GUERNSEY BAR EXAMINATION

09:30AM, WEDNESDAY 20 May 2026

PAPER TWO

CRIMINAL PRACTICE AND PROCEDURE

THREE HOURS

CANDIDATES ARE REQUIRED TO ANSWER ALL QUESTIONS

THE MARKS AVAILABLE FOR EACH QUESTION ARE SHOWN BELOW

QUESTION 1 – 25 MARKS

QUESTION 2 – 25 MARKS

QUESTION 3 – 25 MARKS

QUESTION 4 – 25 MARKS

PLEASE ENSURE THAT THE FOLLOWING IS CLEARLY MARKED ON EACH PAGE OF YOUR ANSWER SCRIPT:

- **NAME OF PAPER**
- **CANDIDATE LETTER**
- **QUESTION NUMBER**
- **PART NUMBER OF QUESTIONS (if applicable)**

The following laws are as they were in force at the 31st March 2026, and you are not being examined on any amendments or repeals made subsequent to this date. This is in accordance with paragraph 3 of the Bailiff's Memorandum 17 November 2025.

Supplementary Material - File 1

1. Domestic Abuse and Related Provisions (Bailiwick of Guernsey) Law, 2024
2. The Domestic Abuse Protection Order (Procedure) Rules, 2025
3. Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003
4. The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013
5. Live-Link Evidence (Bailiwick of Guernsey) Ordinance, 2008 (Consolidated text)
6. Practice Direction no 3 of 2013: Issued 4 July 2008
7. The Administration of Justice (Bailiwick of Guernsey) Law, 1991
8. The Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006
9. The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999

Supplementary Material - File 2

1. The Criminal Justice (International Cooperation) (Bailiwick of Guernsey) Law, 2001: PROJET DE LOI
2. The Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey) Law, 2023
3. The Disclosure (Bailiwick of Guernsey) Law, 2007
4. Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Consolidated text).
5. The Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance, 2023

Question A [total 25 marks]

Facts Part 1

A, a long-standing client, calls to advise you he is in court for his first appearance on Monday morning and would like you to represent him. You last represented him a year or so ago and recall there was some Probation involvement in his sentence. This is the first you have heard of the new matter. A confirms he was interviewed under caution before he was charged and bailed from the police station, but he did not think it was worth bothering you about at that stage as "you know me, I never speak to the police". He tells you he has been charged with assault and makes the comment "there was a lot of blood".

Question 1 [5 marks]

What questions do you ask of A initially, and what do you do to prepare for the first appearance hearing?

Facts Part 2

When you review the initial disclosure, you see that A is alleged to have hit B over the head with a glass bottle, causing injury requiring hospital treatment. At the first appearance hearing, you are advised the charge has been reviewed and, in light of medical evidence received, the offence is being amended from assault to one of unlawfully and maliciously inflicting grievous bodily harm with intent. Your client asks you about this.

Question 2 (I) [4 marks]

Explain the elements of the offence and the process of how the prosecution can amend the charge.

Question 2 (II) [2 marks]

How does the proposed change in the charge affect your advice as to likely venue for the offence to be heard?

Facts Part 3

You are preparing for trial in A's case. He has advised you that he does not want to complete a defence case statement as "I never give them a story until I'm standing in court".

Question 3 (I) [1 mark]

Explain, with reference to The Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance, 2023, to A how the duty to give a defence case statement is triggered.

Question 3 (II) [1 mark]

Explain the contents of a defence case statement to A.

Question 3 (III) [3 marks]

What warnings, and at what stage of the proceedings, will the judge give A if he fails to comply with the Ordinance?

Question 3 (IV) [1 mark]

What might be the ultimate result of filing a non-compliant defence case statement?

Facts Part 4

A gives you a full account of events. He tells you that he accepts hitting B over the head with the bottle, but that “B was coming at me, like a mad man. He had the bottle and I thought he was going to knock me out with it. I got it off him and just swung it”.

Question 4 [5 marks]

Advise A as to any defence he might have, what needs to be established for that defence to be before the court, who bears the burden of proof, what the standard of proof is and advise whether you believe the defence is likely to be successful.

Facts Part 5

Assume A is unsuccessful in his defence and is convicted before the Royal Court. At the sentencing hearing, you realise that A is subject to a suspended sentence of imprisonment for an offence of assault. That sentence was given in the Magistrate’s court. On checking the dates on A’s record, you see the new offence was committed during the period of suspension of the suspended sentence, and the sentence has not previously been activated.

