

Evidence

Wednesday 24 July 2024

08.30 – 11.30

(three hours)

Candidates should answer **THREE** questions, referring to appropriate authorities in support of their answers.

Question 1

The Lord Advocate has referred a case to the Court of Criminal Appeal, to seek clarification on the evidential significance of 'de recenti statements'.

Explain what is meant by a 'de recenti statement'. What is the current position in terms of the evidential value of these statements?

Question 2

How do the rules of admissibility differ between Civil and Criminal cases?

Question 3

In what ways has the case of **Cadder v HM Advocate** [2010] UKSC 43 changed the way in which the police gather evidence?

Question 4

Write notes setting out the law on TWO of the following, with full reference to authority:

- a) The 'Moorov' principle in criminal cases.
- b) The admissibility of previous convictions of the accused in criminal cases.
- c) The standard of proof in civil cases.

Question 5

William has been accused of a number of sexual offences against three women. The allegations span a period of seven years. He wishes to lead evidence at trial that might undermine the credibility of the complainers. He wishes to lead the following evidence:

- 1) That the first complainer had been working as a prostitute for several months prior to the allegation that William sexually assaulted her.
- 2) That the second complainer was seen laughing and enjoying the company of William a few minutes after William was alleged to have sexually assaulted her.
- 3) That the third complainer was William's wife, and
- 4) William's wife was known to have numerous extra-marital 'affairs'.

Explain how the Court would assess the admissibility of this kind of evidence. Refer to authority. Is the Court likely to admit the above adminicles of evidence?

END OF PAPER