal cases will consist of public funding and representation orders. The relevant material is addressed in paragraphs D32.1, D32.6 and the first three sub-paragraphs (up to "It was wrong to apply hindsight.") of D32.7 of Blackstone's Criminal Practice 2019.
4. Examinable material on the importance and application of the Criminal Procedure Rules, the overriding objective and the case management functions of the court will consist of the overriding objective, the roles of the court and parties in case management, balancing efficiency and fairness, case progression officers, practical case management and consequences of failure to abide by time limits. The relevant material is addressed in paragraphs D4.3, D4.7-4.8, the first two sub-paragraphs of D4.9, D4.10-11, D4.13 and D4.14-4.16 of Blackstone's Criminal Practice 2019. Examinable material will also consist of the content of the following provisions of the Criminal Procedure Rules: CrimPR rules 1.1-1.3, 3.2-3.3, 3.5, 3.9 and 3.11. Candidates will not be required to memorise individual rule numbers.

## 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

1. Examinable material on the PACE Codes of Practice and their importance to criminal investigations will consist of general consideration of police powers in the investigation of crime. The relevant material is addressed in the first and last sub-paragraphs of paragraph D1.1 of Blackstone's Criminal Practice 2019.
2. Examinable material on Code C.10 and Code C.11 will consist of interviews generally (including the definition of interview, where an interview may be conducted, cautions and special warnings, information about legal advice, significant statements or silence, conduct of the interview, when interviews should cease, the recording of interviews, special categories of persons, and intoxicated persons). The relevant material is addressed in paragraphs D1.81-D1.92 of Blackstone's Criminal Practice 2019.
3. Examinable material on the main powers of arrest and the detention and treatment of suspects will consist of reasonable suspicion, the use of force (including the use of handcuffs), powers of arrest, legal characteristics of arrest, communication of fact of and grounds for arrest, action following arrest, police powers of arrest without warrant, arrest for breach of the peace, warrants issued by magistrates' courts and the Crown Court, detention and treatment of suspects, the applicability of PACE and Codes of Practice to the detention and treatment of suspects, the custody officer, custody records, notification of arrest, right of access to a solicitor, and detention and treatment of juveniles and mentally disordered or vulnerable persons (including appropriate adults). The relevant material is addressed in paragraphs D1.4, D1.7, D1.8, D1.14-1.18, D1.20, the first sub-paragraph of D1.21, D1.22-1.23, D1.33, D1.35-1.36, D1.40, D1.44-1.45, D1.52, D1.55 and D1.63-1.68 of Blackstone's Criminal Practice 2019.
4. Examinable material on the role of the Crown Prosecution Service and other prosecutors will consist of the role of the prosecutor, commencement of proceedings against suspects arrested by the police and the role of the Crown Prosecution Service (including involvement in the charging process). The relevant material is addressed in paragraphs D3.44, D3.46, D3.49 and D3.50 of Blackstone's Criminal Practice 2019.
5. Examinable material on different methods of commencing criminal proceedings and time limits will consist of the procedure for securing the presence of the accused before a magistrates' court, the written charge and requisition procedure, laying an information and issuing a summons, content of the written charge or information, and the time within which summary trial should take place. The relevant material is addressed in paragraphs D5.2, D5.4, D5.7 (first two sub-paragraphs), D5.9, D5.13, D21.18 and D21.19 of Blackstone's Criminal Practice 2019.

### 3. Bail and remands

1. adjournments and remands
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

1. Examinable material on adjournments and remands will consist of the power to adjourn, case management and adjournments and remanding the accused on adjournments. The relevant material is addressed in paragraphs D5.27 and D5.29-D5.30 of Blackstone's Criminal Practice 2019.
2. Examinable material on custody time limits will consist of periods of remand in custody, further remands, remand on bail, custody time limits, periods applicable, effect of expiry of custody time limit, and the procedure for seeking an extension of time limits. The relevant material is addressed in the first sub-paragraph of D5.31 (the general 8 clear days rule only); the first sub-paragraph of D5.32, D5.36, D15.7, D15.14-15.15, D15.18 and D15.23 of Blackstone's Criminal Practice 2019.
3. Examinable material on the presumption in favour of bail, the occasions when it does not apply, the statutory grounds for withholding bail, and matters that have to be considered by the court will consist of the court's power to grant bail, bail by magistrates' courts, bail by the Crown Court, the presumption in favour of bail, no bail for homicide or rape if previous conviction, refusing bail to accused charged with an imprisonable offence, the risk of absconding, further offences or interference with witnesses, other grounds for withholding bail, and refusing bail to an accused charged with summary and non-imprisonable offences. The relevant material is addressed in paragraphs D7.1-D7.4, D7.6-7.7, the first sub-paragraph of D7.8, D7.11-7.13, D7.15-7.22; D7.23-7.31, D7.35-36 and D7.37 of Blackstone's Criminal Practice 2019.
4. Examinable material on bail conditions will consist of the duty to surrender to custody, conditions that may be imposed by the court, electronic monitoring, sureties, securities, applications to vary bail conditions and breach of bail conditions. The relevant material is addressed in paragraphs D7.45-49, D7.51, D7.55, D7.60, D7.65-7.66 of Blackstone's Criminal Practice 2019.
5. Examinable material on bail procedure will consist of application procedure in magistrates' courts, the right to make repeated argued bail applications, certificates of full argument, bail application procedure in the Crown Court, and repeated bail applications in the Crown Court. The relevant material is addressed in paragraphs D7.67, D7.68, the first sub-paragraph of D7.70, D7.78, D7.80, D7.83-7.84 and D7.86 of Blackstone's Criminal Practice 2019.
6. Examinable material on prosecution appeals against the grant of bail will consist of the prosecution right of appeal and procedure. The relevant material is addressed in paragraphs D7.92-7.93 of Blackstone's Criminal Practice 2019.
7. Examinable material on failure to surrender to bail or breach of bail conditions will consist of powers of the court when a bailed accused fails to appear, breach of bail conditions, and the offence of absconding. The relevant material is addressed in paragraphs D7.97-7.98, D7.102, D7.104, D7.105, D7.108, D7.110-7.111 and D7.113 of Blackstone's Criminal Practice 2019.

## 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 equivocal pleas
  3. the factors the defendant should be aware of in deciding whether to elect Crown Court trial
  4. plea before venue and allocation, 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
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1. Examinable material on rules relating to the provision of initial details of the prosecution case will consist of knowledge of CrimPR Part 8, including the time when initial details of the prosecution case must usually be provided together with the options open to the parties and the court in the event of non-compliance by the prosecution. The relevant material is addressed in paragraph D5.19 of Blackstone's Criminal Practice 2019.
  2. Examinable material on preliminary hearings, entering pleas in the magistrates' courts and equivocal pleas will consist of pre-trial hearings by live link, proceeding to sentence, early administrative hearings, pre-trial hearings and pre-trial rulings, case management and equivocal pleas. The relevant material is addressed in paragraphs D5.38, D5.41, D21.34-21.35, D21.40 and D12.100 (which considers equivocal pleas on indictment) of Blackstone's Criminal Practice 2019.
  3. Examinable material on factors the defendant should be aware of in deciding whether to elect Crown Court trial will consist of the relative formality and length of proceedings in the two forums, the perceived advantage of a jury as the tribunal of fact, the differing defence disclosure obligations, costs, having separate tribunals of fact and law, the different avenues of appeal and the fact that reasoned decisions for conviction are required in a summary trial. The relevant material is addressed in paragraph D6.20 of Blackstone's Criminal Practice 2019.
  4. Examinable material on plea before venue and allocation will consist of determination of mode of trial, plea before venue, mode of trial, rules relating to the presence of the accused, legitimate expectations as to sentence, the binding effect of indication of sentence, the magistrates' decision whether to accept jurisdiction, the prosecution influence on the decision, the special procedure on criminal damage charges, and the special provision for low value shoplifting. The relevant material is addressed in paragraphs D6.6-6.9, the first sub-paragraph of D6.12, D6.14-6.19, D6.22-6.27 and D6.29 of Blackstone's Criminal Practice 2019.
  5. Examinable material on committals for sentence will consist of powers to commit for sentence and be limited to the fact that there are different provisions relating to different circumstances. The relevant material is addressed in paragraphs D.23.30, D23.42 and the first sub-paragraph of D23.55 of Blackstone's Criminal Practice 2019.
  6. Examinable material on sending indictable offences to the Crown Court will consist of court of first appearance, sending cases to the Crown Court under section 51 of the Crime and Disorder Act 1998 (including either way offences, the situation where there are co-accused, subsidiary matters and presence of the accused). The relevant material is addressed in paragraphs D10.1 and D10.4-10.11 of Blackstone's Criminal Practice 2019.
  7. Examinable material on sending linked summary offences and dealing with them in the Crown Court will consist of the relevant statutory provisions. Relevant material is addressed in paragraph D6.40 (Mode of Trial for summary offences) of Blackstone's Criminal Practice 2019.

## 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
- 
1. Examinable material on the investigators' duty to retain unused material, the prosecutor's duty of disclosure and the test for determining whether unused material should be disclosed by the prosecution will consist of the statutory regime and the common law, commencement dates, the investigation stage, responsibilities of investigators and disclosure officers, the duty to record and retain material, the duty to reveal material to the prosecutor, the responsibilities of the prosecutor to review material, disclosure post-charge but prior to statutory obligation, the statutory test for disclosure, service of schedules and prosecution obligations in summary trials. The relevant material is addressed in paragraphs D9.2, the first sub-paragraph of D9.4, D9.6, D9.8, the first five sub-paragraphs of D9.10 (up to 'para. 5.6'), D9.12-9.16 and D9.18-9.22 of Blackstone's Criminal Practice 2019.
  2. Examinable material on time limits for prosecution disclosure, applications to compel the prosecution to disclose and the continuing duty to review will consist of time limits for disclosure, method of disclosure, continuing duty to review: secondary disclosure, and defence applications for prosecution disclosure. The relevant material is addressed in paragraphs D9.23 – D9.27 of Blackstone's Criminal Practice 2019.
  3. Examinable material on defence duties of disclosure, defence statements, and consequences of defence disclosure failures will consist of the defence statement, alibi, notification of details of defence witnesses, defence statements in cases tried summarily, defence statements in cases tried in the Crown Court, time limits, and sanctions for failure in providing defence materials. The relevant material is addressed in paragraphs D9.29, D9.30, D9.33, D9.34, D9.37, D9.38 and D9.40-9.43 of Blackstone's Criminal Practice 2019.
  4. Examinable material on public interest immunity and third party disclosure will consist of the practice and procedure of investigators, obligations of prosecutors and pre-trial disclosure of third party material. The relevant material is addressed in D9.49, the first sub-paragraph of D9.55, the first sub-paragraph of D9.71 up to '(see CPIA Code, para. 3.6)' and D15.79 of Blackstone's Criminal Practice 2019