Question 5 [3 marks]

Advise A of the power of the Court in this situation: what should he expect to happen, and which court will deal with the suspended sentence issue?

Question B [total 25 marks]

Facts Part 1

You represent Mr D. Ms C and Mr D used to be in a relationship and have two children together. They separated some years ago and are each now in new relationships. C has custody of the children and has allowed D to have access to them under an informal arrangement. D is not happy about C's new partner living in the same house as his children and has instigated proceedings in the Family Court to seek full custody.

While C and D were together, D was convicted of assaulting C and he received a sentence from the Magistrate's Court in respect of that offence. In addition, C had called the police out five other times to complain about domestic abuse where she either made no statements or did make statements but withdrew her support for prosecution.

Since D became aware of C's new relationship, he has been texting her more frequently. They have always maintained communication to discuss the children, but lately the messages have become more personal, making derogatory comments about C and her new partner. D has put his middle finger up at C several times from inside his vehicle when he has driven past C and shouted at her from his vehicle. This most recently happened when the children were present. D has also attended at the children's school unexpectedly, and on one occasion took the children home after school on a day which had not been agreed with C. He has also stopped paying the agreed maintenance payments to C.

C has made a statement to the police, detailing the history of the relationship and the recent behaviour and how it is causing her psychological harm. D has been arrested for domestic abuse under section 1 of The Domestic Abuse and Related Provisions (Bailiwick of Guernsey) Law, 2024 (the Law).

Please assume all of the recent behaviour as described above has taken place after the commencement of the Law.

Question 1 [7 marks]

Explain the elements of the domestic abuse offence to your client fully, by reference to his alleged conduct, by considering sections 1-6 of the 2024 Law.

Facts Part 2

You continue to represent D following charge. He tells you he does not understand what the problem is – that C "gives as good as she gets" - and he does not understand why she would be upset by anything he is alleged to have done. You advise him prior to first appearance.

Question 2 [5 marks]

Advise D as to where the matter is likely to be heard, the maximum sentence, any potential defence D might have and how the defence is established.

Facts Part 3

Assume your client is acquitted after trial. The prosecutor had made you aware that if this happened, they would still seek a Domestic Abuse Protection Order (DAPO).

Question 3 (I) [2 marks]

Identify the correct section under which a DAPO can be applied for following acquittal, and who the application can be made by.

Question 3 (II) [2 marks]

Advise D with reference to The Domestic Abuse Protection Order (Procedure) Rules, 2025 (the Rules) what must be served on D if a DAPO is being sought following criminal proceedings.

Facts Part 4

D notes that in the DAPO application paperwork, there is reference not only to his previous conviction relating to C, but also the matters which never progressed to court. He is upset by this and questions if it is allowed. He says the conviction for assault "was all a big mistake" and says now he is innocent of that offence.

Question 4 [6 marks]

Advise D as the information which can be relied on when applying for a DAPO, and the conditions the court will need to consider before making the DAPO. Advise him of the standard of proof that the court will apply.

Facts Part 5

A month after a 12 month DAPO is made, D calls you to say he has been arrested for breach of DAPO. The police tell you he has contacted C, by text message, in direct breach of a non-contact prohibition. D tells you he had heard from his partner that one of his children had been taken to hospital and he had contacted C as he was desperate to find out what had happened.

Question 5 [3 marks]

Please advise D on the maximum penalty available for the breach offence and what, if any, defence might be available to him.

Question C [total 25 marks]

Facts Part 1

Your client A, a well-known local businessman with no previous convictions, is arrested in Guernsey, by Guernsey Police, on suspicion of possessing indecent images of children, possession of extreme pornography and sexual assault on a child, being his daughter B, aged 7. B has been interviewed by the police on video and disclosed that when they were on a recent holiday in England your client put his hand inside her knickers. When your client was arrested his mobile phone was seized and the examination by the police High-Tech Crime Unit identified the following in your client's photo gallery:

1. 15 Category A (Child Abuse Image Database categorisation) indecent images of a child. It is not known who the children are.
2. 56 Category B indecent images of a child. Again, it is not known who the children are.
3. 2 Category C indecent images of a child, they being of B.
4. 10 images of extreme pornography which involves a person performing an act of oral sex with an animal.

Question 1 [2 marks]

Explain to your client by reference to any relevant Guernsey law whether the alleged sexual assault offence on B can be tried in Guernsey.

