

**BAR
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**Criminal litigation, evidence and sentencing:
Bar Training syllabus and curriculum 2022**

Syllabus Text

Blackstone's Criminal Practice 2022

Supplement 1 to Blackstone's Criminal Practice 2022

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Introduction

The syllabus and curriculum for the centrally set assessments in Criminal Litigation 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.

This updated version of the syllabus applies to all centrally set assessments taking place in the calendar year 2022. The updated syllabus is based on Blackstone's Criminal Practice 2022, including Supplement 1.

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Required Content for the Centrally Set Assessment in Criminal Litigation 2022

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
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1. Explanatory material which will not be assessed on the classification of offences will consist of definition of the classes of offences and determining the class of an offence. The relevant material is addressed in paragraphs D6.1-6.4 of Blackstone's Criminal Practice 2022.
 2. Explanatory material which will not be assessed on the structure of the criminal courts in England and Wales will consist of the creation and status of the Crown Court, judges in the Crown Court, role of the 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, statutory bases of the 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 sub-paragraph of D3.10, D3.13-3.17, D3.19, D3.23, D26.1 and D30.3-30.4 of Blackstone's Criminal Practice 2022.
 3. Explanatory material which will not be assessed on funding of criminal cases will consist of public funding and applying for a representation order in a magistrates' court and the Crown Court. 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 2022.
 4. Explanatory material which will not be assessed 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, case management, the rationale of case management, the court's role in case management, balancing efficiency and fairness, the duties of the parties in case management, case progression officers, practical case management and consequences of failure to comply with rules, directions and time limits. The relevant material is addressed in paragraphs D4.3, D4.7-4.8, the first sub-paragraph of D4.9, D4.10, D4.11 (other than the provisions relating to the Coronavirus Act 2020), D4.13 and D4.14-4.16 of Blackstone's Criminal Practice 2022. Explanatory material which will not be assessed will also consist of the content of the following provisions of the Criminal Procedure Rules: CrimPR rules 1.1-1.3 (the overriding objective) and rules 3.2-3.3, 3.5, 3.8 and 3.13 (case management).

Note

For the purposes of the assessment 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. 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 2022.
2. Examinable material on Code C.10 and Code C.11 will consist of interrogation of suspects, interviews generally, definition of interview, where an interview may be conducted, cautions and special warnings, information about legal advice, significant statement or silence, conduct of the interview, when interviews should cease, 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 2022.
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, arrest under 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, detention and treatment of children and young people and mentally disordered or vulnerable persons (including appropriate adults) and detention time limits. 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 2022.
4. Examinable material on the role of the Crown Prosecution Service and other prosecutors will consist of the Director of Public Prosecutions, the Crown Prosecution Service, and Crown Prosecutors. The relevant material is addressed in paragraphs D3.44, D3.46, D3.49 and D3.50 of Blackstone's Criminal Practice 2022.
5. Examinable material on different methods of commencing criminal proceedings and time limits will consist of the procedure for starting a prosecution and securing the presence of the accused before a magistrates' court, the written charge and requisition procedure, applying for the issue of a summons, the summons, content of the written charge or application for a summons, and the time limit for starting proceedings for summary offences. The relevant material is addressed in paragraphs D5.2, D5.4, D5.7 (first two sub-paragraphs), D5.10, D5.14, D21.17 and D21.18 of Blackstone's Criminal Practice 2022.

3. Bail and remands

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

1. Examinable material on adjournments and remands on bail and in custody will consist of the power to adjourn, challenging decisions on adjournments, and remanding the accused on adjournments. The relevant material is addressed in paragraphs D5.22, D5.27 and D5.29-5.30 of Blackstone's Criminal Practice 2022.
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, D15.8-15.9, D15.18 and D15.33 of Blackstone's Criminal Practice 2022.
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, bail jurisdiction in murder cases, the presumption in favour of bail, exceptions to the presumption in favour of bail, no bail for homicide or rape if previous conviction, bail for an accused charged with murder, refusing bail to an 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 D7.1-7.4, D7.6-7.7, the first sub-paragraph of D7.8, D7.11, D7.12-7.14, D.7.16-7.23; D7.24-7.31, D7.35-7.36 and D7.37 of Blackstone's Criminal Practice 2022.
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, deposit of security, applications to vary the conditions of bail, and breach of bail conditions. The relevant material is addressed in paragraphs D7.45-7.49, D7.51, D7.55, D7.60, D7.65-7.66 of Blackstone's Criminal Practice 2022.
5. Examinable material on bail procedure will consist of procedure for bail applications in magistrates' courts, the right to make repeated argued bail applications, certificates of full argument, procedure for bail applications in the Crown Court, notice of appeal, the hearing, and repeated bail applications in the Crown Court. The relevant material is addressed in paragraphs D7.67 (except the first sub-paragraph), 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 2022.
6. Examinable material on prosecution appeals against the grant of bail will consist of the prosecution right of appeal against a decision to grant bail and procedure. The relevant material is addressed in paragraphs D7.92-7.93 of Blackstone's Criminal Practice 2022.
7. Examinable material on failure to surrender to bail or breach of bail conditions will consist of failure to comply with bail, powers of the court when a bailed accused fails to appear, breach of bail conditions, and failure to surrender. The relevant material is addressed in paragraphs D7.97-7.98, D7.102, D7.103, D7.104, D7.105, D7.108, D7.110-7.111 and D7.113 of Blackstone's Criminal Practice 2022.

