

Unit 11



<b>Title:</b>	<b>Criminal Litigation</b>
<b>Level:</b>	<b>3</b>
<b>Credit Value:</b>	<b>7</b>

<b>Learning outcomes</b>	<b>Assessment criteria</b>	<b>Knowledge, understanding and skills</b>
<b>The learner will:</b>	<b>The learner can:</b>	
<b>1 Understand the powers of the police to arrest and detain a person for the purpose of investigating a criminal offence</b>	<p><b>1.1</b> Explain the requirements of a lawful arrest</p> <p><b>1.2</b> Identify the circumstances in which a person may be searched at the time of arrest</p> <p><b>1.3</b> Explain the implications of an unlawful arrest</p> <p><b>1.4</b> Explain the role of the custody officer</p> <p><b>1.5</b> Explain the time limits for detaining a suspect without charge</p> <p><b>1.6</b> Explain the rights of a detained suspect</p>	<p><b>1.1</b> s24, 24A, 28, 30, 117 Police and Criminal Evidence Act (PACE); Code G: power of and grounds for arrest including necessity criteria; record of arrest; reasonable force; procedure on arrest to include: fact of arrest, reason for arrest, caution, suspect taken to police station</p> <p><b>1.2</b> s32(1)-(4) PACE</p> <p><b>1.3</b> s78, s82(3) PACE: challenge to admissibility</p> <p><b>1.4</b> In relation to: completing the custody record; informing the suspect of rights; seizing and/or retaining personal items; the decision to charge; s34, s37, s39, s54 PACE; Code C para 2, 3, 4</p> <p><b>1.5</b> s40 PACE: periodic reviews; s41, 42, 43 PACE: time limits and criteria for extending</p> <p><b>1.6</b> s56 PACE; Code C para 5: right to inform someone of arrest; criteria for delaying the right; s58 PACE; Code C para 6: right to legal advice; criteria for delaying the right; Code C</p>

	<p><b>1.7</b> Explain the effect of a failure to comply with any of the requirements relating to both the custody officer's role and the time limits for detaining without charge</p> <p><b>1.8</b> Explain the rights of a person attending voluntarily at a police station to assist with an investigation</p> <p><b>1.9</b> Explain the requirements for the proper conduct of an interview of a suspect</p> <p><b>1.10</b> Explain the effect of a failure to comply with any of the requirements for the proper conduct of an interview</p> <p><b>1.11</b> Explain the circumstances in which a suspect may be charged</p> <p><b>1.12</b> Explain the nature of police bail and the circumstances in which it may be refused</p>	<p>para 8, 9, 12: right to basic comforts including medical attention, rest and breaks; Code C para 11: presence of appropriate adult where suspect 'vulnerable'</p> <p><b>1.7</b> s78 PACE: challenge to admissibility</p> <p><b>1.8</b> s29 PACE; Code C para3: requirements for questioning</p> <p><b>1.9</b> Provisions relating to the conduct of interviews to include: location of interview (Code C para 12); cautioning (Code C para 10), limit on the right to silence (e.g. unreasonable failure to mention during questioning a fact which is later relied on at trial) and the meaning of an adverse inference being drawn (s34 CJPOA); 'use of oppression' (s76 PACE; Code C para 11); inducements to confess (Code C para 11.5) and safeguards relating to confessions (s76, 78 PACE); fitness to be interviewed (Code C para 12.3); appropriate adult present (Code C para 11.5); physical environment (Code C para 12.4); access to legal advice (Code C para 6); interview recording and transcript (Code E)</p> <p><b>1.10</b> s78 PACE: challenge to admissibility</p> <p><b>1.11</b> s37 PACE; Code C para16</p> <p><b>1.12</b> s38(1) PACE</p>
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<p><b>2 Know the principal functions and features of the magistrates court and the Crown Court in relation to criminal proceedings</b></p>	<p><b>2.1</b> Explain how offences are classified and how type of offence determines mode of trial</p> <p><b>2.2</b> Identify the principal functions of the magistrates' court</p> <p><b>2.3</b> Identify the principal features of trial in the magistrates' court</p> <p><b>2.4</b> Identify the principal functions of the Crown Court</p> <p><b>2.5</b> Identify the principal features of trial in the Crown Court</p> <p><b>2.6</b> Describe the sequence of events where a defendant pleads either guilty or not guilty</p>	<p><b>2.1</b> Summary; indictable; either way; examples of commonly encountered offences belonging to each category</p> <p><b>2.2</b> Functions to include: bail hearings; summary proceedings; mode of trial proceedings; committal proceedings; sending indictable offences for trial (s51 CDA 98)</p> <p><b>2.3</b> Nature and role of magistrates; role of the Clerk; limits on sentencing; rights of audience</p> <p><b>2.4</b> Bail appeals; plea and case management hearings; trial on indictment</p> <p><b>2.5</b> Role of judge; nature and role of jury; rights of audience</p> <p><b>2.6</b> Trial procedure (in outline) following a not guilty plea; procedure (in outline) following a guilty plea (where trial is not needed)</p>

