UNIVERSITY OF LONDON

DIPLOMA IN LAW
DIPLOMA IN THE COMMON LAW
LLB

ALL SCHEMES AND ROUTES

BSc DEGREES WITH LAW

Common Law Reasoning and Institutions

Wednesday 16 May 2012: 10.00 – 13.15

Candidates will have fifteen minutes during which they may read the paper and make rough notes ONLY in their answer books. They then have the remaining THREE HOURS in which to answer the questions.

Candidates must answer the COMPULSORY question in Part A and THREE from the SEVEN questions in Part B.

Candidates should answer all parts of a question unless otherwise stated.
PART A

Candidates must answer this **COMPULSORY** question.

1. (a) Answer all questions

   i. How would you find out which database contains a specific journal?

   ii. Give two examples of databases you might use to find journal articles on a topic.

   iii. How would you go about finding the following case in a database: *Al-Khawaja and Tahery v the United Kingdom [2011] ECHR 2127*?

   iv. On which freely available database will you find the revised text of all statutes since 1267?

   v. What does the abbreviation ER stand for?

   (5 marks)

(b) Answer all questions

   i. On which of the six topics was the essay which you submitted via the VLE? What were your initial impressions of the issues posed and to what extent did your understanding of the issues change as you carried out your research?

   ii. Explain how you found source material. Which sources were of most use in constructing your essay? Rank these sources in terms of their authority and ease of understanding.

   iii. Outline your conclusions and explain the extent to which they are justified by arguments from the sources you have identified.

   iv. If you were to undertake the same research exercise tomorrow what, if anything, would you do differently?

   (20 marks)
PART B

2. “The only real issue in the modern practice of precedent is the status of the Court of Appeal.”

Discuss.

3. “Although it is impossible to ignore the fact that there are no minority judges and only one woman on the UK Supreme Court, not much can be done about this problem. The Judicial Appointments Commission has opened up the process of appointment so that it is fair and transparent; the problem is that there are not yet sufficient numbers of women lawyers or lawyers from minority backgrounds who are ready to become judges.”

Discuss.

4. “The aims and objectives of the civil justice system are not best served by solely emphasising efficient and well managed court processes or by solely emphasising easily available alternative dispute resolution (ADR); instead a balance of both is required. The trick is getting the balance right.”

Discuss.

5. “The Coalition government has used the need for fiscal austerity as a cover to cut legal aid more deeply than New Labour ever tried. It would not be wrong to say that there simply is no future for legal aid.”

Discuss.

6. “To understand the role of the Supreme Court, one has to see that parliamentary scrutiny is generally perfectly adequate for the purpose of protecting the public interest in the area of policy-making...[and]...It is also the only way of doing so that carries any democratic legitimacy.” (Lord Sumption).

Discuss.
7. EITHER

(a) "The trial of the ‘Heathrow heist four’ and subsequent rulings by the Court of Appeal show that a criminal trial can successfully take place without a jury and still command public respect provided that we acknowledge that trial without jury is an exceptional event."

Discuss.

OR

(b) "Fairness requires that decisions are made by adjudicators who, however described, are independent and impartial."

Discuss with reference to Article 6 of the European Convention on Human Rights.

8. Read the following sections of The Search Warrants Act 2010 (a fictitious Act) and advise on the situations that follow.

1 In order to obtain a search warrant, a constable has to show to a Justice of the Peace that there are reasonable grounds for believing that an offence has been committed.

2 A constable must also show that there is material on premises to be searched which is likely to be of substantial value to the investigation of the offence, and that:

   (a) it is not practicable to communicate with any person entitled to grant entry to the premises; and

   (b) entry to the premises will not be granted unless a warrant is produced; and

   (c) the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

3 Search under a warrant must be at a reasonable hour unless it appears to the constable executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.

4 When any person is present at the premises to be searched, the constable shall identify himself to that person unless there are reasonable grounds to suspect that notification of the fact of the search would lead to the destruction or concealment of the evidence named in the warrant.
5  Search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

6  Items subject to legal privilege cannot be the subject of a search warrant.

7(1)  Items subject to legal privilege are defined as communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client.

7(2)  Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

8  A constable legally on premises can seize any property provided that there are reasonable grounds for believing that the evidence relates to an offence, and it is necessary to seize it to prevent it being lost or destroyed.

Advise on these situations:

(a)  Constable Arnold wants to obtain authorisation to search and seize property in Brian’s premises. There are strong suspicions that Brian has been involved in handling stolen goods. Brian has access to a warehouse and a private home address. The Police have evidence that the property is being stored at the warehouse. Advise Arnold of the argument he needs to make to the Justice of the Peace.

(b)  Constable Clive has obtained a warrant to search the premises of Edith for stolen computers. The warrant specifies that the search must be made in the morning, but Clive suspects that this will alert the occupier of the premises and so he enters the premises late at night. When Edith challenges Clive, he states ‘get out of my way’ and pushes past her. He then proceeds to tear up Edith’s floorboards as he believes that he will also find drugs that have been concealed. Advise Edith as to the legality of the search.

(c)  Constable Frank has a search warrant for the property controlled by Graham. Frank serves the warrant at the correct time, and identifies himself to Graham. Frank is searching for a stolen vehicle. He goes through desk drawers in the premises and confiscates a folder of correspondence that includes letters from Graham’s solicitor, as well as letters to Graham’s co-accused, Helen. When searching another desk drawer, Frank finds a bag of white powder, which he confiscates believing it to be drugs. Advise Graham of the legality of Frank’s search.