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

1. the rules relating to the provision of initial details of the prosecution case
 2. preliminary hearings and entering a plea in the magistrates' court, including ambiguous pleas
 3. the factors the defendant should be aware of in deciding whether to elect Crown Court trial
 4. determining allocation (mode of trial) including the special rules for criminal damage and low value shoplifting cases
 5. committal for sentence
 6. sending indictable offences to the Crown Court
 7. the sending of linked summary only offences and the procedure for dealing with them in the Crown Court
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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 Crim PR Part 8 (initial details of the prosecution case), 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 failure to comply by the prosecution. The relevant material is addressed in paragraphs D5.20-5.21 of Blackstone's Criminal Practice 2022.
 2. Examinable material on preliminary hearings, entering pleas in the magistrates' courts and ambiguous pleas will consist of pre-trial hearings by television link, proceeding to sentence, pre-trial hearings, preparation for trial hearings, pre-trial rulings, essential case management: applying the criminal procedure rules, and ambiguous pleas. The relevant material is addressed in paragraphs D5.38 (first sub-paragraph only), D5.41, D21.33-21.35, D21.40 and D12.99 (which considers ambiguous pleas on indictment) of Blackstone's Criminal Practice 2022.
 3. Examinable material on factors the defendant should be aware of in deciding whether to elect Crown Court trial will consist of the respective sentencing powers of the Crown Court and magistrates' courts, submissions and rulings on the admissibility of evidence in the Crown Court and magistrates' courts, disclosure of prosecution witness statements in Crown Court and magistrates' courts, the differing defence disclosure obligations in the Crown Court and magistrates' courts, and the fact that reasoned decisions for conviction are required in a summary trial. The relevant material is addressed in paragraphs D6.18, D9.30, D9.38 and D22.70 of Blackstone's Criminal Practice 2022.
 4. Examinable material on determining allocation (mode of trial) will consist of determination of mode of trial, plea before venue, allocation, rules relating to the presence of the accused, legitimate expectations as to sentence, the binding effect of indication of sentence, indication of not guilty plea: the magistrates' decision whether to accept jurisdiction, prosecution influence on the allocation decision, the special procedure for criminal damage charges, rules relating to two or more criminal damage charges, and the special provision for low value shoplifting. The relevant material is addressed in paragraphs D6.6-6.9, D23.35, D6.12-6.17, D6.20-6.25 and D6.27 of Blackstone's Criminal Practice 2022.
 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 D23.30, D23.42 and the first sub-paragraph of D23.55 of Blackstone's Criminal Practice 2022.
 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, related either-way and summary 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 D10.4-10.12 of Blackstone's Criminal Practice 2022.

7. Examinable material on sending linked summary offences and dealing with them in the Crown Court will consist of the relevant statutory provisions. The relevant material is addressed in paragraphs D6.38, D11.17 and D11.19 of Blackstone's Criminal Practice 2022.

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
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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, responsibilities of the prosecutor to review material, pre-charge engagement, disclosure post-charge but prior to statutory obligation, the statutory test for initial disclosure, service of schedules and the nature of the prosecution's obligations in summary trials. The relevant material is addressed in paragraph 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'), D9.12-9.17 and D9.19-9.23 of Blackstone's Criminal Practice 2022.
 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, continuing duty to review, and defence applications for disclosure from the prosecution. The relevant material is addressed in paragraphs D9.24-9.28 of Blackstone's Criminal Practice 2022.
 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, time limits regarding defence statements in cases tried in the Crown Court, and sanctions for failure in providing defence materials. The relevant material is addressed in paragraphs D9.30, D9.31, D9.34, D9.35, D9.38, D9.39 and D9.41-9.44 of Blackstone's Criminal Practice 2022.
 4. Examinable material on public interest immunity and third party disclosure will consist of public interest immunity, practice and procedure of investigators, obligations of prosecutors, and pre-trial disclosure of third party material. The relevant material is addressed in D9.50, the first sub-paragraph of D9.56, the first sub-paragraph of D9.72 up to '... under the ECHR, Article 6 (R(AL))', and D15.79 of Blackstone's Criminal Practice 2022.