## 6. Indictments

1. the indictment, including time limits and the structure and format of an indictment
  2. rules governing joinder of counts on an indictment and the consequences of misjoinder
  3. rules relating to specimen counts
  4. joinder of defendants on an indictment
  5. applications to sever the indictment
  6. applications to amend indictments
  7. voluntary bills of indictment
- 
1. Examinable material on the indictment will consist of the requirement that an indictment be signed, responsibility for drafting an indictment, time limits for preferring serving a bill of indictment, counts which may be included in an indictment, general form of an indictment, degree of detail required in particulars, components of particulars, and dealing with continuous offences. The relevant material is addressed in first sub-paragraph of D11.1 and paragraphs D11.2, D11.6, D11.8, D11.9, D11.13, D11.14, D11.23, D11.28, D11.32, D11.34 (from (c)), D11.35 (up to CrimPD II, paragraph 10A.11 at (d)) of Blackstone's Criminal Practice 2019.
  2. Examinable material on joinder of counts will consist of the rules in Crim PR rule 10.2(1)-(4) on the indictment, and Crim PR rule 3.21(1) and (4) on the court's discretion to order separate trials, Examinable material on joinder and misjoinder of counts will consist of the rule in Crim PR rule 10.2(3) on joinder of counts in an indictment, application of the rule, charges founded on the same facts, and series of offences of the same or similar character. The relevant material is addressed in paragraphs D11.63, D11.64 (insofar as it establishes that proceedings flowing from an improperly joined count are a nullity), D11.65-11.66 and D11.70 of Blackstone's Criminal Practice 2019.
  3. Examinable material relating to specimen counts will consist of specimen or sample counts (including the procedure for specimen counts, and potential problems with specimen counts). The relevant material is addressed in paragraphs D11.36-11.38 of Blackstone's Criminal Practice 2019.
  4. Examinable material on joinder of defendants on an indictment will consist of the power to indict all parties to a joint offence for it in a single count, without the need to distinguish between principals and secondary parties, and the power to join two or more accused in one indictment on separate counts for the same or different offences. The relevant material is addressed in paragraphs D11.72-11.75 of Blackstone's Criminal Practice 2019.
  5. Examinable material on applications to sever the indictment will consist of the power to sever an indictment, severance of counts on an indictment, and the court's discretion to order separate trials of the accused. The relevant material is addressed in paragraphs D11.76-11.79 and D11.86-11.88 of Blackstone's Criminal Practice 2019.
  6. Examinable material on applications to amend indictments will consist of the extent of the power to amend, amendment by insertion of a new count, the evidential basis for the new count, and timing of amendment. The relevant material is addressed in paragraphs D11.99-11.100, D11.103-11.104, and the first sub-paragraph of D11.105 of Blackstone's Criminal Practice 2019.
  7. Examinable material on voluntary bills of indictment will be limited to knowledge of the fact that such a procedure exists and the circumstances in which it is appropriate to use it. The

relevant material is addressed in paragraphs D10.44 and D10.48 of Blackstone's Criminal Practice 2019.

Examinable material on indictments will also consist of the content of Part 10 of the CrimPR, together with CPD II, paragraphs 10A.1 to 10A.5 and 10A.10.

## 7. Preliminaries to trial in the Crown Court

1. arraignment, change of plea and pleas to lesser offences
  2. preliminary and plea and trial preparation hearings
  3. prosecution offering no evidence and leaving counts to lie on file
  4. applications to dismiss
- 
1. Examinable material on arraignment, change of plea and pleas to lesser offences will consist of consequences of a finding of unfitness, procedure when accused is found fit to plead, procedure on arraignment, pleas that may be entered on arraignment, entry and effect of plea of not guilty, plea of guilty, requirement that accused plead personally, effect of plea of guilty, adjournment following plea of guilty, mixed pleas from an accused, plea of guilty to a lesser offence, change of plea from not guilty to guilty, and change of plea from guilty to not guilty. The relevant material is addressed in paragraphs D12.13, D12.16, 12.53, D12.58, D12.70, D12.71-12.74, D12.76, D12.79 and D12.93-12.95 of Blackstone's Criminal Practice 2019 and in CrimPR rule 3.24.
  2. Examinable material on pre-trial and plea and trial preparation hearings will consist of preliminary hearings generally, and plea and trial preparation hearings. The relevant material is at D15.39, D15.44 and D15.47-15.49 of Blackstone's Criminal Practice 2019.
  3. Examinable material on the prosecution offering no evidence and leaving counts to lie on file will consist of offering no evidence under section 17 of the Criminal Justice Act 1967, and leaving counts to lie on file. The relevant material is addressed in paragraphs D12.81-12.83 of Blackstone's Criminal Practice 2019.
  4. Examinable material on applications to dismiss charges will consist of applications for dismissal, the procedure for applications for dismissal and the test on dismissal applications. The relevant material is addressed in paragraphs D10.23, the first sub-paragraph of D10.24, and paragraph D10.27 of Blackstone's Criminal Practice 2019.

## 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

1. Examinable material on pre-trial rulings will consist of pre-trial hearings and pre-trial rulings. The relevant material is addressed in paragraph D21.35 of Blackstone's Criminal Practice 2019.
2. Examinable material on proceeding to trial in the absence of the defendant will consist of the court's powers and procedure in cases of trial in the absence of the accused, determining whether to proceed to trial in the accused's absence, adjournments and warrant for arrest . The relevant material is addressed in CrimPR rule 24.12 and in paragraphs D5.43, D22.13, D22.16 and D22.19-20 of Blackstone's Criminal Practice 2019.
3. Examinable material on abuse of process in the magistrates' courts will consist of the effect of delay and the court's discretion not to proceed on account of delay. The relevant material is addressed in paragraph D21.22 of Blackstone's Criminal Practice 2019.
4. Examinable material on the procedural steps in a summary trial will consist of the start of the trial, the prosecution opening speech, prosecution witnesses, written evidence at summary trial, formal admissions, objections to prosecution evidence (including objections to admissibility under section 78 and section 76 of PACE), closing speeches, the role of the justices' clerk or legal adviser, and the content of CrimPR rule 24.3. The relevant material is addressed in the first sub-paragraph of D22.36, D22.37, D22.38, D22.39, D22.40, the first sub-paragraph of D22.41, D22.43-22.44, D22.46, the first sub-paragraph of D22.47 up to "...confession"; D22.63, D22.80-81 of Blackstone's Criminal Practice 2019.
5. Examinable material on making a submission of no case to answer will consist of submissions of no case to answer, the extent to which the court may have regard to the credibility of prosecution witnesses, and the prosecution right of reply. The relevant material is addressed in paragraphs D22.52-22.54 of Blackstone's Criminal Practice 2019.
6. Examinable material on verdicts will consist of the duty to give reasons and the circumstances in which the court may find the defendant guilty of a lesser offence. The relevant material is addressed in paragraphs D22.70-22.72 (first sentence only) of Blackstone's Criminal Practice 2019.

### Note

The following are the specific statutory provisions with which students should be familiar (and able to refer to by section number): sections 9 and 10 Criminal Justice Act 1967.

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): *Galbraith*.

## 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

1. Examinable material on proceeding in the absence of the defendant will consist of the general rule that an accused should be present throughout his trial, the exceptions to the general rule, the principles to be considered and sickness of the accused. The relevant material is addressed in paragraphs D15.82-86, D15.87 (1) and (2) and D15.89 of Blackstone's Criminal Practice 2019.
2. Examinable material on unrepresented defendants will consist of the accused's right to give or call evidence and restrictions on the accused. The relevant material is addressed in paragraphs D17.17-17.19 of Blackstone's Criminal Practice 2019.
3. Examinable material on abuse of process in the Crown Court will consist of the court's power to stay proceedings. The relevant material is addressed in paragraphs D3.66-3.68 of Blackstone's Criminal Practice 2019.
4. Examinable material on procedural steps in a jury trial, including the different ways in which evidence may be presented or proved, dealing with points of law during trial and submission of no case to answer will consist of the opening speech, calling prosecution witnesses, reading statements, formal admissions, objections to prosecution evidence, editing of prosecution evidence, submissions of no case to answer, defence opening speeches, the defence case, order of defence evidence, the accused as a witness, the decision to call the accused, and the discretion of the judge to call or recall a witness. The relevant material is addressed in paragraphs D16.9-11, D16.17, D16.36, the first paragraph of D16.37, D16.40-16.41, D16.52, D16.54-59, D17.7-17.9, D17.12 and D18.10 of Blackstone's Criminal Practice 2019.
5. Examinable material on speeches and summing up will consist of discussion with counsel of the law, counsel's duty to assist the court, order of speeches, limitations as to content, and the judge's summing up (including written directions, standard directions, defences, the facts, appointment of a jury foreman and unanimity). The relevant material is addressed in paragraphs D18.13-18.14, D18.16, D18.18-18.21, D18.23-18.30, D18.33, D18.36-18.39 and D18.42-18.43 of Blackstone's Criminal Practice 2019.
6. Examinable material on verdicts will consist of retirement of the jury, questions from the jury, majority verdicts (including time requirements and minimum number), verdicts of guilty of a lesser offence, the judge's discretion in directing the jury as to alternative offences, returning the verdict and juries unable to agree on a verdict. The relevant material is addressed in paragraphs D19.2, D19.18, D19.35-19.36, D19.38-19.39, D19.41-19.42, D19.58, D19.69 and D19.84 of Blackstone's Criminal Practice 2019.

### *Note*

The following are the specific statutory provisions with which students should be familiar (and able to refer to by section number): sections 9 and 10 Criminal Justice Act 1967.

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): Galbraith.

## 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

1. Examinable material on basic principles of evidence will consist of facts in issue, formal admissions, relevance, circumstantial evidence, and real evidence. The relevant material is addressed in paragraphs F1.1, F1.3, F1.11, F1.12, F1.14, F1.21, the first paragraph of F8.45 and F8.50 of Blackstone's Criminal Practice 2019.
2. Examinable material on tribunals of fact and law will consist of the general principles in a trial on indictment and summary trial. The relevant material is addressed in paragraphs F1.32 and F1.38 of Blackstone's Criminal Practice 2019.
3. Examinable material on the court's powers to exclude evidence will consist of general principles of the common law discretion to exclude evidence and of the discretionary power to exclude evidence under section 78 of PACE. The relevant material is addressed in paragraphs F2.7, F2.8-10 and F.2.36 of Blackstone's Criminal Practice 2019.

## 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

1. Examinable material on the distinction between the legal burden and the evidential burden of proof will consist of consideration of legal and evidential burdens, and discharge of burdens borne by the prosecution and defence. The relevant material is addressed in paragraphs F3.1-3.5 of Blackstone's Criminal Practice 2019.
2. Examinable material on the general rule concerning the incidence of the burden of proof and exceptions to it will consist of the general rule on incidence of the legal burden, statutory exceptions, the impact of the Human Rights Act, and the general rule on incidence of the evidential burden (including cases of self-defence). The relevant material is addressed in paragraphs F3.6-3.10, F3.18, F3.37 and F3.40 of Blackstone's Criminal Practice 2019.
3. Examinable material on the standard of proof required in criminal cases when the legal burden rests on the prosecution will consist of the general rule and the usual direction where the legal burden is on the prosecution. The relevant material is addressed in paragraphs F3.47-3.48 of Blackstone's Criminal Practice 2019.
4. Examinable material on the standard of proof required when the legal burden rests on the defence will consist of the direction where the legal burden is on the defence. The relevant material is addressed in paragraph F3.53 of Blackstone's Criminal Practice 2019.

## 12. Preliminary issues relating to Witnesses

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

1. Examinable material on competence and compellability will consist of the meaning of competence and compellability, the general rule as to competence, and the general rule as to compellability, competence of the accused, competence and compellability of the spouse or civil partner of the accused, and the competence of children and persons with a disorder or disability of the mind. The relevant material is addressed in paragraphs F4.1-4.3, F4.8, F4.10, F4.14-4.15 and F4.21 of Blackstone's Criminal Practice 2019.
2. Examinable material on oaths and affirmations will consist of the general rule and exceptions, and the giving of sworn and unsworn evidence by children. The relevant material is addressed in the first sub-paragraph of F4.26, and paragraph F4.31 of Blackstone's Criminal Practice 2019.
3. Examinable material on issue of a witness summons and warrant of arrest will consist of securing the attendance of witnesses, compelling attendance, punishment for failure to attend, and the powers of magistrates to issue a witness summons and warrant of arrest. The relevant material is addressed in paragraphs D21.27, D21.28 and D15.91-15.93 (first four lines only) of Blackstone's Criminal Practice 2019.



