



THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

EVIDENCE

2 November 2020

1330 – 1430
(One hour)

Candidates are required to answer TWO out of three questions.

Candidates should note that, in examination answers, they are expected to cite relevant authority.

Question 1

"The law on of hearsay evidence in criminal cases is such a mess that the only way forward is to follow the approach of the civil law and abolish all rules restricting or forbidding its use."

Discuss.

Question 2

The police have interviewed a number of persons during their investigation of a murder committed in February 2020 in a street in Glasgow.

- (a) They visit the house of Abe, who tells them that it was the local gang who 'did the job', that he (Abe) had agreed with the gang that he would bring the victim into the street but he had run away before the violence had started. Abe was not cautioned before making this statement.
- (b) The police are holding a suspect, Bob, in police custody. He has been informed that he has the right not to say anything and that he can have access to a solicitor. In response to police questioning Bob makes a statement incriminating himself in the murder. He is then cautioned and charged with that crime. His reply to the charge is 'you can't prove anything'. As he is being led away a police officer says that they still want to clarify certain details about who else was involved. They ask Bob questions, and in his replies, he names various people as being party to the killing.
- (c) A police officer then goes to the house of Colin. As he arrives Colin says "Look, I know that I've been in prison for violence, but I've never ever used an axe." The police have not revealed that the victim died of axe wounds though a local newspaper ran a story about the murder as involving a possible axe attack.
- (d) The police are holding Dave, who is aged 15, in custody. As the police are explaining that he has the right to have a solicitor present, Dave says that he doesn't like lawyers and doesn't want one now. The police ask Dave a variety of questions and in his answers, he admits that he was involved in the attack.

Abe, Bob, Colin, and Dave are soon to go on trial for murder. Advise the Crown on the use they can make of the statement or statements made by each of the accused as evidence in the trial.

Question 3

Alan is charged with the following offences: (1) the rape of B, then 12 years old, in January 2014; (2) causing C, then 10 years old, to look at a sexual image, in November 2015; (3) the rape of D, then 25 years old, in April 2017. The evidence for the Crown consists of:

- a) evidence from B, C and D all testifying that Alan committed the individual crimes specified against them;
- b) recordings of police interviews with Alan in which he denies any sexual contact or involvement with B or C and admits having had sexual intercourse with D on the date in question, but claims that it was consensual;
- c) evidence from C's mother that on the date in question she heard C screaming when Alan was alone in C's room with him and that when she entered the room C was cowering in a corner shivering;
- d) evidence from D's colleague Elaine that D broke down at work late one afternoon and said that she had been raped by Alan the previous night.

At the end of the prosecution case, Alan's counsel makes a submission of no case to answer in respect of all three charges. Explain how the court would approach this submission and assess the likelihood of its succeeding whether in relation to all, some or only one of the charges.

END OF QUESTION PAPER