6. Indictments

1. the indictment, including time limits and the structure and format of an indictment
 2. rules governing joinder of counts in an indictment and the consequences of misjoinder
 3. rules relating to specimen counts
 4. joinder of accused in an indictment
 5. applications to sever the indictment
 6. applications to amend indictments
 7. voluntary bills of indictment
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1. Examinable material on the indictment will consist of the indictment, the requirement that an indictment be preferred, electronically generated indictments, ultimate responsibility for drafting an indictment, time limit for serving a bill of indictment, extension of the time limit, counts which may be included in an indictment, charges revealed by the papers, general form of an indictment, components of particulars and date of offence, and dealing with continuous offences. The relevant material is addressed in first sub-paragraph of D11.1 and paragraphs D11.2, D11.3, D11.6, D11.8, D11.9, D11.13, D11.14, D11.23, D11.28, D11.32, D11.34 (from (c)), and D11.35 (up to CrimPD II, paragraph 10A.11 at (d)) of Blackstone's Criminal Practice 2022.
 2. Examinable material on joinder of counts in an indictment will consist of the rules in Crim PR rule 10.2(1)-(4) (the indictment: general rules) on the indictment, and Crim PR rule 3.29(1) and (4) (application for joint or separate trials) on the court's discretion to order separate trials, the rule regarding joinder of counts in an indictment, application of the rule, charges founded on the same facts, and series of offences of the same or a similar character. The relevant material is addressed in paragraphs D11.63, D11.64, D11.65-11.66 and D11.70 of Blackstone's Criminal Practice 2022.
 3. Examinable material relating to specimen counts will consist of specimen or sample counts, 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 2022.
 4. Examinable material on joinder of accused in 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 2022.
 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 2022.
 6. Examinable material on applications to amend indictments will consist of the power to amend an indictment, extent of the power to amend, amendment by insertion of a new count, 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 2022.
 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 apply for a voluntary bill. The relevant material is addressed in paragraphs D10.65 and D10.69 of Blackstone's Criminal Practice 2022.

Examinable material on indictments will also consist of CrimPR rules 10.1 to 10.8 (the indictment), and CPD II, paragraphs 10A.1 to 10A.5 and 10A.10 (preparation and content of the indictment).

7. Preliminaries to trial in the Crown Court

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

1. Examinable material on arraignment, change of plea and pleas to lesser offences will consist of consequences of a finding of unfitness to plead, procedure where accused is found fit to plead, procedure on arraignment, pleas that may be entered on arraignment, entry of plea of not guilty, effect of plea of not guilty, plea of guilty, requirement that accused plead personally, effect of plea of guilty, adjournments 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, D12.53, D12.58, D12.69, D12.70-12.73, D12.75, D12.78 and D12.92-12.94 of Blackstone's Criminal Practice 2022 and in CrimPR rule 3.32 (arraigning the defendant on the indictment).
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 addressed in paragraphs D15.39, D15.44 and D15.47-15.49 of Blackstone's Criminal Practice 2022.
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 letting counts lie on the file. The relevant material is addressed in paragraphs D12.80-12.82 of Blackstone's Criminal Practice 2022.
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 2022.

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 authorised court officer, 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 2022.
2. Examinable material on proceeding to trial in the absence of the defendant will consist of trial in the absence of the accused, failure of parties or witnesses to appear, power to adjourn, the court's powers and procedure with regard to trial in the absence of the accused, determining whether to proceed to trial in the accused's absence, and warrant for arrest. The relevant material is addressed in Crim PR rule 24.12 (procedure where a party is absent) and in paragraphs D5.43, D22.12, D22.14, D22.17 and D22.19 of Blackstone's Criminal Practice 2022.
3. Examinable material on abuse of process in the magistrates' courts will consist of the court's discretion not to proceed on account of delay, and the effect of delay. The relevant material is addressed in paragraph D21.21 of Blackstone's Criminal Practice 2022.
4. Examinable material on the procedural steps in a summary trial will consist of the start of the trial, the prosecution opening speech, witnesses whom the prosecution must call, written evidence at summary trial, formal admissions, objections to prosecution evidence (including objections to admissibility under section 78 and section 76 of the Police and Criminal Evidence Act 1984), closing speeches, the role of authorised court officers, and the content of Crim PR rule 24.3 (procedure on a plea of guilty). 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 "... obtaining of the confession"; D22.63, D22.80-22.81 of Blackstone's Criminal Practice 2022.
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 2022.
6. Examinable material on verdicts will consist of the court's duty to give reasons, the circumstances in which the court may find the defendant guilty of a lesser offence, and alternative offences. The relevant material is addressed in paragraphs D22.70-22.72 (first sentence only) of Blackstone's Criminal Practice 2022.

