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, TWO from the EIGHT questions in Part B and the COMPULSORY question in Part C.

NOTE: Candidates may detach the sections of the Anti-social Behaviour, Crime and Policing Act 2014 from pages 6 to 12 of this question paper for ease of reference in answering Question 10.

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

Permitted materials
None.
PART A

Candidates must answer this COMPULSORY question.

Parts (a) to (d) of Question 1 are about the seen case Valilas v Januzaj [2014] EWCA Civ 436, 154 ConLR 38.

1. (a) What are the material facts of the dispute in Valilas? (5 marks)

(b) What are the Defendant’s arguments on appeal? (2 marks)

(c) What reasons did Underhill LJ give to explain his decision that the Claimant’s actions did amount to a repudiatory breach of contract? (9 marks)

(d) Explain the different judicial approaches to the cases of Decro-Wall International SA v Practitioners in Marketing and Withers v Reynolds. (4 marks)

(e) Read the following extract, from Lord Dyson’s judgment in Al Rawi & Ors v The Security Service & Ors [2012] 1 AC 531 and answer the question that follows. (5 marks)

‘But even in an area which is not the subject of statute or statutory procedural rules, there are limits to the court's inherent jurisdiction to regulate how civil and criminal proceedings should be conducted…

For example, it is surely not in doubt that a court cannot conduct a trial inquisitorially rather than by means of an adversarial process (at any rate, not without the consent of the parties) or hold a hearing from which one of the parties is excluded. These (admittedly extreme) examples show that the court's power to regulate its own procedures is subject to certain limitations. The basic rule is that (subject to certain established and limited exceptions) the court cannot exercise its power to regulate its own procedures in such a way as will deny parties their fundamental common law right to participate in the proceedings in accordance with the common law principles of natural justice and open justice. To put the same point in a different way, the court must exercise the power to regulate its procedure in a way which respects these two important principles which are integral to the common law right to a fair trial.’

In Lord Dyson’s view, what are the limits on a court’s discretion to regulate how court proceedings are carried out?
PART B

Candidates must answer TWO questions in this section.

2. ‘Experience shows that the English courts have gone far beyond what Parliament intended in its wording of S2 of the Human Rights Act 1998.’

Discuss this statement using examples from relevant cases.

3. With reference to relevant cases, discuss how membership of the European Union and S3 of the Human Rights Act 1998, have influenced the approach of the English judiciary to statutory interpretation.

4. ‘In a democracy governed by the people and not by an absolute monarch or even an aristocratic ruling class, the judiciary should reflect the whole community, not just a small section of it.’ (Lady Hale, 2014)

Discuss Lady Hale’s view on the importance of a diverse judiciary and the extent to which recent measures have been successful in increasing judicial diversity.

5. ‘The effect of the Legal Aid, Sentencing and Punishing of Offenders Act 2012 is a developing access to justice crisis.’

Explain and discuss this statement.

6. ‘Recent attempts at reforming the English civil justice system seem to have achieved little.’

Discuss.

7. ‘There are many explanations for the disappearance of civil trials, but what seems clear is that this phenomenon raises problems for common law systems and possibly the rule of law.’

Discuss.

8. ‘The stop and search provisions of the Police and Criminal Evidence Act 1984 achieve a healthy balance between the detection of crime and protection of human rights.’

Discuss.
9. ‘Recent cases on jury composition and behaviour raise serious questions about whether we should continue to put so much faith in jury trials.’

Discuss.

PART C

Candidates must answer this **COMPULSORY** question.

10. Andre, aged 18, and Ben, aged 19, live in an apartment block and Andre’s sister Claudia, aged 15, lives with them. The apartment is owned by Gisele, but Andre and Ben pay the monthly rent. Most weekends Andre and Ben hold a party in their apartment and their friend Desiree and her band play music at the parties. The parties usually start at 10.00pm each Friday night and finish at about 4.00am on Saturday morning. Last Saturday, Elva, who lives in the next apartment to Andre and Ben complained to the police that she could not sleep because of the noise created by the party. The same day, Police Constable Frank issued the following Community Protection Notice to Andre, Ben and Claudia:

‘You are – with immediate effect – required by law to stop playing music or allowing music to be played in your apartment after 11.00pm on any weekday.’

Andre and Ben believe that the Community Protection Notice has been improperly issued and wish to hold another party this weekend. Desiree and Gisele are concerned that they might be liable for the noise nuisance.

Explain:

(a) to Andre and Ben how – if at all – the Community Protection Notice has been improperly issued; (14 marks)

(b) what steps, if any, they can take to appeal the notice; (2 marks)

(c) if the Community Protection Notice prevents them from holding a party this weekend; (4 marks)

(d) what penalty they each might face for failing to comply with the Community Protection Notice; (1 mark)

(e) to Desiree her liability, if any, for the noise created by her and her band; (2 marks)

(f) to Gisele whether she might be held liable for her tenants’ behaviour. (2 marks)

END OF PAPER