## 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
- 
1. Examinable material on examination in chief will consist of the impermissibility of leading questions, refreshing the memory from documents in the course of evidence and out of court, previous complaints, general rule against previous consistent (self-serving) statements, self-serving statements made on accusation, unfavourable and hostile witnesses, and statements in rebuttal of allegations of recent fabrication. The relevant material is addressed in paragraphs F6.1, F6.13-6.16, F6.26-F6.27, F6.31, F6.37-6.38, F6.46, F6.48-6.50, F7.64-65 and F7.64, and of Blackstone's Criminal Practice 2019.
  2. Examinable material on cross-examination will consist of previous inconsistent statements, the nature and sequence of cross-examination, cross-examination by an accused in person, the object of cross-examination, role of the judge during cross-examination, order of cross-examination, effect of failure to cross-examine, scope of cross-examination, leading questions, exclusionary rules of evidence, powers of the judge to restrain unnecessary or improper questions and impose time limits, cross-examination as to credit, the rule of finality of answers to questions on collateral matters, and bias and partiality. The relevant material is addressed in paragraphs F6.45, F7.1-7.3, F7.5-7.6, F7.8, F7.13-7.20, F7.45 and F7.54-57 of Blackstone's Criminal Practice 2019.
  3. Examinable material on re-examination will consist of the principal rules of re-examination. The relevant material is addressed in paragraph F7.63 of Blackstone's Criminal Practice 2019.
  4. Examinable material on special measures will consist of the range of special measures available and, the general eligibility categories, eligibility of defendant for live link, eligibility of defendant for an intermediary, and intermediaries. The relevant material is addressed in paragraphs D14.1-14.5, D14.22, the first paragraph (up to 'most in need') and second paragraph of D14.24, and paragraph D14.43 of Blackstone's Criminal Practice 2019.

### *Note*

The following is the specific statutory provision with which students should be familiar (and able to refer to by section number): section 139 Criminal Justice Act 2003.

## 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

1. Examinable material on general principles of the rule against hearsay in criminal proceedings will consist of the admissibility of hearsay evidence, the concept of hearsay evidence, definition of statement, hearsay and previous statements of witnesses, hearsay and mechanically produced evidence, definition of 'matter stated', reliance on matter stated, matters intended to be believed or acted upon, and hearsay and non-hearsay purposes. The relevant material is addressed in paragraphs F16.1-2, F16.7, F16.10, F16.11, F16.14, F16.15, F16.16-19, F16.21, F16.22-23 and F16.24-26 of Blackstone's Criminal Practice 2019.
2. Examinable material on exceptions to the hearsay rule, gateways to admissibility and safeguards in the Criminal Justice Act 2003 will consist of unavailable witnesses, business and other documents, discretionary exclusion of admissible statements, hearsay admissible in the interests of justice and its relationship with other hearsay exceptions, warnings as to quality of hearsay, admissibility of public documents, evidence of reputation, statements forming part of the res gestae, statements in response to emotionally overpowering events, res gestae and domestic violence cases, common law confessions and admissions, statements in furtherance of common enterprise, common law admissibility of body of expertise, multiple hearsay, evidence affecting the credibility of admissible hearsay, unconvincing and superfluous hearsay, and power to stop trial where case based on hearsay. The relevant material is addressed in paragraphs F17.1-2, F17.3-4, F17.8 (section 116 only), F17.9-17.10, F17.13-17.14, F17.15, the first sub-paragraph of F17.17, F17.20-17.21, F17.25-17.26, the first sub-paragraph of F17.88, F17.89-17.90, F17.92, F17.34-17.35, F17.37, F17.42, F17.48-17.52, F17.56, F17.60, F17.66, F17.70-17.71, F17.78, F17.84-17.86, F17.87, F17.94-95 and F17.98-99 of Blackstone's Criminal Practice 2019.
3. Examinable material on making and opposing applications to adduce hearsay evidence under the Criminal Procedure Rules will consist of notice requirements. The relevant material is addressed in Part 20 of the CrimPR and paragraph F17.5 of Blackstone's Criminal Practice 2019.

### *Note*

The following are the specific statutory provisions with which students should be familiar (and able to refer to by section number): sections 114, 115, 116, 117, 118 and 124 Criminal Justice Act 2003.

## 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
- 
1. Examinable material on evidence of bad character under the Criminal Justice Act 2003 will consist of bad character, convictions, reprehensible behaviour, misconduct in connection with investigation or prosecution, and previous allegations as evidence of bad character. The relevant material is addressed in paragraphs F13.4-13.5, F13.6-13.7, F13.10 and F13.12 of Blackstone's Criminal Practice 2019.
  2. Examinable material on gateways to admissibility of non-defendant bad character will consist of the purpose and scope of s.100, meaning of bad character, gateways to admissibility, important explanatory evidence, and evidence of substantial probative value in relation to a matter in issue of substantial importance, matters in issue, substantial probative value, and matters relevant to assessment of probative value. The relevant material is addressed in paragraphs F15.1-2, and F15.6-16 of Blackstone's Criminal Practice 2019.
  3. Examinable material on gateways to admissibility and powers for exclusion of defendant bad character will consist of statutory gateways, powers of exclusion, explanatory evidence, evidence of bad character adduced by prosecution to prove guilt or untruthfulness, propensity as an issue, demonstrating propensity, identifying the accused by evidence of bad character, multiple charges and accusations, acquittals, evidence of bad character going to matter in issue between co-accused, evidence going to issue of untruthfulness between accused and co-accused, evidence to correct a false impression, and attack on another person's character. The relevant material is addressed in paragraphs F13.15-13.19, F13.28-13.30, F13.36-13.37, F13.39-13.40, F13.48-49, F13.58, F13.66-13.68, F13.74, F13.79, F13.81, F13.85-13.86, F13.89 and F13.91 of Blackstone's Criminal Practice 2019.
  4. Examinable material on the procedure for adducing and opposing the introduction of bad character evidence will consist of notice requirements and applying to exclude bad character evidence. The relevant material is addressed in Part 21 of the Crim PR, paragraph F13.3 of Blackstone's Criminal Practice 2019, and paragraph R-204-209 of the Supplement to Blackstone's Criminal Practice 2019.
  5. Examinable material on proof of convictions will consist of proof of convictions and acquittals, convictions as evidence of facts on which they are based, foreign convictions, convictions of persons other than the accused, the court's discretion to exclude, and convictions of the accused. The relevant material is addressed in paragraphs F12.1 and F12.6 of Blackstone's Criminal Practice 2019.
  6. Examinable material on bad character directions will consist of weight of character evidence and judicial direction. The relevant material is addressed in paragraphs F13.22-13.23 of Blackstone's Criminal Practice 2019.
  7. Examinable material on evidence of good character and the good character direction will consist of relevance and admissibility of good character, good character and the right to a direction,

unmeritorious claims and the impact of Hunter, impact of bad character provisions of the CJA 2003 on good character, absolute and effective good character, accused who are not of good character, and the good character direction. The relevant material is addressed in paragraphs F14.1-14.11, and F14.16 of Blackstone's Criminal Practice 2019.

*Note*

The following are the specific statutory provisions with which students should be familiar (and able to refer to by section number): sections 98, 100, 101(1)(a)-(g) and 101(3) Criminal Justice Act 2003 (gateways for admissibility of defendant bad character).

The following are the specific leading case authorities with which students should be familiar (and should be able to refer to by name): Hanson, Vye, Hunter.

## 16. Confessions and unlawfully obtained evidence

1. the definition of confessions under PACE
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 PACE
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

1. Examinable material on the definition of confessions under PACE will consist of definition of confessions, guilty pleas and mitigation, confessions otherwise than in words, and partly and wholly exculpatory statements. The relevant material is addressed in paragraphs F18.1-18.5 of Blackstone's Criminal Practice 2019.
2. Examinable material on admissibility and exclusion of confessions will consist of principles of admissibility under section 76 of PACE, exclusion for oppression, the ambit of oppression, relevance of character and attributes of the accused, exclusion for unreliability, exclusion under section 78 of PACE, and section 78 and PACE Codes of Practice. The relevant material is addressed in paragraphs F18.8-18.14, F18.17-18.20, F18.24, F18.33-18.40 and F18.42 of Blackstone's Criminal Practice 2019.
3. Examinable material on determining admissibility of confessions and the voir dire procedure will consist of the voir dire procedure and sections 76 and 78 of PACE, and the effect of exclusion on the prosecution. The relevant material is addressed in paragraphs F18.62-18.64, F18.68 and F18.83 of Blackstone's Criminal Practice 2019.
4. Examinable material on the admissibility of evidence obtained as a result of inadmissible confessions will consist of discovery of facts and confessions relevant to show speech, writing or expression. The relevant material is addressed in paragraphs F18.85-18.87 and the first subparagraph of F18.89 of Blackstone's Criminal Practice 2019.
5. Examinable material on the exclusion of other prosecution evidence at common law and under section 78 of PACE will consist of admissibility of evidence obtained unlawfully, improperly or unfairly, confessions, evidence obtained by torture or inhuman or degrading treatment, discretion to exclude under section 78 of PACE, the discretion to exclude evidence at common law, and discretionary exclusion of confession evidence. The relevant material is addressed in paragraphs F2.1, F2.3-2.5, F2.7, F2.8, F2.9-F2.10, F2.13, F2.32, F2.36, F18.30 and F18.32 of Blackstone's Criminal Practice 2019.
6. Examinable material on common categories of evidence that may be the subject of applications to exclude under section 78 will consist of evidence obtained in consequence of significant and substantial breaches of the PACE Codes of Practice. The relevant material is addressed in paragraphs F2.29-2.30 of Blackstone's Criminal Practice 2019.
7. Examinable material on making or challenging applications to exclude evidence under section 78 will consist of the making or challenging applications in the Crown Court and in the magistrates' courts. The relevant material is addressed in paragraphs F2.11, F1.42-1.43, F1.46, F1.48, D22.44 and D22.46 of Blackstone's Criminal Practice 2019.

*Note*

The following are the specific statutory provisions with which students should be familiar (and able to refer to by section number): section 76 and section 78 Police and Criminal Evidence Act 1984.

## 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 his presence at the scene of a crime
  4. inferences from the defendant's failure to testify in his own defence during the trial, including the advice that should be given to a defendant about this issue
- 
1. Examinable material on evidential significance of the defendant's lies and directions that should be given to the jury will consist of Lucas directions, cases where a Lucas direction is required, and situations where a Lucas direction is unnecessary. The relevant material is addressed in paragraphs F1.21-1.22 of Blackstone's Criminal Practice 2019.
  2. Examinable material on inferences from the defendant's failure to mention facts when questioned will consist of the right to silence, adverse inferences under section 34 of the Criminal Justice and Public Order Act 1994 from failure to mention facts later relied on in court, facts relied on, prepared statements, caution, legal advice to remain silent, waiver of privilege, and directions as to permissible inferences. The relevant material is addressed in the first sub-paragraph of F20.1, F20.2, F20.3-20.6, the first sub-paragraph of F20.7, F20.8, the first sub-paragraph of F20.10, F20.11, F20.13-20.14, F20.17-20.20, F20.23 and F20.25-20.26 of Blackstone's Criminal Practice 2019.
  3. Examinable material on inferences from the defendant's failure to account for objects, substances and marks and from the defendant's failure to account for his presence at the scene of a crime will consist of adverse inferences under sections 36 and 37 of the Criminal Justice and Public Order Act 1994, and the conditions to be satisfied. The relevant material is addressed in paragraphs F20.34 and F20.36-20.39 of Blackstone's Criminal Practice 2019.
  4. Examinable material on inferences from the defendant's failure to testify in his own defence during the trial, including the advice that should be given to a defendant about this issue will consist of inferences under section 35 of the Criminal Justice and Public Order Act 1994, and proper inferences of guilt. The relevant material is addressed in paragraphs F20.41-20.43 and F20.45-20.52 of Blackstone's Criminal Practice 2019.