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 principle that an accused should be present throughout the trial, exceptions to the principle, principles to be considered, misbehaviour of the accused, voluntary absence of the accused, and sickness of the accused. The relevant material is addressed in paragraphs D15.82-15.84, D15.85 (1) and (2), D15.86-15.87 and D15.89 of Blackstone's Criminal Practice 2022.
2. Examinable material on unrepresented defendants will consist of treatment by the court of unrepresented accused, 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 2022.
3. Examinable material on abuse of process in the Crown Court will consist of the court's power to stay proceedings for abuse of process, the meaning of abuse of process, and the two main categories of abuse of process. The relevant material is addressed in paragraphs D3.66-3.68 of Blackstone's Criminal Practice 2022.
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 written statements as evidence, agreed facts, objections to prosecution evidence, editing of prosecution evidence, submission 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 D16.10-16.12, D16.17, D16.36, the first sub-paragraph of D16.37, D16.40-16.41, D16.51, D16.53-16.58, D17.7-17.9, D17.12 and D18.10 of Blackstone's Criminal Practice 2022.
5. Examinable material on speeches and summing up will consist of discussion with counsel of the relevant law, counsel's duty to assist the court, order of speeches, limitations as to content, the trial judge's summing up, 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 2022.
6. Examinable material on verdicts will consist of retirement of the jury, questions from the jury, majority verdicts, time requirement for majority verdict, minimum number for acceptable majority, statement of size of majority and minority in open court, verdict of guilty of an alternative offence, the judge's judgement in directing the jury as to alternative offences, returning the verdict, and jury 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 D19.90 of Blackstone's Criminal Practice 2022.

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
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1. Examinable material on basic principles of evidence will consist of facts in issue, formal admissions, relevance and admissibility, the meaning of relevance, evidence of good character, circumstantial evidence, and real evidence: tangible objects and views. The relevant material is addressed in paragraphs F1.1, F1.3, F1.11, F1.12, F1.14, F1.22, the first sub-paragraph of F8.45 and F8.50 of Blackstone's Criminal Practice 2022.
 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 F1.37 and F1.43 of Blackstone's Criminal Practice 2022.
 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, F2.8-2.10 and F2.36, of Blackstone's Criminal Practice 2022.

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
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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 2022.
 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, duress and alibi). The relevant material is addressed in paragraphs F3.6-3.10, F3.18, F3.37, F3.40, F3.41 and F3.44 of Blackstone's Criminal Practice 2022.
 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 2022.
 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 2022.

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, 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, F4.18 and F4.21 of Blackstone's Criminal Practice 2022.
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 2022.
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 D21.26, D21.27 and D15.91-15.93 (first four lines only) of Blackstone's Criminal Practice 2022.

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
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1. Examinable material on examination in chief will consist of the impermissibility of leading questions, refreshing the memory from documents in the course of giving evidence, refreshing memory 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, F6.15-6.18, F6.28-6.29, F6.30, F6.31, F6.32, F6.33, F6.39-6.40, F6.48, F6.50-6.52, F7.67-7.68 and F7.70 of Blackstone's Criminal Practice 2022.
 2. Examinable material on cross-examination will consist of previous inconsistent statements, nature and sequence of cross-examination, cross-examination by an accused in person, object of cross-examination, role of the judge during cross-examination, putting one's case and the effect of failure to do so, general restrictions on cross-examination, scope of cross-examination, leading questions, exclusionary rules of evidence, power of judge to impose time limits and limit cross-examination, cross-examination as to credit, Code of Conduct for Barristers, the rule of finality of answers to questions on collateral matters, and bias and partiality. The relevant material is addressed in paragraphs F6.47, F7.1-7.3, F7.5-7.6, F7.8, F7.16-7.23, F7.48 and F7.57-7.60 of Blackstone's Criminal Practice 2022.
 3. Examinable material on re-examination will consist of the principal rules of re-examination. The relevant material is addressed in paragraph F7.66 of Blackstone's Criminal Practice 2022.
 4. Examinable material on special measures will consist of the range of special measures available, 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 D14.1-14.7, D14.26, D14.28 (except for the first sub-paragraph), and paragraph D14.49 of Blackstone's Criminal Practice 2022.

