

Unit Title

LA31 Criminal Law Advice and Casework

Summary

This Knowledge Unit is designed to equip you with the knowledge required to advise people accused or convicted of a criminal offence on their rights and responsibilities under the law. It includes advice provision within police custody as well as advice and representation in the courts.

The standards have been clustered into three sections to facilitate understanding but all three sections are equally important; General, Police Station, Court

This is a new Knowledge Unit that has been developed for the independent Legal Advice sector. This Knowledge Unit supports the generic National Occupational Standards for Legal Advice.



To meet the National Standard, you must be able to:

1. General

- a) Explain the terms *actus reus* and *mens rea* in the context of criminal law
- b) Identify and describe the common criminal offences and explain the relevant legislation and case law applicable to them
- c) Describe how to access public funding for criminal cases and explain what limitations of public funding are
- d) Describe the ethical rules and procedures relevant to client representation in criminal cases
- e) Describe the key sources of legislation and case law relevant to criminal practice, how to keep this up to date and why this is important
- f) Explain the importance of identifying the issue and how to do this
- g) Describe how to obtain statements from clients and witnesses
- h) Identify and describe relevant human rights case law and legislation and explain how it applies to current criminal legal practice and procedure

2. Police Station

- i) Describe the role of a police station representative and explain the responsibilities permitted to probationary representatives, including the types of offences
- j) Explain the differences in 'seriousness' of different offences and the sentences that they may attract
- k) Explain the practice and procedures that must be followed by police station representatives within the police station
- l) Describe police identification procedures
- m) Explain police station interview procedures
- n) Understand and explain prosecution charging procedure
- o) Explain up-to-date legislation and case law relating to bail

3. Court

- p) Explain lower and higher court practice and procedure
- q) Describe current sentencing practice and procedure relevant to different offences
- r) Explain current disclosure rules
- s) Explain the use of expert witnesses
- t) Explain the powers and procedures of the police and the courts when dealing with young offenders
- u) Explain the appeals processes relating to criminal offences

Knowledge and Understanding

You must show that you know and understand:

1. General

1. What *actus reus* and *mens rea* are in the context of criminal law
2. The types of offences that individuals may be accused of and the relevant legislation and case law that applies to them:
 - Powers of arrest
 - What is an arrestable offence
 - What is a serious arrestable offence
 - Summary only, either way and indictable offence
3. Funding regimes for criminal cases and how to access public funding to support the case
4. The Police and Criminal Evidence Act (or equivalent up to date legislation) including interview procedures in police custody
5. The relevant sections of the Criminal Justice Act 2003 (or equivalent up to date legislation) relating to the arrest, interviewing and charging of accused and sentencing
6. The relevant sections of the Criminal Justice Act 2003 (or equivalent up to date legislation) relating to the provision of evidence and disclosure
7. The ethical protocols and procedures that pertain when representing clients
8. The importance of identifying the issue and how to do that
9. Relevant human rights legislation and case law as it impacts on criminal practice and procedure

2. Police Station

10. The role of accredited police station representatives and probationary representatives in the police station and the kinds of cases that each can advise on
11. The processes and procedures that must be followed by accredited police station representatives and probationary representatives in police stations, including police station interview procedures
12. The differences in 'seriousness' of different offences and how that may affect the sentence
13. Police powers of entry, search and seizure
14. Police powers, including identification powers in terms of:
 - Fingerprints
 - Photographs
 - DNA
 - Police powers relating to intimate and non-intimate samples
 - Powers of search in the police station
 - Warrants of further detention, grounds for obtaining them and how to challenge them
 - line-up
 - video/group confrontation
 - difference when suspect is known/unknown, available/unavailable
 - sanctions for refusal
15. Prosecution charging procedures as specified in the most relevant and up-to-date legislation
16. The relevant and up-to- date legislation relating to bail applications and bail provision

3. Court

17. The processes and procedures that pertain within all levels of court, including youth court sentences and procedures
18. How to assess evidence disclosed and advise on pleas
19. Current available sentences and the legislation and case law that underpin them, including:
 - Periods of detention including review requirements, extensions and on what grounds they may be requested
 - Community sentences and their banding relating to the seriousness of the crime
 - Seriousness threshold
 - Powers to deal with persistent offenders
 - Deferred and suspended sentences
 - Intermittent custody
 - Sanctions and procedures relating to breaches of licence
20. The use of expert witnesses including:
 - How to source an appropriate expert witness
 - How to brief an expert witness
 - Funding for expert witnesses
21. Key sources of case law and precedence relating to criminal practice, criminal evidence and pleading for other offences
22. The differences in powers and procedures when dealing with young or vulnerable offenders, including:
 - The right to have an appropriate adult present
 - Special measures provisions within the courts
23. The appeals processes that apply to criminal proceedings especially the relevant timescales that apply