### *Note*

The following are the specific statutory provisions with which students should be familiar (and able to refer to by section number): sections 34, 35, 36 and 37 Criminal Justice and Public Order Act 1994.

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): Lucas.

## 18. Visual identification evidence

### 1. visual identification cases and the Turnbull Guidelines

1. Examinable material on visual identification evidence and the Turnbull Guidelines will consist of general consideration of visual identification, identification evidence and identification issues, dealing at trial with breaches of Code D, dock identification, the applicability of the Turnbull Guidelines, the scope of the Turnbull Guidelines, supporting evidence in visual identification cases (including mutually supportive identifications, self-incrimination and the accused's silence), the quality of the witness in visual identification cases and stopping a trial based on inadequate identification. The relevant material is addressed in paragraphs F19.1-19.7 and F19.9-19.19 of Blackstone's Criminal Practice 2019.

#### *Note*

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): Turnbull



## 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

1. Examinable material on the general prohibition on opinion evidence will consist of the general rule and the exceptions relating to non-expert and expert opinion evidence. The relevant material is addressed in paragraphs F11.1 and F11.2 of Blackstone's Criminal Practice 2019.
2. Examinable material on the use of expert opinion evidence at trial will consist of competence of expert witnesses, matters calling for expertise, opinions on ultimate issues, the duty of experts and the function and weight of expert evidence. The relevant material is addressed in paragraphs F11.4-11.5, F11.8-11.9, F11.35-11.36, F11.41 of Blackstone's Criminal Practice 2019.

## 20. Privilege

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

1. Examinable material on the privilege against self-incrimination will consist of the general principles of privileged relationships, the scope of the privilege against self-incrimination, incrimination must be of a person claiming privilege. The relevant material is addressed in paragraphs F10.1, F10.2 and F10.5 of Blackstone's Criminal Practice 2019.
2. Examinable material on legal professional privilege and waiver of privilege will consist of the scope of legal professional privilege, legal advice privilege, litigation privilege, communications in furtherance of crime or fraud, and waiver of privilege and section 34 Criminal Justice and Public Order Act 1994. The relevant material is addressed in paragraphs F10.16, F10.19, F10.22-10.23, F10.32 (first eight lines only) and F10.37-10.38 of Blackstone's Criminal Practice 2019.

## 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

1. Examinable material on the categorisation of youths into 'child' and 'young person' will consist of the terminology used in youth cases and the age of criminal responsibility. The relevant material is addressed in paragraphs D24.2 and D24.5 of Blackstone's Criminal Practice 2019.
2. Examinable material on procedure in the youth court will consist of allocation (mode of trial), exclusion of the public, attendance of parents or guardians, course of the trial in a youth court, plea before venue procedure for juveniles, cases where a juvenile is charged with an adult, and determining age. The relevant material is addressed in paragraphs D24.8, D24.13, D24.16, D24.17 (except for the last sub-paragraph), D24.24, D24.25, D24.46-24.52 and D24.66 of Blackstone's Criminal Practice 2019.
3. Examinable material on 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, will consist of court of first appearance, determining mode of trial of juveniles, and dangerous offenders. The relevant material is addressed in paragraphs D24.6, D24.19, D24.20, D24.27-24.29, D24.38 and D24.40 of Blackstone's Criminal Practice 2019.
4. Examinable material on the sentences available to the youth court will consist of committal for sentence, youth court sentencing powers generally, and detention and training orders, youth rehabilitation orders, and referral orders. The relevant material is addressed in paragraphs D24.56, D24.95, E7.15, E7.18 (but only the minimum and maximum terms of a detention and training order, not the periods in between) and, E7.20 (but only the fact that detention and training orders can be consecutive, no other detail required) , E9.1-9.2, E10.1-10.4 and E10.5 (but only the minimum and maximum compliance periods) of Blackstone's Criminal Practice 2019.

## 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

1. Examinable material on purposes of sentencing and sentencing guidelines will consist of the purposes of sentencing set out in section 142 of the Criminal Justice Act 2003, use of Sentencing Council sentencing guidelines and the Overarching Principles: Seriousness guideline. The relevant material is addressed in paragraphs E1.1-E1.3 and paragraphs SG-24 to SG-30 of Blackstone's Criminal Practice 2019.
2. Examinable material on assessment of seriousness, reduction in sentence for guilty plea, aggravating and mitigating features, the totality principle and prevalence will consist of determining the seriousness of an offence, reduction in sentence for guilty plea, aggravating factors (including previous convictions, offending on bail, racial or religious aggravation, offences with a terrorist connection, aggravation related to disability, sexual orientation or transgender identity, and general aggravating factors), mitigation (including general mitigating factors and personal mitigation), the totality principle and prevalence. The relevant material is addressed in paragraphs E1.7-1.9 and E1.14-1.22 of Blackstone's Criminal Practice 2019.
3. Examinable material on pre-sentence reports, medical reports, and victim personal statements will consist of the use in sentencing of pre-sentence reports, medical reports and victim personal statements. The relevant material is addressed in paragraphs E.1.27 (first sub-paragraph only), E1.30 and E1.33 of Blackstone's Criminal Practice 2019.
4. Examinable material on indications as to sentence will consist of judicial indications, the Goodyear approach, responsibilities of the court, responsibilities of the defence, responsibilities of the prosecution and the indication process. The relevant material is addressed in paragraphs D12.60-12.65 of Blackstone's Criminal Practice 2019.
5. Examinable material on sentencing in the Crown Court will consist of ascertaining the facts of the offence, duties of the prosecutor in relation to sentencing, victim impact statements, counsel's duty to assist the court, the factual basis for sentence, disputes about facts following a plea of guilty, Newton hearings (including general approach, duty of the accused's legal representatives, and the power of the court to direct a hearing, ), written basis of plea, insignificant disputes, defence version manifestly absurd, procedure in a Newton hearing, disputes about facts following a verdict of guilty, evidence of character and antecedents, taking other offences into consideration, sample offences, reports on the accused, pre-sentence reports, medical and psychiatric reports, mitigation of sentence, pronouncement of sentence (including giving reasons), and deferring sentence. The relevant material is addressed in paragraphs D20.1-20.4, D20.6-20.11, D20.14, D20.18, D20.20, D20.23-20.27, D20.30, D20.45, D20.52-20.53, D20.56, D20.59, D20.66-20.68, D20.72, D20.76, D20.92-20.93 and D20.103 of Blackstone's Criminal Practice 2019.
6. Examinable material on sentencing procedure in the magistrates' courts will consist of adjournments prior to sentence, presenting facts, character and antecedents, Newton hearings,

adjudication of and pronouncement of sentence (including majority decisions, and explaining reasons), restrictions on sentencing powers in either way and summary offences, aggregate prison terms and fines, compensation orders, detention in a young offender institution and non-custodial sentences. The relevant material is addressed in paragraphs D23.1, D23.2, D23.6-23.9, D23.14, D23.16-23.17 and D23.19-23.21 of Blackstone's Criminal Practice 2019.

7. Examinable material on committals for sentence will consist of powers to commit for sentence and be limited to the fact that there are different provisions relating to different circumstances. The relevant material is addressed in paragraphs D.23.30, D23.42 and the first sub-paragraph of D23.55 of Blackstone's Criminal Practice 2019.

*Note*

The following are the specific leading case authorities with which students should be familiar (and should be able to refer to by name): Goodyear, Newton.

## 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

1. Examinable material on absolute and conditional discharges will consist of the court's power to grant absolute and conditional discharges, use of absolute discharge and conditional discharge and breach of conditional discharge. The relevant material is addressed in paragraphs E12.1, E12.2-12.3, E12.4 and E12.5 of Blackstone's Criminal Practice 2019.
2. Examinable material on fines and the consequences of default will consist of fines in the Crown Court, powers of the Crown Court to impose fines, the power and duty of the court to fix a term in default, fines in the magistrates' court, sentencing principles with regard to fines, proportionality to the gravity of the offence, taking account of the means of the offender instalment payments and combining fines with other sentences or orders. The relevant material is addressed in paragraphs E15.1-15.3, E15.8, E15.14, E15.16, E15.18-15.19 (first two sub-paragraphs only) and E15.21-15.22 of Blackstone's Criminal Practice 2019.
3. Examinable material on community sentences and the consequences of breach of a community sentence will consist of the criteria for the imposition of a community order, pre-sentence reports and community sentences, community order requirements (including unpaid work, rehabilitation activity, programme, prohibited activity, curfew, exclusion, residence, mental health treatment, drug rehabilitation, alcohol treatment, attendance centre and electronic monitoring requirements, but students are not expected to memorise the lengths of each individual requirement, other than the minimum and maximum number of hours of unpaid work that can be imposed under an unpaid work requirement, and the minimum and maximum number of hours that can be imposed under a curfew requirement,) and the enforcement of community orders (including breach, revocation and amendment of community orders). The relevant material is addressed in paragraphs E8.2, E8.6, E8.8, E8.11, E8.12, E8.13-8.17, E8.19-8.20, E8.23 and E8.25-8.32 of Blackstone's Criminal Practice 2019.

## 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

1. Examinable material on custodial sentences in the Crown Court and magistrates' courts will consist of available custodial sentences, maximum custodial sentences, and limits on the power of magistrates' courts to impose imprisonment. The relevant material is addressed in paragraphs E2.1-2.2 and E2.5 of Blackstone's Criminal Practice 2019.
2. Examinable material on restrictions on imposing custodial sentences will consist of the general restriction in section 152 of the Criminal Justice Act 2003 on imposing custodial sentences. The relevant material is addressed in paragraphs E2.7-2.8 of Blackstone's Criminal Practice 2019.
3. Examinable material on length of sentence will consist of the general provision in section 153 of the Criminal Justice Act 2003, dealing with several offences, time remanded in custody to count as time served, crediting periods of remand on bail, concurrent and consecutive determinate custodial sentences and the relevance to sentence of early release provisions. The relevant material is addressed in paragraphs E2.9-2.13, E2.16, E2.19-2.21 and E2.23 of Blackstone's Criminal Practice 2019.
4. Examinable material on mandatory and minimum sentences will consist of mandatory life sentences for murder, and minimum custodial sentences for Class A drug offences and domestic burglary. The relevant material is addressed in paragraphs E3.1-3.2, E5.1, E5.3-5.4 and E5.8 of Blackstone's Criminal Practice 2019.
5. Examinable material on suspended sentences will consist of the power to impose suspended sentences under section 189 of the Criminal Justice Act 2003, consecutive terms, combining with other sentences or orders, imposition of requirements, breach of community requirements, and commission of further offences. The relevant material is addressed in paragraphs E6.1, E6.3 (first two sub-paragraphs only), E6.5-6.8, E6.11-6.12 and E6.14 of Blackstone's Criminal Practice 2019.

## 25. Ancillary orders and costs on conviction

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

1. Examinable material on costs on conviction will consist of orders that the accused pay prosecution costs, amount of an order for prosecution costs, and the proper approach to an order that the accused pay prosecution costs. The relevant material is addressed in the first sub-paragraph of D33.24, the first sub-paragraph of D33.25, and the summary of *ex parte Dove* in paragraph D33.27 of Blackstone's Criminal Practice 2019.
2. Examinable material on compensation will consist of the power of the court to make compensation orders and combining compensation orders with other sentences or orders. The relevant material is addressed in paragraphs E16.1 (knowledge of words of the section not required) and E16.15 of Blackstone's Criminal Practice 2019.
3. Examinable material on forfeiture and deprivation orders will consist of the nature and effect of deprivation orders under section 143 of the Power of Criminal Courts (Sentencing) Act 2000, and the statutory power to make forfeiture orders under section 27 of the Misuse of Drugs Act 1971. The relevant material is addressed in paragraphs E18.1 (knowledge of words of section not required), E18.2 and E18.7 (knowledge of words of section not required) of Blackstone's Criminal Practice 2019.
4. Examinable material on registration of sex offenders will consist of notification requirements under the Sexual Offences Act 2003. The relevant material is addressed in the first sub-paragraph of paragraph E23.1 of Blackstone's Criminal Practice 2019.
5. Examinable material on confiscation will consist of confiscation orders under section 6 of the Proceeds of Crime Act 2002. The relevant material is addressed in paragraph E19.1, E19.5 (first paragraph) and E19.10 (last paragraph) of Blackstone's Criminal Practice 2019.



