



THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

EVIDENCE

1 November 2021

1300 – 1430
(90 minutes)

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

In what circumstances will real or documentary evidence be held to be inadmissible on the basis that it has been improperly obtained?

Question 2

Andy is on trial for supplying heroin. Comment on the admissibility of the following pieces of evidence:

(i) During the course of the police investigation, an undercover officer is sent to Andy's house to buy a gram of heroin. Andy sells it to him and the police officer pays with a marked note. This note is recovered in a later search of Andy's house.

(ii) Andy is taken to the police station, cautioned and informed that he has the right to access legal advice. Andy refuses the opportunity to seek legal advice and during the course of questioning he gives several incriminating responses.

(iii) Andy is charged with the relevant drug offences and detained in police custody. One of the prison guards overhears a conversation between Andy and the person in the adjacent cell, during which Andy reveals further incriminating information. The guard signals to one of his colleagues to join him and to listen to the rest of the conversation, during which Andy incriminates himself further.

Question 3

It is alleged that a girl aged 10 was subject to a sexual assault by indecent touching. The accused is the girl's father. The father is separated from his wife but had been granted a court order allowing him contact with his children. He has denied to the police that anything untoward has ever occurred between him and his daughter.

Shortly after the alleged incident the girl told of what happened to her younger brother (aged 7), who had been outside playing with friends and who had returned to the house.

Later the same day the girl also told her next-door neighbour of what had happened to her. The neighbour reported the matter to the police and with a view to giving evidence in any subsequent legal proceedings, the neighbour later made a statement to a police officer giving details of the story the girl had told her. The neighbour has now suddenly and unexpectedly died.

It is also thought that after the alleged assault the father had said to his wife that "I didn't mean to do it."

Discuss the implications of the above narrative in respect of the evidence which may be presented at the criminal trial of the father.

END OF QUESTION PAPER