	<p><b>2.7</b> Describe the grounds and routes of appeal from the magistrates' court and the Crown Court</p> <p><b>2.8</b> Apply an understanding of court type and function to a given situation</p>	<p><b>2.7</b> Magistrates court: prosecution and defence grounds for appealing to the Crown Court and the High Court; Crown Court: prosecution and defence grounds for appealing to the Court of Appeal</p> <p><b>2.8</b> Application to a scenario</p>
<p><b>3 Understand the rules and procedures relating to bail</b></p>	<p><b>3.1</b> Explain the nature of bail</p> <p><b>3.2</b> Describe the procedure at a bail hearing</p> <p><b>3.3</b> Identify the grounds on which the prosecution may object to bail being granted</p> <p><b>3.4</b> Explain the factors to be taken into account by the court in deciding whether to refuse bail</p> <p><b>3.5</b> Identify the conditions that may be attached to bail</p> <p><b>3.6</b> Describe the procedure for appealing against a bail decision</p> <p><b>3.7</b> Apply an understanding of the rules and procedures relating to bail to a given situation</p>	<p><b>3.1</b> Definition; prima facie right (s4 Bail Act 1976); conditional; unconditional; consequence of failure to surrender (s6 Bail Act 1976)</p> <p><b>3.2</b> Prosecution outlines objections; defence makes submissions; magistrates decide stating reason(s); possibility of appeal</p> <p><b>3.3</b> Bail Act 1976 Sch 1 para 2: grounds for denying bail</p> <p><b>3.4</b> Bail Act 1976 Sch 1 para 9: factors for the court to take into account in deciding whether the grounds for refusing bail have been established</p> <p><b>3.5</b> s3 Bail Act 1976: examples to include reporting to a police station and/or other obligations/restrictions; nature of a surety; consequences of breach</p> <p><b>3.6</b> s81 SCA 1981: application to Crown Court</p> <p><b>3.7</b> Application to a scenario</p>
<p><b>4 Understand the function of mode of trial proceedings</b></p>	<p><b>4.1</b> Explain the purpose of mode of trial proceedings</p>	<p><b>4.1</b> Determining trial venue for either way offences; examples of either way offences to demonstrate capacity for varying degrees of seriousness</p>

	<p><b>4.2</b> Describe the procedure at plea before venue and the consequences of the defendant indicating a guilty plea/not guilty plea</p> <p><b>4.3</b> Describe the mode of trial procedure</p> <p><b>4.4</b> Identify the factors magistrates will take into account when deciding mode of trial</p> <p><b>4.5</b> Explain the factors to be taken into account by the defendant in deciding on trial by magistrates or trial by jury where the circumstances provide a choice</p> <p><b>4.6</b> Apply an understanding of the factors to be taken into account when making a mode of trial decision to a given situation</p>	<p><b>4.2</b> Significance of advance information; procedure following the indication of a guilty plea</p> <p><b>4.3</b> ss17-21 MCA 1980: prosecution representations; defence representations; consequences of the magistrates' decision depending on whether trial by magistrates or trial by jury is decided upon</p> <p><b>4.4</b> s19 MCA 1980: statutory factors; National Mode of Trial Guidelines</p> <p><b>4.5</b> Factors favouring trial by magistrates e.g. less publicity; factors favouring trial by jury e.g. perceived higher acquittal rate</p> <p><b>4.6</b> Application to a scenario</p>
<p><b>5 Understand the rules relating to disclosure of evidence</b></p>	<p><b>5.1</b> Explain the nature of advance disclosure in relation to either way offences</p> <p><b>5.2</b> Explain the requirement on the prosecution to disclose material which might undermine the prosecution's case</p> <p><b>5.3</b> Explain the requirement for providing a defence statement</p> <p><b>5.4</b> Identify the type of information the defence statement must contain</p> <p><b>5.5</b> Identify the circumstances in which adverse inferences may be drawn from the defence statement</p>	<p><b>5.1</b> Advance Information Rules/Criminal Procedure Rules 2005 Part 21</p> <p><b>5.2</b> s3 Criminal Procedure and Investigations Act 1996: objective test; meaning of "undermine"; methods of disclosure: provide copy; allow to inspect</p> <p><b>5.3</b> s5, 6 CPIA 1996: relevance of type of trial; time limit for complying</p> <p><b>5.4</b> s6A CPIA 1996: form and content of defence statement</p> <p><b>5.5</b> s11 CPIA 1996: examples of circumstances relating to the defence statement from which adverse inferences may be drawn</p>