## 26. The dangerous offender provisions

1. specified offences
2. assessment of dangerousness

1. Examinable material on specified offences will consist of section 224 of the Criminal Justice Act 2003. The relevant material on offence classification is addressed in paragraphs E4.1 and E4.3 of Blackstone's Criminal Practice 2019.
2. Examinable material on assessment of dangerousness will consist of the application of section 229 of the Criminal Justice Act 2003. The relevant material is addressed in paragraphs E4.19-E4.21 of Blackstone's Criminal Practice 2019.

## **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

1. Examinable material on the power of the magistrates to rectify mistakes will consist of setting aside a conviction, and variation of sentence. The relevant material is addressed in paragraphs D22.73 (save for the last two sub-paragraphs), D23.23 and D23.24 of Blackstone's Criminal Practice 2019.
2. Examinable material on the general right of appeal from the magistrates' court to the Crown Court will consist of appeals against conviction and sentence. The relevant material is addressed in paragraphs D29.1 and D29.3 of Blackstone's Criminal Practice 2019.
3. Examinable material on the procedure in the Crown Court for dealing with the appeal will consist of the procedure on appeal to the Crown Court, the constitution of the court and the procedure at the appeal hearing. The relevant material is addressed in paragraphs D29.6 and D29.7 of Blackstone's Criminal Practice 2019.
4. Examinable material on the powers of the Crown Court on appeal, including the power to increase sentence will consist of the provisions of section 48 of the Senior Courts Act 1981. The relevant material is addressed in paragraphs D29.10 and D29.13 of Blackstone's Criminal Practice 2019.
5. Examinable material on appeal to the High Court by case stated and by judicial review will consist of principles of appeal by way of case stated, determination by the Divisional Court of an appeal by way of case stated, prerogative orders generally, the principal grounds for judicial review, the choice between judicial review and case stated and appeal from the Divisional Court. The relevant material is addressed in paragraphs D29.18, D29.24, the first two sub-paragraphs of D29.25, D29.27, D29.42 and D29.44 of Blackstone's Criminal Practice 2019.
6. Examinable material on appeals from the Crown Court will consist of appeal by way of case stated and by judicial review. The relevant material is addressed in the first sub-paragraph of D29.38 and paragraph D29.40 of Blackstone's Criminal Practice 2019.

## 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

1. Examinable material on the power of the Crown Court to rectify mistakes as to sentence will consist of variation of sentence and extent of the power to vary. The relevant material is addressed in paragraphs D20.95 and D20.96 of Blackstone's Criminal Practice 2019.
2. Examinable material on the right to appeal to the Court of Appeal and the requirement to obtain leave will consist of statutory bases of jurisdiction of the Court of Appeal, matters dealt with by the full court, matters dealt with by a two-judge court, statutory basis of appeal against conviction, appeal against conviction with leave and appeal against conviction following a plea of guilty. The relevant material is addressed in paragraphs D26.1, D26.3, D26.4, D26.7, D26.8 and D26.9 of Blackstone's Criminal Practice 2019.
3. Examinable material on the more common grounds that can give rise to appeal against conviction and sentence will consist of wrongful admission or exclusion of evidence, erroneous exercise of discretion, rejection of submission of no case to answer, defects in the indictment, inconsistent verdicts, conduct of the trial judge, misdirection on law, wrongful withdrawal of issues from the jury, misdirection on facts, improper comment on facts or defence case, comment on failure of the accused to testify, comment on the accused's character, sentence wrong in law, sentence wrong in principle or manifestly excessive, judge's remarks when sentencing, procedural errors, sense of grievance, disparity of sentence and failure to distinguish between offenders. The relevant material is addressed in paragraphs D26.21-26.23, D26.26-26.36 and D26.50-D26.58 of Blackstone's Criminal Practice 2019.
4. Examinable material on the procedural requirements for applying for leave to appeal, including the practical steps that counsel should take when advising and preparing grounds of appeal will consist of notice of appeal and notice of application for leave to appeal, grounds of appeal, drafting and contents of grounds of appeal, advice with grounds, perfection and variation, duty of counsel with regards to grounds of appeal, procedure for obtaining leave to appeal, extension of time for leave to appeal, and hearing of an appeal. The relevant material is addressed in paragraphs D27.1, D27.3, D27.5, D27.6, D27.7, D27.8, the first sentence of D27.10, the first sentence of D27.12, D27.22 and D27.23 of Blackstone's Criminal Practice 2019.

5. Examinable material on renewal of application before full court after a refusal by single judge will consist of the procedure for renewing an application for leave. The relevant material is addressed in paragraph D27.11 of Blackstone's Criminal Practice 2019.
6. Examinable material on the power of the Court to make a loss of time direction will consist of directions concerning loss of time and frivolous and vexatious appeals. The relevant material is addressed in paragraph D26.12 of Blackstone's Criminal Practice 2019.
7. Examinable material on the rules concerning the Court of Appeal hearing fresh evidence during the appeal will consist of the approach taken to the admission of evidence under section 23 of the Criminal Appeal Act 1968. The relevant material is addressed in paragraph D27.25 of Blackstone's Criminal Practice 2019.
8. Examinable material on the principles the Court of Appeal will adopt when determining appeals against conviction and sentence will consist of the statutory basis of determination of appeal, and the safety test. The relevant material is addressed in paragraphs D26.15-D26.16 of Blackstone's Criminal Practice 2019.
9. Examinable material on consequences of a conviction being quashed, including ordering retrials will consist of the decision to order a retrial and substituting a verdict on a partially successful appeal. The relevant material is addressed in paragraphs D26.37, D26.38 and D26.40 (save for the last 2 sub-paragraphs) of Blackstone's Criminal Practice 2019.
10. Examinable material on references of unduly lenient sentences will consist of reference on a point of law following acquittal, and reference for review of sentence. The relevant material is addressed in paragraph D28.8 of Blackstone's Criminal Practice 2019.
11. Examinable material on prosecution appeals against trial judge rulings will consist of appeals by the prosecution against adverse rulings, terminating rulings, consideration of an appeal and announcing the decision to appeal. The relevant material is addressed in paragraphs D16.74, the first sub-paragraph of D16.76, D16.77 and D16.78 of Blackstone's Criminal Practice 2019.
12. Examinable material on the Criminal Cases Review Commission will consist of references by the Criminal Cases Review Commission. The relevant material is addressed in paragraph D28.1 of Blackstone's Criminal Practice 2019.
13. Examinable material on appeals to the Supreme Court will consist of appeals by the prosecution and defence on points of law of general public importance. The relevant material is addressed in paragraphs D30.1 and D30.3 of Blackstone's Criminal Practice 2019.

# Advocacy

## Description/Rationale:

This section aims to prepare students for the practice of advocacy which they should be capable of conducting during pupillage and thereafter, as a barrister. It aims to provide the skills necessary to prepare, present and respond to a case or legal argument before a court or other tribunal.

## Aims and Objectives (knowledge and skills):

This section seeks to:

- provide the skills necessary to prepare, manage, present and/or respond to a case or legal argument, both orally and in writing, before a court or other tribunal, whether formal or informal;
- provide, at an initial level, the essential skills for a persuasive modern advocate, as defined by the Dutton<sup>1</sup> criteria:
  - the ability to persuade orally
  - the ability to persuade in written argument
  - cogent legal and factual analysis
  - the ability to develop reasoned argument, and
  - forensic skills with evidence (both written and oral)
  - all of the foregoing undertaken to high ethical standards;
- prepare students for the advocacy training methods to which they will be exposed in pupillage and thereafter;
- introduce students to a range of advocacy training methods including an approach which recognises the value of methods approved by the Inns of Court College of Advocacy (ICCA), eg the Hampel method;
- provide knowledge and understanding of the manner in which legal submissions should be made and responded to;
- provide knowledge and understanding of relevant equality and diversity issues in advocacy, such as the Bar Standards Board's [Youth Proceedings Competences](#); and
- ensure that successful students meet a standard of competence compatible with expectations at the start of pupillage.

## Intended Learning Outcomes:

By the end of this unit, following the study of Advocacy, the student will be able to:

1. prepare a case effectively, understanding the relevant law, facts and principles, observing the rules of professional conduct and planning the advocacy task in question
2. demonstrate basic advocacy skills in a range of civil and criminal scenarios, in applications and in trial(s), and before a range of tribunals
3. prepare and deliver each of the following:
  - a. an opening speech;
  - b. a closing speech;
  - c. an unopposed submission; and
  - d. an opposed submission.
4. examine, cross-examine and re-examine witnesses

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<sup>1</sup> Report of Bar Council Working Party, chaired by Timothy Dutton QC, published October 2002.

5. Engage effectively with the training methods that will enable development of advocacy skills in pupillage.

**Teaching & Learning Strategies:**

Student exercises should normally (and the majority must) be audio and video recorded, for future discussion and feedback.

**Assessment:**

Each student must undertake at least 12 advocacy exercises under the supervision of a tutor; of which 75% may be formative whilst 25% must be summative.

The diet of advocacy assessments must contain the following elements:

- submission of written argument;
- advancing and responding to legal, factual and procedural submissions; knowledge and application of legal principle;
- witness handling, including examination in chief, cross examination and re-examination;
- dealing with interventions from the bench.

Of the (minimum) 12 exercises, at least three must be formally assessed as follows: One formal assessment must have an oral plus skeleton argument. There must be two further oral assessments (of examination-in-chief; cross examination). All three summative assessments must receive the specified weighting (see A2.1.3 above).

**Reading/Reference List:**

Providers should draw on a balanced selection of student text books dealing with advocacy which are currently available.

# Professional Ethics

## Description/Rationale:

This unit, taught as a discrete topic, highlights the core professional values which underpin practice at the Bar of England and Wales. It aims to instil and build up in students the essential qualities of ethical behaviour at the Bar by nurturing and developing to a high level these existing attributes in students. Encompassing more than the knowledge and formalities outlined in the Professional Code of Conduct, this will furnish far reaching and fundamental knowledge of ethics that underlies practice at the Bar.

## Aims and Objectives (knowledge and skills):

This section seeks to:

- inculcate the fundamental concepts of professional and ethical values required of a practising barrister at the Bar of England and Wales
- provide knowledge and understanding of the philosophical issues and purposes underpinning ethical behaviour, including the concept of duty in professional life both to the client and to the rule of law
- provide in depth knowledge and understanding of the equality requirements of the Code of Conduct within the BSB Handbook.

## Intended Learning Outcomes:

By the end of this unit the student will be able to:

1. understand and appreciate the core professional values which underpin practice at the Bar of England and Wales, particularly the additional moral responsibilities held by the profession (over and above the population in general) due to decision-making roles, functions and authority which are key to practice at the Bar
2. correctly identify issues of professional ethics and conduct which appear in given situations as likely to arise in a barrister's practice (e.g. conflict of interest)
3. demonstrate a sound working knowledge of the provisions of the Code of Conduct of the Bar of England and Wales, including the equality and diversity rules, and demonstrate existing and future adherence to that Code
4. demonstrate the capacity to provide a professional and responsible approach to clients who place trust in the profession on the basis that the service provided will be of benefit
5. display a professional and responsible approach to the course, staff and other students, and to observe the Code of Practice in order to prevent exploitation of clients and preserve the integrity of the profession, maintaining the public's trust and ensuring continuance of the provision of service

## Teaching & Learning Strategies:

Professional ethics must be taught as a separate unit, seriously and in-depth. Case studies (highlighting practical dilemmas) and practical examples should be used. All teaching and learning must be designed to enable students to appreciate the core principles which underpin the Code of Conduct. Providers must ensure the participation of experienced practitioners in the design and delivery of professional ethics issues within the course. Professional ethics

issues should be included in group discussions and other course activities, so that Providers can demonstrate that professional ethics pervade all aspects of their course.

