Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/21**

Paper 2 Data Response **May/June 2022**

1 hour 30 minutes

8737224163

You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **one** question.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 50.
- The number of marks for each question or part question is shown in brackets [ ].

This document has **8** pages. Any blank pages are indicated.

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Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 **(a)** Having successfully completed all her courses, Angela has recently qualified as a solicitor and her name has been added to the roll. She wants to get a practising certificate in order to start a job she has been offered with a law firm. She checks the Law Society website and sees that she has to pay a fee of £100 but that the fee for someone applying for the first time is £75. Angela submits her application with a fee of £75.

Explain how the Legal Services Act 1974 will apply to Angela in this situation. [10]

(b) Khalid, a solicitor whose name is on the roll, was suspended a year ago for a period of six months for having an inappropriate relationship with a client. As his suspension is about to end Khalid applies for a new practising certificate. Although his application is completed correctly the Law Society refuses to grant him a new certificate, saying its decision is in the public interest. Khalid appeals to the High Court against this decision. The High Court supports the decision of the Law Society and directs it not to issue a practising certificate.

Explain how the Legal Services Act 1974 will apply to Khalid in this situation. [10]

(c) Melody has been on the roll of solicitors for five years. Having lost her job in a law firm she applies for sole solicitor endorsement. When the Law Society checks her application it discovers that the law firm Melody worked for placed a restriction on her handling clients' fees as she had not followed the law firm's rules about banking. The Law Society grants Melody a practising certificate with a condition that she employs someone to take care of the financial aspect of her practice as a sole solicitor.

Explain how the Legal Services Act 1974 will apply to Melody in this situation. [10]

(d) Describe the education and training needed to become a solicitor. Assess the extent to which the role of a solicitor overlaps with that of a barrister. [20]

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Source material for Question 1

Legal Services Act 1974 Schedule 16 (adapted)

Section 9 Applications for practising certificates

(1) A person whose name is on the roll may apply to the Law Society to be issued with a practising certificate.
(2) An application under this section may include an application for a sole solicitor endorsement.
(3) An application under this section must be—
  (a) made in accordance with the regulations, and
  (b) accompanied by the appropriate fee.
(4) "The appropriate fee", in relation to an application, means—
  (a) any fee payable under subsection (1) of section 11 in respect of the practising certificate applied for, and
  (b) any additional fee payable under subsection (4) of that section in respect of the application.

Section 10 The issue of practising certificates

(1) Subject to the following provisions of this section, where an application is made in accordance with section 9, the Society must issue a practising certificate to the applicant if it is satisfied that the applicant—
  (a) is not suspended from practice, and
  (b) is complying with any prescribed requirements imposed on the applicant.
(2) A practising certificate issued to an applicant of a prescribed description must be issued subject to any conditions prescribed in relation to applicants of that description.
(3) In such circumstances as may be prescribed, the Society must, if it considers it is in the public interest to do so—
  (a) refuse to issue a practising certificate under this section, or
  (b) where it decides to issue a practising certificate, issue it subject to one or more conditions.
(4) The conditions which may be imposed include—
  (a) conditions requiring the person to whom the certificate is issued to take specified steps that will, in the opinion of the Society, be conducive to the carrying on by that person of an efficient practice as a solicitor (including, if the certificate has a sole solicitor endorsement, an efficient practice as a sole solicitor);
  (b) …

Section 11 Fee payable on issue of practising certificates

(1) Before a practising certificate is issued, there must be paid to the Society in respect of the certificate a fee of such amount as the Society may from time to time determine.
(2) Different fees may be specified for different categories of applicant and in respect of different circumstances.

Section 13 Appeals etc in connection with the issue of practising certificates

(1) A person who makes an application under section 9 may appeal to the High Court against—
  (a) a decision to refuse the application for a practising certificate,
  (b) if the application included an application for a sole solicitor endorsement, a decision to refuse the application for the endorsement, or
  (c) a decision to impose a condition on a practising certificate issued in consequence of the application.

(2), (3) …

(4) On an appeal under subsection (1), the High Court may—
  (a) affirm the decision of the Society,
  (b), (c) …
  (d) direct the Society not to issue a certificate,
  (e), (f) …
  (g) make such other order as the High Court thinks fit.

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2 **(a)** Roger makes a Freedom of Information (FOI) request to a university for details of its admission statistics. He sends an email to the Admissions Department at the university on 1 October 2019 and includes his name and email address along with details of the statistics he wants to see. On 8 October 2019 Roger receives an email from the university which contains the information he asked for.

Explain how the Freedom of Information Act 2000 will apply in this situation. [10]

(b) Elyana lives on a busy street in a town in Wales. She writes an FOI request to her community council which includes her name and address, asking about the number of parking fines given on the street where she lives. Her letter arrives at the community council offices on a Saturday but it is read on the following Monday. A week later Elyana receives a letter from the community council refusing her request as it answered an identical FOI request from her one month earlier.

Explain how the Freedom of Information Act 2000 will apply in this situation. [10]

(c) Richard is very concerned about where soldiers in the army are located. He makes an FOI request in the proper form to the Ministry of Defence (MOD, a government department) on 1 November 2019 asking where soldiers are located in the UK. On the twentieth working day after he sends his request Richard receives a reply. The MOD says it has this information but refuses his request on the basis that the number and location of soldiers is a matter of national security.

Explain how the Freedom of Information Act 2000 will apply in this situation. [10]

(d) Describe the role of the European Court of Human Rights. Assess the impact the Court has had on English law. [20]

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Source material for Question 2

Freedom of Information Act 2000 (adapted)

Section 1 General right of access to information held by public authorities.

(1) Any person making a request for information to a public authority is entitled—
  (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
  (b) if that is the case, to have that information communicated to him.

Section 3 Public authorities.

(1) In this Act "public authority" means any body which, any other person who, or the holder of any office which is listed in Schedule 1.

Section 8 Request for information.

(1) In this Act any reference to a "request for information" is a reference to such a request which—
  (a) is in writing,
  (b) states the name of the applicant and an address for correspondence, and
  (c) describes the information requested.

(2) For the purposes of subsection (1)(a), a request is to be treated as made in writing where the text of the request is transmitted by electronic means.

Section 10 Time for compliance with request.

(1) A public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.

(2), (3), (4), (5) …

(6) In this section "the date of receipt" means the day on which the public authority receives the request for information,
"working day" means any day other than a Saturday, a Sunday, Christmas Day or Good Friday.

Section 14 Vexatious or repeated requests.

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

(2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

Section 17 Refusal of request.

(1) A public authority which, in relation to any request for information, is to any extent relying on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which—
  (a) states that fact,
  (b) specifies the exemption in question, and
  (c) states (if that would not otherwise be apparent) why the exemption applies.

Section 24 National security.

(1) Information can be exempt if the exemption is required for the purpose of safeguarding national security.

SCHEDULE 1 Public authorities appears on page 6.

SCHEDULE 1 Public authorities
Part I General
1 Any government department

Part II Local government
7 A local authority within the meaning of the Local Government Act 1972, namely—
(a) in England, a county council, a London borough council, a district council or a parish council,
(b) in Wales, a county council, a county borough council or a community council.

Part IV Maintained schools and other educational institutions
53 (1) The governing body of—
(a) an institution within the further education section, or
(b) a university.

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