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
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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 F16.1-16.2, F16.7, F16.10, F16.11, F16.14, F16.15, F16.16-16.19, F16.21, F16.22-16.23 and F16.24-16.26 of Blackstone's Criminal Practice 2022.
 2. Examinable material on exceptions to the hearsay rule, gateways to admissibility and safeguards in the Criminal Justice Act 2003 will consist of hearsay exceptions and additional safeguards, unavailable witnesses, business and other documents, hearsay admissible in the interests of justice, factors to be taken into account, the relationship of section 114(1)(d) with other hearsay exceptions, preserved common law exceptions, admissibility of public documents, evidence of reputation, statements forming part of the *res gestae*, *res gestae* statements in response to emotionally overpowering events, *res gestae* and domestic abuse cases, direction to the jury, common law confessions and admissions, statements in furtherance of common enterprise, common law admissibility of body of expertise, additional requirements for the use of multiple hearsay, evidence affecting the credibility of admissible hearsay, discretionary exclusion of hearsay evidence, hearsay, loss of right to cross-examine and fair trial provisions, hearsay evidence of identification, unconvincing and superfluous hearsay, and power to stop trial where case based on hearsay. The relevant material is addressed in paragraphs F17.1-17.2, F17.3-17.4, F17.8 (section 116 only), F17.9-17.10, F17.11, F17.13-17.14, F17.15, the first sub-paragraph of F17.17, F17.20-17.21, F17.25-17.26, 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, the first sub-paragraph of F17.88, F17.89-17.90, F17.92, F17.94-17.95 and F17.98-17.99 of Blackstone's Criminal Practice 2022.
 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 Crim PR (hearsay evidence) and paragraph F17.5 of Blackstone's Criminal Practice 2022.

Note

The following are the specific statutory provisions with which students should be familiar (and able to refer to by section number): sections 114, section 114(1)(d), 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 of 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
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1. Examinable material on evidence of bad character under the Criminal Justice Act 2003 will consist of bad character, convictions, reprehensible behaviour, evidence which has 'to do with' the alleged facts of the offence or is evidence of misconduct in connection with its 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 F13.14 of Blackstone's Criminal Practice 2022.
 2. Examinable material on gateways to admissibility of non-defendant bad character will consist of the purpose and scope of s.100 of the Criminal Justice Act 2003, meaning of bad character, evidence 'to do with' the facts of the offence or in connection with its investigation or prosecution, gateways to admissibility, scope and construction of the gateways, important explanatory evidence, evidence of substantial probative value in relation to a matter in issue of substantial importance, matters in issue: propensity, credibility and other issues, substantial probative value, matters relevant to assessment of probative value, substantial probative value in relation to issues other than credibility, and substantial probative value in relation to credibility. The relevant material is addressed in paragraphs F15.1-15.2, and F15.6-15.18 of Blackstone's Criminal Practice 2022.
 3. Examinable material on gateways to admissibility and powers of exclusion of defendant bad character will consist of the 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, special considerations with regard to 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 F13.15-13.18, F13.19-13.20, F13.28-13.30, F13.36-13.37, F13.39-13.40, F13.48-13.49, F13.57, F13.65, F13.66-13.67, F13.73, F13.78, F13.79, F13.80, F13.84-13.85, F13.87, F13.88 and F13.90 of Blackstone's Criminal Practice 2022.
 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 (evidence of bad character), paragraph F13.3 of Blackstone's Criminal Practice 2022, and paragraphs R21.1-21.6 of Supplement 1 to Blackstone's Criminal Practice 2022.
 5. Examinable material on proof of convictions will consist of proof of convictions and acquittals and convictions as evidence of facts on which they are based. The relevant material is addressed in paragraphs F12.1 and F12.6 of Blackstone's Criminal Practice 2022.
 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 2022.
 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 Criminal Justice Act 2003 on good character, absolute and effective good character, effective good character and previous offences, accused who are not of good character, the form of the good character direction, and the direction on credibility where the accused does not testify. The relevant material is addressed in paragraphs F14.1-14.11, F14.16 and F14.19 of Blackstone's Criminal Practice 2022.

