

Specimen Questions and indicative mark allocation

New L3 Curriculum

(U1 100% MCQ)

Unit 2 Level 3:

You are a NALP paralegal working in the Private Client Department of Grabbit, Run and Steel a solicitors' firm. You have been instructed in the matter of Emma Dale. Emma is a very able 80 years old and attends your office with Jack and Jill her son and daughter. Emma informs you she would like to make a will leaving everything she has to be shared equally between Jack and Jill. Emma would also like them both to be present so they can answer any legal questions you might have.

1. Explain how you would prepare for this client meeting, the matters you would consider and how you would record the information (6 marks)

- Book an interview room and make sure it clean and tidy - 1 mark
- Read the file- 1 mark
- Set an agenda - 1 mark
- Make sure Emma can be spoken to alone – 1 mark
- Notes taken in interview – 1 mark
- Attendance note to be drafted afterwards – 1 mark

2. The interview goes well until you ask to speak to Emma separately. Jack and Jill refuse to leave saying that they and their mother are very close and have no secrets from each other. Draft an attendance note dealing with the interview as a whole and any concerns you may have. (10 marks)

- Date - 1 mark.
- Time spent in interview – 1 mark.
- Time spent on attendance note - 1 mark.
- Client - 1 mark
- Type of Matter: 1 mark
- Instructions – 1 mark

Concerns:

- The age and potential vulnerability of the client - 1 mark
- Undue influence/ duress as could not see Emma separately - 2 marks
- Next Steps client/firm – 1 mark

continued

3. Identify a NALP code of conduct provision you consider to be relevant in this situation and explain its relevance

(4 Marks)

- Any sensible provision - 1 mark
- Explanation of its relevance - 3 marks

Total Marks: 20

Unit 3 Level 3:

Polly has developed a new mouthwash/gargle for the treatment of sore throats and colds. She wants to sell it through Pamper, a shop in her local town. Polly asks you for some general advice on contract law.

1. Explain to Polly the essential elements that will make any contract between Polly and Pamper binding – cite a relevant case for each element (10 marks)

- Offer - *Scammell & Nephew v Ouston (1941)*.
- Acceptance - *Entores Ltd. v Miles Far East Corporation (1955)*.
- Consideration - *Currie v Misa (1875)*,
- Intention to create legal relations - *Jones v Padavatton (1969)*
- Terms - *Poussard v Spiers and Pond (1876)*.
- 1 Mark per point above

Polly's mouthwash/gargle is now sold through Pamper. Pamper place a large poster in their window which reads: "Miracle mouthwash/gargle. 100% effective to cure your sore throat within 4 weeks or your money back – guaranteed" On the basis of the poster Suki buys the mouthwash/gargle. After 4 weeks it has had no effect on her sore throat. She asks for her money back but Pamper refuse saying the poster was "just advertising speak".

2. Advise Suki whether she is entitled to her money back. Use at least one case in your answer (6 marks)

- Advertisements are usually invitations to treat and not enforceable.
- The exception is unilateral offers.
- *Carlill v Carbolic Smoke Ball Co. (1893)*
- A unilateral offer is one where the offeror promises that if the offeree fulfils certain conditions, they will receive a benefit.
- Pamper has promised to give their money back to whoever used the mouthwash/gargle for 4 weeks and got no benefit – it then even added "guaranteed".
- Suki performed the conditions required. Suki is entitled to her money back.
- 1 Mark per point above

Polly asks you what other situations are almost always treated as invitations to treat.

3. Name two and cite a relevant case for each. (4 marks)

Any 2 from below:

- Auctions - *British Car Auctions v Wright (1972)*.
- Tenders - *Harvela Investments v Royal Trust Co. of Canada (1986)*.
- Goods displayed for sale - *Fisher v Bell (1960)*.
- Statements of price - *Clifton v Palumbo (1944)*.
- 2 marks per point above plus case

Total Marks: 20

Unit 4 Level 3 – you are required to complete BOTH a) and b) below AND achieve a Pass Mark in BOTH elements

a) You are instructed in the matter of Nishal Bright. He tells you the following: He owns a catering company called “Tasty Catering”. He recently provided catering to Tommy Tucker on his fiftieth birthday for 1000 people, the charge for which was £27,000.00. At the time of the party everything seemed to go well and many of the guests were complimentary on the range of food offered and the fact that a hot and cold buffet was provided. However, a week after the invoice was presented to Nishal a complaint was received. Tommy Tucker is now saying that the food was awful and that he will not pay the invoice.

1. With reference to the debt recovery matter explain which courts this matter could be commenced in, the difference between them and ultimately which court you would commence this action in and why (6 marks).