### **Assessment:**

Students must be assessed and be judged competent in professional ethics and conduct, and they should, on a regular basis, be required to make explicit use of the Code in timetabled lessons. The tutor notes accompanying these lessons should clearly indicate the nature of the issue(s) and possible responses. Formative-only exercises may be used. Summative assessment must take the form of one closed book examination, two hours and 30 minutes long, comprising six SAQs, set and marked centrally. Assessment will be such that a broad range of the syllabus is assessed and that any part of it may be assessed. No indication must be given to students as to which parts of the syllabus will or will not be assessed.

Students must be given the opportunity to attempt, and receive feedback on, formative (mock) assessments so as to provide appropriate preparation for summative (final) assessments. It is for Providers to demonstrate how this requirement has been met.

### **Note:**

The CEB, acting through its Chief Examiners, will issue clarification from time to time of any changes in substantive law, rules of procedure, or Codes of Practice as they affect the assessment of the centrally set assessments in Professional Ethics.

It is incumbent upon students and Providers to refer to the CEB page of the BSB website for updates and further guidance on a regular basis

The CEB page of the BSB can be found [here](#).

Students may wish to maintain, during their year of study, a reflective journal on ethical issues which relates in particular to their courtroom observation. This is advisable, but not a requirement.

### **Syllabus**

The SAQs for all Ethics assessments in 2019 will be drawn from the following source material (NB. When sections of the Handbook are referred to, the material included is all rules and guidance within those sections.):

1. ***The Bar Standards Board Handbook – 3<sup>rd</sup> edition updated May 2018 (Version 3.3)***  
***[as published on the BSB website]***

*Part 1*

A-D

*Part 2*

A

B

C1, C2, C3 *[excluding rC31-rC63 inclusive]*, C4, C5.1 & C5.2

D1.1 (rC99-rC105), D2.1 & D2.2

D4

*Part 3*

B2, B3, B7 & B9

C1 & C2



Part 4

B8

C – rQ130-135

Part 6

The definitions section will not be discretely examined, but knowledge of the Handbook's definitions relevant to the rest of the syllabus is required.

*Bar Standards Board Handbook Equality Rules*

[https://www.barstandardsboard.org.uk/media/1665979/bsb\\_equality\\_rules\\_for\\_bsb\\_authorized\\_bodies\\_2015.pdf](https://www.barstandardsboard.org.uk/media/1665979/bsb_equality_rules_for_bsb_authorized_bodies_2015.pdf)

Sections 1 & 2

**2. Code Guidance**

*Guidance on Practising Rules and Requirements*

- Guidance for Unregistered Barristers (Barristers without Practising Certificates) - Supplying Legal Services and Holding Out – Nov 2017
- Guidance for Barristers Supervising Immigration Advisers
- **The Public Access Scheme Guidance for Barristers (Revised Feb 2018)**
- Cab Rank Rule Guidance
- Guidance on Conducting Litigation – SEPT 2017

*Guidance on the Administration of a Barrister's Practice*

- **First Tier Complaints Handling (Revised May 2018)**
- Guidance on Referral and Marketing Arrangements for Barristers Permitted by the BSB
- Confidentiality Guidance
- Guidance on Self-Employed Practice

*Guidance on the Professional Conduct of Barristers*

- Guidance on Reporting Serious Misconduct of Others
- Media Comment Guidance
- Guidance on Insurance and Limitation of Liability
- Guidance on Clash of Hearing Dates (Listings)
- Guidance on use of social media (Feb 17)

*Additional Guidance*

<https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/practising-certificate/>

- Guidance for pupils and newly qualified barristers
- **Guidance for barristers – conducting litigation – Sept 2017**

**3. Crown Prosecution Service Publications**

The Code for Crown Prosecutors – January 2013 (7<sup>th</sup> Edition)

The Farquharson Guidelines – The Role and Responsibilities of the Prosecution Advocate

**4. Money Laundering and terrorist financing**

[http://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/aml\\_1st\\_version\\_guidance\\_may.pdf](http://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/aml_1st_version_guidance_may.pdf)

IN OUTLINE ONLY – based on the Executive Summary (paragraphs 1 to 35) of the Bar Council's Money Laundering and Terrorist Financing practice note.

## **IMPORTANT ADDITIONAL NOTES FOR PROVIDERS & STUDENTS**

In answering SAQs and applying ethical principles drawn from the material above, students will not be required to quote specific reference number(s) for outcomes, rules or guidance. However, accurate identification and quoting of the Core Duties applicable to any given scenario will be expected. The habit of listing all ten core duties at the beginning of an answer, irrespective of their relevance to the scenario, is not only to be deprecated but is unlikely to secure for the student any credit available for the correct identification of applicable duties in the given scenario. For credit to be earned, students must demonstrate within their answers that they have correctly identified only those duties that are applicable and how they impact on the rest of the answer.

### **SAQ Marking Scheme**

1. Each of the six SAQs is divided into two sub-parts. The number of marks indicated for each sub-part is the maximum that may be awarded and marks are not transferable between sub-parts.
2. There is no restriction, other than the time available for the test, on how many points a candidate is permitted to give for each sub-part of a question. Candidates should aim to provide a comprehensive answer to the question and not limit themselves to make the same number of points as the marks available. Full and half marks are used within the marking scheme to reflect the weight to be given to different points within the expected answer for each SAQ.
3. In answering SAQs, candidates will not be required to quote the relevant paragraph number(s) in the Handbook or other source material. However, they are expected to quote accurately the Core Duties that are applicable in any sub-part of a question. This exam is intended as a test of their ability to identify the ethical issues engaged in the questions and then to apply their knowledge of Professional Ethics in seeking to resolve those issues.
4. The close application of ethical principles to the facts outlined in each scenario is the key to success in this exam. In order to obtain high or full marks candidates are advised to write coherently so as to evidence fully their knowledge and understanding of the issues involved and their evaluation of the correct ethical approach to adopt in the circumstances. Examiners are looking for answers that clearly demonstrate a full appreciation of the Core Duties and ethical issues involved. Therefore, answers should provide a detailed description of these as well as a comprehensive and clearly reasoned explanation in support of the resolution proposed. A statement of principle without the demonstration that its application has been properly understood will not attract marks. Bullet-point answers are acceptable but they must be coherent.
5. Markers are instructed:
  - a. Not to award marks for ambiguous or mutually exclusive answers or answers that fail to demonstrate the correct application of ethical principles.
  - b. Not to award marks for an SAQ answer they deem to be inadequately coherent prose at sentence level.

- c. Not to piece together a coherent answer from incoherent fragments of information distributed throughout an answer.
- d. Not to award marks where an SAQ answer has been deemed illegible by the CEB.

## Opinion Writing

### Description/Rationale:

The aim of this part of the course is to develop the student's skill in opinion writing; that is, providing written advice to the instructing solicitor and lay client. Providing written advice in the forms of opinions is an important part of professional activity. Opinions must be practical, reliable, clear and well-presented.

### Aims and Objectives:

The unit aims to

- take students from the academic sphere (in which legal essays are expected to discuss legal principles and difficulties with some depth of research) into the professional sphere in which they hope to prosper in competition with other skilled professionals, in assisting clients with particular legal problems
- develop students' skill by teaching them:
  - i. that they must understand the client's problem and do their best (subject always to ethical considerations) to provide a practical solution to the problem
  - ii. that they must understand the facts, distinguishing between those which are undisputed and those which are likely to be in dispute, and distinguishing the relevant from the irrelevant (a process which interacts with analysis of the applicable law)
  - iii. they must have a sound knowledge of the applicable law, analysing the problem so as to give reliable and realistic advice on its solution
  - iv. their advice must be clear, practical and as definite as possible
  - v. in giving written advice they must eliminate mistakes in spelling and grammar, cultivate a clear and concise prose style, and present the opinion in a professional format.
- enable students to identify clients' needs through a thorough grasp of the facts, the law and the relevant procedures
- develop in students the skill of analytical reasoning.

### Intended Learning Outcomes:

By the end of this unit the student will be able to:

- identify and address the needs and objectives of the client and seek (subject always to ethical considerations) to provide a practical solution to the client's problems
- accurately identify and show a thorough grasp of all the material facts, the relevant law, the real issues, the relevant procedure, parties and evidence, distinguishing one issue from another; and asking
- identify and ask for further information/evidence, when necessary

- give clear, sound, practical advice on the matters raised in the instructions and advise on any practical steps to be taken
  - where appropriate, advise on the need for expert evidence, on quantum of damages, and on any limitation aspects
  - and generally give realistic and practical advice as to steps to be taken, including further inquiries or investigations, compliance with pre-action protocols, and other protocols necessary to take the matter forward.

In addition, opinions must:

- cover everything that needs to be covered, be fully reasoned and follow a clear line of reasoning
- answer all questions put in instructions
- use a clear and appropriate structure, dealing with each issue in a logical order and separating issues into paragraphs in a sensible way, dealing with one issue at a time and giving each its due weight and significance
- be signed and dated, properly headed and laid out, making sensible use of sub-headings where appropriate, and written in a style appropriate to an Opinion
- be in clear grammatical English, correctly spelt, appropriately punctuated and written fluently and concisely in appropriate language
- follow a logical order, distinguishing between different topics with appropriate subheadings
- be as short as is consistent with advising properly on all aspects of the matter.

### **Teaching & Learning Strategies:**

Knowledge and understanding gained in Civil and Criminal areas should be utilised for opinion writing as well as their being taught as a discrete subject.

### **Assessment:**

Assessment must consist, as a minimum, of one formal unseen time-constrained invigilated examination (where 'open book' materials may be used as specified in advance). From Academic Year 2013-14, candidates may be provided with an option to undertake their Opinion Writing and Drafting assessments on computers, as long as security requirements are met and a policy is in place to deal with issues in the event of software failure.

In addition, at least five opinions covering a broad range of scenarios should be undertaken by students as formative exercises. Each exercise must require the application of legal research and legal knowledge, and on each of the six occasions, the student must receive individual feedback from the tutor. Poor English, grammar and syntax must be penalised.

### **Indicative Content/Teaching schedule:**

#### **1 Overview**

- needs and objectives of the client; solution of the client's problems
- identification of material facts, relevant law, real issues, relevant procedure and evidence; - distinction between issues
- specialised language and grammar
- headings, sub-headings, lay out and style; lines of reasoning
- structure, order, weight and significance; conciseness and length
- practical approach, as opposed to academic discussion of the law

- addressing questions expressly or implicitly raised in the instructions by expressing clear conclusions where appropriate, alternatively explaining why there can be no clear conclusions
- explanation of legal and factual alternatives, and setting out of conclusions, with full advice
- identifying the need for relevant further information/evidence, explaining where appropriate why the further information is needed
- providing clear, identifiable, appropriate, sound, practical advice on the matters raised in the instructions.

**Reading/Reference List:**

Providers should draw on a balanced selection of student text books dealing with opinion writing which are currently available.

## Drafting

### Description/Rationale:

The aim of this unit/section is to equip the student with a critical knowledge, understanding and the conceptual and analytical skills necessary to draft a variety of documents including, *inter alia*, Claim Forms, Statements of Case and Witness Statements, Indictment, Grounds and Advice on Appeal in a criminal case.