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 or unfairly obtained evidence

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

1. Examinable material on the definition of confessions under the Police and Criminal Evidence Act 1984 will consist of definition of confession, guilty pleas and pleas in 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 2022.
2. Examinable material on admissibility and exclusion of confessions will consist of principles of admissibility under section 76 of the Police and Criminal Evidence Act 1984, exclusion for oppression, definition of oppression, ambit of oppression, relevance of character and attributes of accused, exclusion for unreliability, application of the statutory test, exclusion under section 78 of the Police and Criminal Evidence Act 1984, and section 78 and the PACE Codes of Practice. The relevant material is addressed in paragraphs F18.8-18.14, F18.16, F18.17-18.20, F18.24, F18.33-18.40 and F18.42 of Blackstone's Criminal Practice 2022.
3. Examinable material on determining admissibility of confessions and the *voir dire* procedure will consist of the *voir dire* and sections 76 and 78 of the Police and Criminal Evidence Act 1984, 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 2022.
4. Examinable material on the admissibility of evidence obtained as a result of inadmissible confessions will consist of discovery of facts, confessions relevant to show speech, writing or expression, and evidence yielded by confession excluded under section 78 of the Police and Criminal Evidence Act. The relevant material is addressed in paragraphs F18.85-18.87 and the first sub-paragraph of F18.89 of Blackstone's Criminal Practice 2022.
5. Examinable material on the exclusion of other prosecution evidence at common law and under section 78 of the Police and Criminal Evidence Act will consist of admissibility of evidence obtained unlawfully, improperly or unfairly, the general rule of admissibility, confessions, evidence obtained by torture or inhuman or degrading treatment, discretionary power to exclude under section 78, general application of section 78, scope for exclusion under section 78 wider than at common law, application of section 78 to evidence obtained unlawfully, improperly or unfairly, other statutory provisions, nature of the discretion to exclude evidence at common law, and discretionary exclusion of confession evidence at common law. The relevant material is addressed in paragraphs F2.1, F2.3-2.5, F2.7, F2.8, F2.9-2.10, F2.13, F2.32, F2.36, F18.30 and F18.32 of Blackstone's Criminal Practice 2022.
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 2022.
7. Examinable material on making or challenging applications to exclude evidence under section 78 will consist of the procedure for applying to exclude evidence obtained unlawfully, improperly or unfairly, hearings on the *voir dire*, application to summary trial, and objections to prosecution evidence during the course of summary trial. The relevant material is addressed in paragraphs F2.11, F1.44-1.45, F1.48, F1.50, D22.44 and D22.46 of Blackstone's Criminal Practice 2022.

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 of the 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 their presence at the scene of a crime
 4. inferences from the defendant's failure to testify in their own defence during the trial, including the advice that should be given to a defendant about this issue
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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 F1.25-1.26 of Blackstone's Criminal Practice 2022.
 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 reveal facts afterwards relied upon in court, no conviction wholly or mainly on silence, facts relied on, prepared statements, caution or charge, facts which should have been mentioned, legal advice to remain silent, waiver of privilege and statements, direction as to permissible inferences, and relationship with *Lucas* direction on lies. 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 2022.
 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 their 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 2022.
 4. Examinable material on inferences from the defendant's failure to testify in their own defence during the trial, including the advice that should be given to a defendant about this issue 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 2022.

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 PACE 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 F19.9-19.18 of Blackstone's Criminal Practice 2022.

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
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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 2022.
 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, F11.37 and F11.42 of Blackstone's Criminal Practice 2022.

20. Privilege

1. the privilege against self-incrimination
 2. legal professional privilege and waiver of privilege
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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, and the principle that 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 2022.
 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 of the Criminal Justice and Public Order Act 1994. The relevant material is addressed in paragraphs F10.16, F10.19-10.20, F10.26-10.27, F10.36 (first eight lines only) and F10.41-10.42 of Blackstone's Criminal Practice 2022.

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
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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 2022.
 2. Examinable material on procedure in the youth court will consist of mode of trial, exclusion of public, attendance of parent or guardian, course of the trial in a youth court, plea before venue procedure for children and young people, cases where a child or young person is charged with an adult, and determining age. The relevant material is addressed in paragraphs D24.8, D24.12, D24.16, D24.17 (except for the last sub-paragraph), D24.24-24.25, D24.46-24.52 and D24.66 of Blackstone's Criminal Practice 2022.
 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 place of trial of children and young people, trial on indictment, 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 2022.
 4. Examinable material on the sentences available to the youth court will consist of committal for sentence, youth court sentencing powers generally, detention and training orders, duration of order and consecutive orders, youth rehabilitation orders, and referral orders. The relevant material is addressed in paragraphs D24.56, D24.96, E15.9, E15.10, E15.12 (but only the minimum and maximum terms of a detention and training order, not the periods in between), E15.14 (but only the fact that detention and training orders can be consecutive, no other detail required), E11.1-11.2, E3.1-3.3 and E3.4 (but only the minimum and maximum compliance periods) of Blackstone's Criminal Practice 2022.