High Court

- More complex/serious cases heard and financial jurisdiction much higher - 1 mark
- More flexible directions available to accommodate the more complex cases but more expensive to bring proceedings - 1 mark
- Will hear cases between 25 – 50k or case can be heard in CC – 1 mark

County Court

- Less serious/complex cases heard and less expensive to bring an action - 1 mark
- Financial jurisdiction usually up to 25k and Directions are set on a 30 week timetable - 1 mark
- Would be commenced in the County Court as under 50K; not a complex matter and could be heard (disposed of) within 1 day - 1 mark

2. Explain what is meant by the 'overriding objective' of the CPR. In relation to the debt recovery matter explain what methods of ADR you would attempt in order to meet this objective and what your role as paralegal will be at this stage (4 Marks).

- Overriding objective - to promote the early settlement of cases saving expense promote the interest of justice and access to justice
- Role of the paralegal/ lawyer is to try and broker a settlement throughout the preparation of trial
- ADR – Alternative Dispute Resolution is based on the concept of compromise and settlement and therefore use is in line with overriding objective.
Mediation: promotes agreement between the parties by airing the differences and searching for a compromise
- Conciliation – more pro-active than mediation suggests compromise again to promote early settlement and suggest different ways to resolve the problem
- 1 Mark per point above

b) You are now seconded to the criminal department and you are asked to advise on the following matter:

Enrique Zorzin tells you that he has been accused of shop lifting from Eat Rich supermarket. He is alleged to have stolen two bottles of wine and a bar of chocolate. He tells you that he has no recollection of taking any of the items concerned. He explains that he was apprehended in the store and the police were called. When the police arrived, his bag was searched, after which he was arrested and taken to the local police station. He requested a solicitor but was told that would not be necessary as it was an open and shut case and if he pleaded guilty it would go better for him. He remembers being told to sign something but isn't sure what this was. At this point he was released on bail and is due to appear at the Magistrates' Court in three days' time. This is his first alleged offence.

1. Were the police entitled to search Enrique before he was arrested? (1 mark)

- Stop and search powers are as follows: Power: Police and Criminal Evidence Act (PACE 1984) s1 - a constable can stop and search any person or vehicle or anything in or on the vehicle providing reasonable suspicion exists

2. Explain the procedure that should be followed for an arrest to be lawful and the requirements for the detention and interrogation of suspects under PACE 1984 (2 marks).

- Lawful arrest: Powers of arrest are contained in s.24 PACE and are wide-ranging - Arrest without warrant: constables (1)A constable may arrest without a warrant — (a) anyone who is about to commit an offence; (b) anyone who is in the act of committing an offence; (c) anyone whom he has reasonable grounds for suspecting to be about to commit an offence; (d) anyone whom he has reasonable grounds for suspecting to be committing an offence – candidates should have an overview of these provisions and mention that the arresting officer needs to tell the arrestee that they are under arrest and the reason for it and that the suspect needs to be cautioned (1 Mark).
- Detention and interrogation: The police have powers, set out in Part IV and Part V of the Police and Criminal Evidence Act 1984 (PACE), to detain those they have arrested on suspicion of a crime. The detention of a suspect is often crucial to a police investigation. Once detained the police have powers to question suspects and collect their biometric information. The information collected during detention helps the police determine whether a suspect should be charged with a criminal offence. Police forces are required to detain people held under PACE in accordance with the code. Persons being detained under PACE should be dealt with as quickly as possible. Officers are required to review detention of a suspect periodically and release them “as soon as the need for detention no longer applies”. Individuals who have been arrested can normally only be detained for up to 24 hours without being charged. However, if the offence they are suspected of is serious, a senior police officer (of the rank of superintendent or above) can authorise a suspect’s continued detention for a further 12 hours. Any detention beyond 36 hours requires authorisation from the courts (1 Mark).

3. Describe the allocation procedure and explain what factors magistrates will take into account when deciding on the venue for trial and the most likely choice they would make here (5 marks).

- The magistrates will take the plea and – if not guilty: ask the CPS for any potentially aggravating factors; looking at the nature of the offence charged consider sentencing powers; sentencing guidelines and antecedents (2 marks);
- if Magistrates Court decide to send the case to the Crown Court because their powers are too limited then they do so there and then; then they inform the accused of his right to elect jury trial (sending the case to the Crown Court if he does so) (1 mark);
- if he asks for summary trial then a date will be fixed and if the accused consents to summary trial then the Mags will warn that they retain the right to commit for sentence if his antecedents mean that their powers are inadequate (1 mark).

- Most likely to be a Magistrates trial for such a low-level offence here (1 mark).

4. (a) The criteria Enrique would have to meet for advice and assistance (1 mark)

- describe the limited 'green form' scheme; with no advocacy entitlement and limited to Advice and Assistance

4.(b) The criteria Enrique would have to meet for representation. (1 mark)

- reference to the interests of justice test and set out briefly what this means for example: risk of custody or with another specified reason

Total Marks: 20