### Aims and Objectives (knowledge and skills):

This unit will:

- examine the nature, function and value of pleadings and learn to draft a full range of pleadings and other documents from simple to complex in civil and criminal proceedings using precedent appropriately
- explain and demonstrate how to analyse critically a range of legal issues (claims, Witness Statements, Indictments, Grounds of Appeal and Advice on Appeal in a criminal case and settlement agreements)
- develop practical skills in drafting so that documents are properly presented and structured in clear grammatical and correct English.

### Intended Learning Outcomes:

By the end of this unit the student will be able to:

- demonstrate a sound understanding of the nature, function and value of pleadings
- draft a full range of pleadings and other documents from simple to complex in civil and criminal proceedings using precedent appropriately (for example Particulars of Claim in a Claim Form; Any Statement of Case; Order; Witness Statement; Indictment; Grounds of Appeal and Advice on Appeal in a criminal case. Part 8 Claim Form; compromise agreement)
- draft documents that are written in clear grammatical English, correctly spelt and appropriately punctuated, and in a style that is fluent and concise, and appropriate to the document
- draft documents that are well structured, with proper headings and laid out, neat on the page, and containing all necessary formalities
- produce work that is accurate and contains correct figures and sums
- produce drafts that are precise and unambiguous, in terms that are appropriate, in compliance with the requirements of practice, sound in law, settled in the appropriate court and drafted to achieve the objectives agreed with the client
- analyse and set out the material facts and tell a clear story, identifying the material issues and omitting all immaterial matters
- accurately state the client's case, and identify the relief sought.

### Teaching & Learning Strategies:

Teaching may make use of large and/or Small Group Sessions. Following each practice exercise students must receive individual feedback from the tutor.

### Indicative Content/Teaching schedule:

## **1 General drafting**

- claim form with Particulars of Claim;
- statement of Case;
- order;
- witness statement;
- indictment;
- grounds of appeal and advice on appeal in a criminal case.
- Part 8 Claim Form;
- settlement/compromise agreement.

## **2 Style and terminology**

- stating the client's case, and identify the relief sought.
- application of material facts, clarity and identifying material issues (omitting all immaterial matters);
- requirements of practice, relevant law, and court procedures;
- relation structurally to other documents and consistency with accompanying advice;
- use of precedents;
- drafting, terminology;
- accurate and correct use of figures and sums;
- grammatical English, correctly spelt and appropriately punctuated;
- language and style appropriate to the document;
- headings and lay out, formalities and structure.

## **3 Remedies (general)**

- whether a range of remedies should be pursued; and
- applicable time limits.

## **4 Contract**

- pleading and responding to the correct heads of damages for breach of contract, including limitations on compensatory damages;
- pleading quantum in accordance with the correct legal principles and consistently with the evidence;
- the availability of equitable remedies, including specific performance, injunctions, rescission and rectification;
- remedies for misrepresentation;
- pleading claims for interest pursuant to contract or statute (Judgments Act 1838; Late Payment of Commercial Debts (Interest) Act 1998).

## **5 Tort**

- pleading and responding to the correct heads of damages, the calculation of quantum, the reduction of damages, aggravated and exemplary damages and the availability of injunctions; and
- quantifying damages in cases of personal injury;
- pleading interest on damages in claims for personal injury.

### **Assessment:**

Formal assessment must be by means of one formal unseen time constrained invigilated examination (where open book materials may be used as specified in advance). From

Academic Year 2013-14, candidates may be provided with an option to undertake their Opinion Writing and Drafting assessments on computers, as long as security requirements are met, and a policy is in place to deal with issues in the event of software failure.

In addition, at least five practice drafting exercises covering a broad range of legal issues should be undertaken by students as formative exercises. Each exercise must require the application of legal research and legal knowledge. On each of the six occasions in each skill the student must receive individual feedback from the tutor. Poor English, grammar and syntax will be penalised. (NB: see section B3.2.3 on language issues.)

## **Reading/Reference List:**

### **Written skills**

Providers should draw on a balanced selection books dealing with drafting which are currently available including:

### **Encyclopedias and loose-leaf works**

*Butterworths Civil Court Precedents* (2012)

Encyclopedia of Forms & Precedents (LexisNexis Butterworths) (2012)

*The Litigation Practice* (Sweet & Maxwell) (2012)

*Practical Civil Courts Precedents* (Sweet & Maxwell) (2012)

### **Books**

*Atkins Court Forms* (2012)

*Blackstone's Civil Practice* (OUP) (2012)

Bullen, E., Leake, S.M, Jacob, Sir J.I.H, *Bullen, Leake and Jacob's Precedents of Pleadings* (Sweet & Maxwell) (2011)

*Civil Procedure* (Sweet & Maxwell)

*Bar Manual: Drafting I*, CLS, (OUP) (16<sup>th</sup> ed., 2012)

*Pleadings Without Tears*, W Rose & R Eastman (OUP) (8<sup>th</sup> ed., 2012)



# Conference Skills

## Description/Rationale:

The aim of this part of the course is to provide students with knowledge and understanding of the theory underpinning the application of the skills of a conference, making them sensitive to issues of client care, and emphasising the importance of an associated awareness of professional ethics.

## Aims and Objectives (knowledge and skills):

This section/unit seeks to:

- provide students with knowledge and understanding of the theory underpinning the application of the skills of a conference
- make students sensitive to issues of client care
- make students aware of professional ethics, equality and conduct issues that may arise within the context of a conference (including issues such as reasonable adjustments etc.)

## Intended Learning Outcomes:

By the end of this unit the student will be able to:

1. demonstrate an understanding of the objectives of a conference and the factual, legal, procedural and evidential issues that should be raised in a conference
2. conduct the conference in a structured and efficient way, follow an agenda as far as possible and cover all relevant issues in a logical sequence
3. communicate effectively with the client and advise the client as appropriate.

## Teaching & Learning Strategies:

Students must be given the opportunity to practise conducting a conference on at least four occasions across a broad range of scenarios involving lay and professional clients. Each of the four conferences must be observed by a tutor and the tutor must provide feedback to the student. **Each conference should, wherever possible, be video/DVD recorded.**

Following each conference exercise, students should be offered the opportunity to reflect on the conduct of the exercise and to review their own performance, including how, with hindsight, they might have done it differently.

There should, if possible, be participation by members of the public, as 'clients' or observers to provide additional feedback.

## Assessment:

There must be a minimum of one formal oral assessment, although additional formative assessment should be utilised, as indicated above (i.e., at least three additional 'formative-only' opportunities).

## Indicative Content/Teaching schedule:

### 1 General Conference skills

- demonstrating an understanding of the objectives of a conference;
- demonstrating an understanding of the factual, legal, procedural and evidential issues that should be raised in a conference;
- conducting the conference in a structured and efficient way, following an agenda as far as possible and covering all relevant issues in a logical sequence;
- communicating effectively with the client and responding appropriately to the client's concerns and questions by putting the client at ease and using appropriate language;
- advising the client appropriately by explaining the legal, procedural and evidential issues in clear and unambiguous language;
- demonstrating an understanding of the need to observe professional ethics when conducting and concluding a conference.

## **2 Conducting a Conference with a client**

- ensuring the client understands the objectives of the conference;
- listening to what the client says;
- permitting the client to raise concerns;
- listening to the client in a non-judgmental manner, empathising with and reassuring the client when appropriate;
- clarifying the relevant gaps and any ambiguities;
- selecting and using appropriate questioning techniques;
- eliciting the information required to advise the client;
- demonstrating a clear understanding of the client's account of the case/facts.

## **3 Advising**

- setting out the strengths and weaknesses of the case;
- advising on the consequences of any course of action taken;
- advising on what further action should be taken;
- ensuring the client understands what has been discussed;
- obtaining the client's full instructions;
- adhering to the instructions;
- avoiding invention/fabrication of facts;
- avoiding misleading the client as to the facts or the law;
- explaining fully and frankly when required;
- observation of the rules of professional conduct.

## **4 Interpersonal skills**

- having due regard for the client's background, together with the impact this might have on their situation and view of their case (and in order to avoid stereotyped assumptions being made);
- possessing and exercising sensitivity to the client's predicament and state of mind (as caused by anxiety, distress, or anger).

### **Reading/Reference List:**

Providers should draw on a balanced selection of books dealing with conference skills currently available including:

*Bar Manual: Conference Skills* (16<sup>th</sup> ed., 2012) by M Soanes (OUP)

# Resolution of Disputes Out of Court [ReDOC]

## Description/Rationale:

This section/part of the course aims to provide knowledge and understanding of the various alternative methods of dispute resolution which fall outside the usual judicial process before courts or tribunals and may be exercised prior to a possible court hearing, or at any time during the litigation process, or prior to appeal, including mediation, negotiation, arbitration, early neutral evaluation, expert determination, and other alternative dispute resolution processes. It focuses on the advisory, representational and advocacy skills required of barristers in such processes with particular attention to mediation. It explains the theory underpinning the application of the skills of such processes, including the range of tactics and strategies for use in mediation, negotiation and other techniques, and their use in the context of professional ethics and conduct.

## Aims and Objectives:

This section seeks to:

- provide knowledge and understanding of the theory and processes underpinning the range of methods of dispute resolution that lie outside the normal judicial processes, including negotiation, mediation (through a neutral third party), arbitration, collaborative law and conciliation and the practical skills required to advise upon, prepare for and represent parties at all stages of these processes
- provide an understanding (leading to the use of) the skills needed in a range of tactics and strategies for use as basic tools in negotiation and mediation
- make students aware of the key elements of mediation (but not with the intention of training them as mediators) and the role of the mediation advocate or representative
- make students aware of the links to case analysis and professional ethics and conduct issues that may arise within the context of mediation, negotiation or other forms of dispute resolution
- give students a basic understanding of the barrister's role in mediation and the skills required to be effective on behalf of their clients and encourage them to develop such skills.

## Intended Learning Outcomes:

By the end of this unit the student will be able to:

1. demonstrate an understanding of the importance of the range of methods of dispute resolution outside process in court, and an ability to select cases appropriate for each process together with an understanding of the appropriate stage at which to engage in each process
2. demonstrate an awareness and basic knowledge of the process and practice of mediation, including some of the techniques adopted by mediators, so as to be able effectively to advise professional and lay clients about, prepare them for, and represent them at mediation
3. have a working knowledge of the law and practice of arbitration and expert determination, and other methods of dispute resolution
4. be able to select strategies and methods for conducting a negotiation or representing the client at a mediation that will further the client's best interests

- including giving advice as to the steps that need to be taken and the preparations in terms of documents, evidence and where necessary invoking the aid of the court to assist the process
5. understand and demonstrate the skills needed in order to conduct a negotiation in their client's best interests
  6. apply factual and legal issues in a case that is otherwise being resolved, in an effective way
  7. demonstrate an understanding of the need to observe professional ethics when conducting and concluding alternative methods of dispute resolution
  8. demonstrate a basic level of mediation advocacy skills.

### **Teaching & Learning Strategies:**

Formal lectures/Large Group Sessions are normally used for knowledge delivery. Demonstrations by experienced practitioners should also be incorporated. Students may be given the opportunity to practise conducting a negotiation and mediation with fellow students across a broad range of scenarios. These should be observed by a tutor, should ideally be recorded on video/DVD and used for discussion/feedback provided to students involved or observing.

The process should include opportunities for students to demonstrate the mediation advocacy skills they have learned by means of participation in 'mock' mediation. The mock mediation session should be inter-active, with pauses to allow for moderated question and answer sessions.

### **Assessment:**

There must be a minimum of one formal examination totalling 100% of assessment for this topic, to include reference to and coverage of the necessary skills involved. The written examinations must be closed book and should ideally involve providing students with a series of hypothetical cases and scenarios and asking them practical and ethical questions.