22. Sentencing principles

1. purposes of sentencing and sentencing guidelines
2. assessment of seriousness, reduction in sentence for guilty plea, aggravating and mitigating factors, 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 57 of the Sentencing Act 2020, the Sentencing Council's General Guideline: Overarching Principles, and the use of sentencing guidelines. The relevant material is addressed in paragraphs E1.2-E1.4 of Blackstone's Criminal Practice 2022 and paragraphs SG2-1 to SG2-16 (excluding the table of fines in SG2-5) of Supplement 1 to Blackstone's Criminal Practice 2022.
2. Examinable material on assessment of seriousness, reduction in sentence for guilty plea, aggravating and mitigating factors, the totality principle and prevalence will consist of determining the seriousness of an offence, reduction in sentence for guilty plea, aggravating factors, offence committed on bail, previous convictions, hostility, terrorist connection, a general aggravating factors, mitigation, general mitigating factors prevalence, and the totality principle. The relevant material is addressed in paragraphs E1.7-1.9 and E1.14-1.15, E1.16, E1.18, E1.20-1.22 and E13.22 (a) and (b) of Blackstone's Criminal Practice 2022.
3. Examinable material on pre-sentence reports, medical reports, and victim personal statements will consist of the use in sentencing of pre-sentence reports, victim personal statements, and medical reports in cases involving mentally disordered offenders. The relevant material is addressed in paragraphs E1.26 (Sentencing Act 2020 section 30(1)-(4) only), E1.30 and E1.33 of Blackstone's Criminal Practice 2022.
4. Examinable material on indications as to sentence will consist of judicial indications of sentence, 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 2022.
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 personal statements, counsel's duty to assist the court, factual basis for sentence, disputes about the facts following a plea of guilty, *Newton* hearings, general approach to factual disputes, duty on the defence to raise the issue, duty on the prosecution, duty on the court to resolve necessary issues,), , where a *Newton* hearing is unnecessary, insignificant disputes, defence version manifestly absurd, procedure in a *Newton* hearing, the general principle regarding disputes about the facts following a verdict of guilty, the requirement for evidence of character and antecedents, sentencing for matters of which the offender has not been convicted, taking other offences into consideration, sample offences, reports on the offender, pre-sentence reports, medical and psychiatric reports, mitigation of sentence, pronouncement of sentence, (giving reasons, and deferring sentence. The relevant material is addressed in paragraphs D20.1-20.4, D20.6-20.11, D20.16, D20.18, D20.21-20.25, D20.28, D20.43, D20.50-20.51, D20.54, D20.57, D20.64-20.66, D20.70, D20.75, D20.91-20.92 and D20.102 of Blackstone's Criminal Practice 2022.
6. Examinable material on sentencing procedure in the magistrates' courts will consist of adjournments prior to sentence, presenting the facts, character and antecedents, *Newton* hearings, adjudication on and pronouncement of sentence, majority decisions, reasons and explanation, restrictions on magistrates' courts sentencing powers in offences triable either way and summary offences, aggregate prison terms, 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 2022.

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 D23.30, D23.42 and the first sub-paragraph of D23.55 of Blackstone's Criminal Practice 2022.

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 order for absolute discharge, use of absolute discharge, order for conditional discharge and breach of conditional discharge. The relevant material is addressed in paragraphs E2.1-E2.2 and E2.3-E2.5 of Blackstone's Criminal Practice 2022.
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, duty of the Crown 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 into account the financial circumstances of the offender, the principle that instalments should require payment within a reasonable time, and combining fines with other sentences or orders. The relevant material is addressed in paragraphs E5.1-5.3, E5.8, E5.14, E5.16, E5.18-5.19 (first three sub-paragraphs only) and E5.21-5.22 of Blackstone's Criminal Practice 2022.
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 warning and enforcement, breach of community order, revocation of community order, and amendment of community order). The relevant material is addressed in paragraphs E12.2, E12.6, E12.8, E12.11, E12.12, E12.13-12.17, E12.19-12.20, E12.23 and E12.25-12.32 of Blackstone's Criminal Practice 2022.