	<p><b>5.6</b> Explain the duty of the prosecutor in relation to the defence statement</p> <p><b>5.7</b> Apply an understanding of the rules relating to disclosure of evidence to a given situation</p>	<p><b>5.6</b> s7A CPIA 1996: further review</p> <p><b>5.7</b> Application to a scenario</p>
<p><b>6 Understand the procedures relating to sentencing</b></p>	<p><b>6.1</b> Describe the sequence of events between conviction and sentencing</p> <p><b>6.2</b> Explain the purpose of the plea in mitigation</p> <p><b>6.3</b> Explain the content of a plea in mitigation</p> <p><b>6.4</b> Identify the range of sanctions and other orders available to a sentencing court</p> <p><b>6.5</b> Identify the factors to be taken into account by the court when sentencing</p> <p><b>6.6</b> Apply an understanding of procedure relating to sentencing to a given situation</p>	<p><b>6.1</b> Depending on whether the defendant is found guilty or pleads guilty, the sequence (in outline) to include: prosecution outline of offence including defendants' criminal record; offences to be taken into consideration; pre-sentence or other report; plea in mitigation</p> <p><b>6.2</b> Reduction in length or severity of sentence</p> <p><b>6.3</b> Content to include information relating to, for example: the nature and circumstances of the offence, the circumstances of the defendant including history and present situation, attitude to the offence and capacity for reform</p> <p><b>6.4</b> Custodial sentences (in outline); non-custodial sentences (in outline); other orders (in outline): compensation; prosecution costs; confiscation of proceeds; ASBOs</p> <p><b>6.5</b> Factors (in outline) to include: statutory maximum for the offence; aggravating factors; mitigating factors; sentencing aims (s142 CJA 2003); any sentencing guidelines relevant to the offence</p> <p><b>6.6</b> Application to a scenario, including collating and structuring information to form the basis of a plea in mitigation</p>
<p><b>7 Understand the provisions for publicly funded advice, assistance and representation in the criminal justice process</b></p>	<p><b>7.1</b> Explain the provisions for publicly funded advice and assistance:</p> <ul style="list-style-type: none"> <li>- at the police station</li> <li>- at the solicitor's office</li> </ul>	<p><b>7.1</b> Duty solicitor schemes at the police station and at court; requirement of LSC contract for solicitors undertaking criminal defence work; relevance of means testing (in outline only) where required; range of tasks included within</p>

	<p>- at first appearance in court</p> <p><b>7.2</b> Explain the requirements for publicly funded representation</p> <p><b>7.3</b> Apply an understanding of publicly funded advice, assistance and representation to a given situation</p>	<p>advice and assistance; role of Public Defender Service (in outline); CDS Direct telephone advice (in outline)</p> <p><b>7.2</b> Relevance of Article 6(3)(c) ECHR; merits test: 'interests of justice', Access to Justice Act 1999 criteria; means test (in outline only): based on income only (Criminal Defence Service Act 2006)</p> <p><b>7.3</b> Application to a scenario; this could include completing an application form for legal aid where the 'interests of justice' criteria are explicitly addressed</p>
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<b>Additional information about the unit</b>	
Unit aim(s)	The learner will understand key concepts, terms and processes in the area of Criminal Litigation
Unit expiry date	31 December 2010
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards; specifically, Unit 31 Criminal Law Advice and Casework
Details of the relationship between the unit and other standards or curricula (if appropriate)	Courses of study leading towards the achievement of the unit may offer the learner the opportunity to satisfy requirements across a number of Level 3 Key Skill areas; most specifically, Communication, Improving own learning and performance, Problem solving and Working with others
Assessment requirements specified by a sector or regulatory body (if appropriate)	Na
Endorsement of the unit by a sector or other appropriate body (if required)	Na
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	ILEX (Institute of Legal Executives)
Availability for use	Only available to owning awarding body
Availability for delivery	1 September 2008