### **Indicative Content/Teaching schedule:**

#### **1 General dispute resolution skills**

- the importance of mediation, arbitration and negotiation as means of settling a case;
- the importance of planning alternative ways of resolving a case;
- the importance of giving clear, accurate, advice to a client about the potential advantages and disadvantages of Alternative Dispute Resolution processes such as mediation;
- selecting strategies and methods for involvement in mediation or conducting a negotiation that furthers the client's best interests;
- the observation of professional ethics when involved in these processes.

#### **2 Planning**

- identifying factual and legal issues and how they relate to each other;
- identifying the objectives of the client and of the other side;
- identifying any conflict in the objectives of both sides and identify means of resolving such conflicts;
- prioritising objectives and controlling clients' expectations;
- identifying the strengths and weaknesses of each side;

- counteracting the perceived weakness of his/her own case, undermining the strengths of the other side's case, and exploiting weaknesses of the other side's case;
- identifying the best alternative to a negotiated settlement ('BATNA') and bottom line as appropriate;
- identifying and dealing with practical issues such as choice of appropriate mediator, venue, documentation, and parties attending and authority to settle;
- identifying the requisite contents of the pre-mediation agreement.

### **3 Conducting**

- choosing and implementing a strategy or strategies for achieving the realistic objectives of the client;
- modifying and/or changing the chosen strategy or strategies as appropriate;
- constructing and working within a structure that allows the negotiation, mediation or other dispute resolution process, to proceed in a clear, logical and coherent fashion;
- creating an environment that is 'safe' and conducive to settlement;
- presenting arguments clearly and in a confident and persuasive manner;
- where appropriate presenting the case in a favourable light by emphasising its strengths and mitigating its weaknesses and in a way that is likely to achieve its desired ends;
- picking up points made by the opponent and replying in a way that progresses the client's case;
- advising upon offers and concessions where it is in the client's best interests to do so;
- seeking to protect the client's position against the arguments of the opponent and responding in a way that is likely to achieve the desired ends;
- demonstrating an understanding of the need throughout to observe professional ethics;
- ensuring that the written heads of agreement or settlement agreement is clear, unambiguous and enforceable, and fully complies with the wishes and intent of the parties.

### **4 Compromise**

- principles and procedures governing consent and Tomlin Orders.

#### **Reading/Reference List:**

Providers should draw on a balanced selection of books dealing with ReDOC which are currently available including:

A Practical Approach to Alternative Dispute Resolution, S Blake, J Browne and S Sime (2012, OUP)

ADR: Principles and Practice, H Brown and A Marriott (2012, Sweet & Maxwell).

Mediation Handbook: A Practical Guide, M Mantle (2011, Dundee)

## Options (Specialised Subject Areas)

### General Requirements

General requirements relating to the options are as follows:

- All new option proposals must be presented to the BSB for approval at least one year before the commencement of the academic year in which the new option is proposed to be taught.)
- Flexibility is permitted to Providers (subject to validation), so booklists rather than details of course content are provided.
- There should be a minimum number of six options offered (no more than two may be offered as 'double options' to ensure choice).
- The options must offer a broad range of areas from which the students may make their choice.
- Students must choose two single options or one double option.
- Taught single options should be delivered over no less than sixteen hours contact time. All other options, such as clinical options and double options should be equivalent in the nature of the contact time provided.
- No less than 50% of the duration of the option must be directed to the practice of skill(s) learnt in the core of the course.
- Options must build upon the development of the skills delivered in the core of the course.
- Options must be taught with a view to professional practice.
- The assessment of the options must include a skills exercise, which may be formative. Summative assessment must be a minimum of one written or oral assessment (materials may be used)
- Options may be delivered during terms two and three, or three only, but must not be delivered in term one (during the first ten weeks of the course) with the exception of a *Pro Bono*/Law Clinic option.

NB: Providers will be expected, at accreditation/review, to provide details, for example of the intended learning outcomes, for each option. Owing to the wide range of options which, subject to approval by the BSB, may be offered by Providers, the following list focuses on a selection of the most popular and is indicative of the range of different types of related publications that an institution will be expected to hold. For serial publications, Providers will be expected to possess complete or substantially complete sets covering at least the last ten years issues. Items marked thus [\*] indicate that paper format is essential; electronic optional [may be subject to change].

### Administrative Law

#### Law Reports

A selection from:

Administrative Law Reports (1989-)

Butterworths Local Government Law Reports (1999-)

Crown Office Digest (1988-)

Knights Local Government Reports (1902-1998) continued as Butterworths Local Government Reports (1999-)

#### Law Journals

Public Law (1956-)  
Statute Law Review (1980-)

### **Encyclopedias and loose-leaf works**

Encyclopedia of Local Government Law (Sweet & Maxwell)

## Advanced Arbitration

### **Law reports**

Arbitration Law Reports (2001-)  
Lloyd's Arbitration Reports (1985-1992)

### **Law journals**

A selection from:  
Arbitration International (1985-)  
International Arbitration Law Review (1997-)

### **Practitioner works**

International Handbook on Commercial Arbitration (Kluwer)  
Merkin, R. Arbitration Law. (Informa Publishing Group)  
Mustill, Sir M.J. & Boyd, S. Commercial Arbitration (LexisNexis Butterworths)

## Company Law

### **Law reports**

A selection from:  
All England Law Reports Commercial Cases (1999-)  
British Company Cases (1990-), formerly British Company Law Cases (1983-1989)  
Business Law Reports (2006-)  
Butterworths Company Law Cases (1978-)  
Commercial Cases (1896-1941)  
Lloyd's Law Reports (1919-)

### **Law journals**

A selection from:  
Company Lawyer (1980-)  
Industrial Law Journal (1972-)  
Journal of Business Law (1975-)  
Lloyd's Maritime and Commercial Law Quarterly (1974-)

### **Encyclopedias and loose-leaf works**

A selection from:  
British Company Law & Practice (Sweet & Maxwell)  
British Company Law Library (Sweet & Maxwell)  
Butterworths Corporate Law Service (LexisNexis Butterworths)  
Gore-Brown on Companies (Jordans)  
Palmer's Company Law (Sweet & Maxwell)  
Thomas, R. Company Law in Europe (LexisNexis Butterworths)

## Competition Law

### **Law journals**

Journal of Business Law (1975-)

### **Encyclopedias and loose-leaf works**

Butterworths Competition Law Service (LexisNexis Butterworths)

Encyclopedia of Competition Law (Sweet & Maxwell)

### **Books**

Providers should draw on a balanced selection of books dealing with competition law which are currently available.

## **Employment Law**

### **Law reports**

A selection from:

Employment Law Reports (2000-)

Industrial Cases Reports (1972-)

Industrial Relations Law Reports (1972-)

Industrial Tribunal Reports (1966-1978)

Knights Industrial and Commercial Reports (1966-1975)

Restrictive Practices Cases (1957-1972)

### **Law journals**

A selection from:

Equal Opportunities Review (1985-)

European Industrial Relations Review (1974-)

IDS Employment Law Brief (2005-), formerly IDS Brief, Employment Law and Practice (1972-2005)

Industrial Law Journal (1972-)

Industrial Relations Legal Information Bulletin (1973-1992) continued as Industrial Relations Law Bulletin

Industrial Relations Law Bulletin (1993-)

Industrial Relations Review and Report (1971-1994) continued as IRS Employment Review

IRS Employment Review (1995-2007)

### **Encyclopedias and loose-leaf works**

A selection from:

Encyclopedia of Employment Law (Sweet & Maxwell)

Harvey on Industrial Relations and Employment Law (LexisNexis Butterworths)

## **Family Law**

### **Law reports**

Butterworths Family Court Reporter (2000-), formerly Family Court Reporter (1987-1999)

Family Law (1971-)

Family Law Reports (1980-)

### **Law journals**

A selection from:

Child and Family Law Quarterly (1995-) (Formerly Journal of Child Law, 1988-1995)

Childright: Journal of Child Law (1983-)

Journal of Child Law (1988-1995) continued as Child and Family Law Quarterly

Journal of Social Welfare and Family Law (1978-)



Family Law (1971 - )

**Family Court Practice** (the Red Book)

**Encyclopedias and loose-leaf works**

A selection from:

Butterworths Family Law Service (LexisNexis Butterworths)

Children: Law and Practice (Hersham and McFarlane)

Clarke Hall & Morrison on Children (LexisNexis Butterworths)

Family Law Practice (annual issue)

Matrimonial Property and Finance (Duckworth)

Rayden and Jackson on Divorce and Family Matters

## Housing Law

**Law reports**

Housing Law Reports (1976-)

**Law journals**

Legal Action (1972-)

**Encyclopedias and loose-leaf works**

A selection from:

Arden, A. & Partington, M. Housing Law (Sweet & Maxwell)

Encyclopedia of Housing Law & Practice (Sweet & Maxwell)

Housing Law & Precedents (Sweet & Maxwell)

## Landlord and Tenant

**Law reports**

A selection from:

Estates Gazette Law Reports (1902-)

Estates Gazette Case Summaries (1988-)

Estates Times Legal Supplement (1986-)

Property, Planning and Compensation Reports (1950-)

**Law journals**

Conveyancer and Property Lawyer (1936-)

Estates Times (1968-)

**Encyclopedias, loose-leaf works and practice books**

A selection from:

Emmet & Farrand on Title (Sweet & Maxwell)

Hill & Redman's Law of Landlord & Tenant (LexisNexis Butterworths)

Woodfall, W. The Law of Landlord and Tenant (Sweet & Maxwell)

## Planning Law

**Law reports**

A selection from:

Estates Gazette Planning Law Reports (1987-)

Journal of Planning and Environment Law (1948-)

Planning Appeals Decisions (1985-)  
Property, Planning and Compensation Reports (1950-)

### **Law journals**

Journal of Planning and Environment Law (1948-)

### **Encyclopedias and loose-leaf works**

A selection from:

Butterworths Planning Law Service (LexisNexis Butterworths)  
Encyclopedia of Environmental Law (Sweet & Maxwell)  
Encyclopedia of Environmental Health Law & Practice (Sweet & Maxwell)  
Encyclopedia of Planning Law & Practice (Sweet & Maxwell)  
Garner's Environmental Law (LexisNexis Butterworths)  
Sweet & Maxwell's Planning Law, Practice & Precedents (Sweet & Maxwell)

## Sale of Goods and Consumer Law

### **Law reports**

Butterworths Trading Law Cases (1984-)  
Trading Law (includes Trading Law Reports) (1984-)

### **Law journals**

Consumer Law Journal (1993-)

### **Encyclopedias and loose-leaf works**

A selection from:

Butterworths Trading and Consumer Law (LexisNexis Butterworths)  
Encyclopedia of Consumer Credit Law (Sweet & Maxwell)  
Encyclopedia of Consumer Law (Sweet & Maxwell)  
Howell. Law of Weights and Measures (LexisNexis Butterworths)  
Miller, C.J. Product Liability and Safety Encyclopaedia (LexisNexis Butterworths)

## Taxation

### **Law reports**

A selection from:

British Tax Cases (1982-)  
Reports of Tax Cases (1875-)  
Simon's Tax Cases (1972-)  
Value Added Tax Tribunal Reports (1973-)

### **Law journals**

British Tax Review (1979-)

### **Encyclopedias and loose-leaf works**

A selection from:

British Tax Service (LexisNexis Butterworths)  
CCH British Tax Library (CCH Publishing)  
De Voil Indirect Tax Service. (LexisNexis Butterworths)  
Foster's Inheritance Tax. (LexisNexis Butterworths)  
Simon's Direct Tax Service (LexisNexis Butterworths)  
Sumption, A. Capital Gains Tax. (LexisNexis Butterworths)