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 imprisonment: magistrates' courts and the Crown Court when limited to magistrates' courts' powers. The relevant material is addressed in paragraphs E13.1-13.2 and E13.5 of Blackstone's Criminal Practice 2022.
2. Examinable material on restrictions on imposing custodial sentences will consist of the general restrictions in section 230 of the Sentencing Act 2020 on imposing custodial sentences. The relevant material is addressed in paragraphs E13.7-13.8 of Blackstone's Criminal Practice 2022.
3. Examinable material on length of sentence will consist of the general provision in section 231 of the Sentencing Act 2020, dealing with several offences, relevance of prison conditions, time remanded in custody to count as time served, crediting periods of bail spent subject to a qualifying curfew, concurrent and consecutive determinate custodial sentences, and determinate custodial sentences and early release provisions. The relevant material is addressed in paragraphs E13.9-13.13, E13.16, E13.19-13.21, E13.26 (first sub-paragraph) and E13.27-13.28 of Blackstone's Criminal Practice 2022.
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 E17.1-17.2, E18.2 (section 313(1) and (2) of the Sentencing Act 2020 only), E18.4, E18.5 (section 314(1), (2), (3)(a)-(b) of the Sentencing Act 2020 and the final sub-paragraph only), and E18.9 of Blackstone's Criminal Practice 2022.
5. Examinable material on suspended sentences will consist of the power to impose suspended sentences under sections 286, 288 and 289 of the Sentencing Act 2020, consecutive terms, combining with other sentences or orders, imposition of requirements, breach of community requirements, powers available to deal with breach, and commission of further offences. The relevant material is addressed in paragraphs E14.1, E14.3 (first two sub-paragraphs only), E14.5-14.8, E14.13-14.14 and E14.16 of Blackstone's Criminal Practice 2022.

25. Ancillary orders and costs on conviction

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

1. Examinable material on costs on conviction will consist of order that the accused pay prosecution costs, amount of order against the defendant for prosecution costs, and the proper approach to orders 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 2022.
2. Examinable material on surcharge will consist of the requirement for a magistrates' court or the Crown Court to impose a surcharge. The relevant material is addressed in paragraph E1.34 (first two lines and section 42 of the Sentencing Act 2020 only) of Blackstone's Criminal Practice 2022.
3. 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 E6.1 (knowledge of the precise wording of the sections not required) and E6.15 of Blackstone's Criminal Practice 2022.
4. Examinable material on forfeiture and deprivation orders will consist of the nature and effect of deprivation orders under sections 152 to 155 of the Sentencing Act 2020, 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 E8.1 (knowledge of the precise wording of the sections not required), E8.2 and E8.7 (section 27(1) and (2) of the Misuse of Drugs Act 1971 only) of Blackstone's Criminal Practice 2022.
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 sub-paragraph) and E19.10 (last sub-paragraph) of Blackstone's Criminal Practice 2022.

26. The dangerous offender provisions

1. specified offences
2. assessment of dangerousness

1. Examinable material on specified offences will consist of section 306 of the Sentencing Act 2020. The relevant material on offence classification is addressed in paragraphs E16.1 and E16.3 of Blackstone's Criminal Practice 2022.
2. Examinable material on assessment of dangerousness will consist of the application of section 308 of the Sentencing Act 2020. The relevant material is addressed in paragraphs E16.24-16.26 of Blackstone's Criminal Practice 2022.

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
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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 2022.
 2. Examinable material on the general right of appeal from the magistrates' court to the Crown Court will consist of routes of challenge of decisions of magistrates' courts, and appeals against conviction and sentence. The relevant material is addressed in paragraphs D29.1 and D29.3 of Blackstone's Criminal Practice 2022.
 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 2022.
 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, and abandonment of appeal. The relevant material is addressed in paragraphs D29.10 and D29.13 of Blackstone's Criminal Practice 2022.
 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 2022.
 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 2022.

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
9. consequences of a conviction being quashed, including ordering re-trials
10. References on a point of law following acquittal and 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 D20.94 and D20.95 of Blackstone's Criminal Practice 2022.
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 2022.
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 and jury irregularities, conduct of the trial judge, errors in the summing up, 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, commonly occurring grounds of appeal against sentence, 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 2022.
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 (first three sub-paragraphs) and D27.23 of Blackstone's Criminal Practice 2022.
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 2022.
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 2022.

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 2022.
8. Examinable material on the principles the Court of Appeal will adopt when determining appeals against conviction 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 2022.
9. Examinable material on consequences of a conviction being quashed, including ordering re-trials, will consist of the effect of a successful appeal against conviction, 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 2022.
10. Examinable material on references on a point of law following acquittal and 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 paragraphs D28.2 (first two sub-paragraphs) and D28.4 of Blackstone's Criminal Practice 2022.
11. Examinable material on prosecution appeals against trial judge rulings will consist of appeals by the prosecution against adverse rulings, rulings adverse to the prosecution, consideration of an appeal, adjournment, announcing the decision to appeal, and prosecutor's undertaking. The relevant material is addressed in paragraphs D16.73, the first sub-paragraph of D16.75, D16.76-16.77 and D16.78-16.79 of Blackstone's Criminal Practice 2022.
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 D28.9 of Blackstone's Criminal Practice 2022.
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 2022.