Facts Part 2

Whilst the matters remain under investigation, A is released on pre charge conditional bail. This includes a condition that he is not allowed to leave Guernsey. Your client's work requires regular travel overseas.

Question 2 [2 marks]

Advise A how he can apply to remove the condition and whether it will be successful.

Facts Part 3

The police decide to charge A with 3 offences of making indecent images of children (one for each category mentioned in Part 1), one offence of possessing extreme pornography and one offence of sexual assault of a child. He is considering pleading guilty to all offences save for the alleged sexual assault.

Question 3 [6 marks]

Advise your client which courts could deal with the sentencing for each offence to which he wishes to plead guilty. Advise him of what sentence he could expect to receive by reference to local case law (explaining any aggravating or mitigating features present).

Facts Part 4

Your client pleads not guilty to the sexual assault on B. The prosecution makes applications for a Recorded Evidence Direction, and for B to give evidence via a video link with the assistance of an intermediary. The only evidence the prosecution will call is from B, meaning the ABE will be played then she will be available for cross examination. Your client asks whether they need any evidence to support the complaint for him to be convicted.

Question 4 [8 marks]

Explain to your client:

1. What each of these applications mean.
2. The process of applying for each.
3. What tests the court will apply, and what factors the court will take into account to determine the applications.
4. How the judge will direct the jurats if the applications are all granted.
5. If the court needs any corroborative evidence to convict him of the offence.

Facts Part 5

Your client enters guilty pleas to the making of indecent images offences and the possession of extreme pornography count is withdrawn. The sexual assault charge proceeds to trial. The jurats sitting as the Royal Court acquit your client of that matter. Your client asks if the prosecution can appeal that decision.

The judge tells your client he is subject to notification. Ahead of the sentencing you receive from the prosecutor applications for a sexual offence prevention order (SOPO), and for the forfeiture of his mobile phone.

Question 5 [7 marks]

Explain to your client:

1. Whether the prosecution can appeal the acquittal.
2. What notification means?
3. What a SOPO is?
4. Whether the grounds are made out for the court to order forfeiture of his phone.

Question D [total 25 marks]

Facts - Part One

You have been contacted by William Wary, the MLRO of Gbank, a Guernsey bank with an international client base, in relation to an account Gbank holds in the name of XCo, a company incorporated in jurisdiction Y. Gbank has recently been asked by Mr Crooked, one of the directors of XCo, to transfer money from XCo's account to a bank account in another name in jurisdiction Y. Jurisdiction Y has a well-developed legal system with legislation corresponding to that of the Bailiwick. However, its government has just been overthrown and the advice from the Foreign, Commonwealth and Development Office is that it is currently dangerous to travel there because various rival militias are trying to take over the government.

William Wary is concerned about the account because although XCo has been a customer of Gbank for over 20 years, he can find no information on the file about its activities or the source of the funds in its account, which exceed £50 million. Furthermore, although he has asked Mr Crooked for an explanation about why he wants money from XCo's account to be transferred to the account in jurisdiction Y, he has not received any clear answer. William Wary is worried that if the funds are transferred, Gbank could be committing a criminal offence, so has requested your advice about what criminal offences could be involved.

Question 1 [**5 marks**]

What do you advise William Wary?

Facts - Part Two

Having received your advice, William Wary now wants to know if there is any step he could take to protect Gbank from criminal liability in relation to the transfer, or anybody he should notify about his concerns. However, he is also worried about the legal position on disclosing confidential information generally so wants your advice on this as well.

Question 2 [**5 marks**]

What do you now advise William Wary?

Facts - Part Three

Having looked into the matter, the Bailiwick authorities have decided that there are no grounds to prosecute anybody in the Bailiwick. However, they remain very suspicious about the funds in the account, even though there is no clear evidence that they are linked to criminality.

Question 3 [5 marks]

Are there any measures the Bailiwick authorities can take in relation to the funds in the account? Please illustrate your answer by reference to any relevant case law.

Question 3 (I) [**4 marks**]

If the Bailiwick authorities require more information from Gbank what measures are available to them to obtain this information?

Question 3 (II) [**3 marks**]

If the Bailiwick authorities decide that they also need evidence from Jurisdiction Y, what is the process for obtaining this?

Facts - Part Four

William Wary has heard that the case might be relevant to the next Moneyval evaluation of the Bailiwick.

Question 4 [**3 marks**]

What is Moneyval, what is its relationship with the Bailiwick and what does it evaluate?