



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**EVIDENCE**

**Wednesday 9 August 2017**

**1000 – 1200  
(Two Hours)**

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

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Question 1

Bob is suspected by the police of involvement in a number of violent sexual assaults, all on prostitutes. In an attempt to obtain evidence to confirm their suspicions a female plain-clothes officer, Jan, is instructed to make contact with Bob and to befriend him, without revealing the fact that she is a police officer. Jan discovers that Bob is using an online dating site and manages to arrange a meeting with him through this site. She gains his trust and they start to meet on a regular basis. During one of their meetings, she says to him, still without revealing her true identity, "Look I know you were involved in those attacks. But don't worry – actually it's a bit of a turn on. Why don't you tell me all about it? Bob replies, "Yeah, it was me, strangulation is the only way to deal with women like those."

Jan has been carrying a concealed recording transmitter, which allows a colleague, Jack, to listen in to her conversations with Bob. However, at the time Bob made his statement, the quality of the recording was poor and Jack could only make out some of what was being said. Later, on playing back the machine at the police station it was found that the recording of the conversation between Jan and Bob remained indistinct.

Is Bob's statement admissible?

The statement is the only piece of evidence against Bob. Assuming that it is admissible, is there sufficient evidence to sustain a conviction against him?

Question 2

"The law on of hearsay evidence in criminal cases is such a mess that the only way forward is to follow the approach of the civil law and abolish all rules restricting or forbidding its use."

Discuss.

### Question 3

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

- (a) Judicial admissions.
- (b) The admissibility of precognitions in evidence.
- (c) Evidence of an accomplice.

### Question 4

Gus was present when his wife, Joan, was injured in an accident at the office where they both worked. A Health and Safety at Work prosecution has been brought in Edinburgh Sheriff Court against the employers. Gus has been cited to appear as a witness for the Crown at the trial. He seeks answers from you to the following questions:

- (a) The employers' solicitors have recently written to Gus requesting him to call in to their office and give them a statement about the incident. Must he do so? What are the consequences of his refusing?
- (b) About two hours after the accident, Gus sat down in the office canteen and wrote out an account of everything he could remember about the incident. When he is called to give evidence for the Crown will he be allowed to refer to this written account? If so, will the employers' solicitor be entitled to see its whole contents?
- (c) Two weeks after the event, Gus was interviewed about the accident by a PhD student involved in a research project to investigate all office accidents in the locality over a specified period. If Gus's evidence in court conflicts with what he told the researcher, could this be brought out in court?
- (d) One month after the incident Joan sent to Gus through the office email system a message admitting that the accident had been all her own fault and that there was nothing the employers could have done to prevent it. If the employers find out about this message, could Gus be questioned about it?
- (e) Six months after the accident Gus was made redundant by his employers. He still feels greatly aggrieved. Could the defenders' solicitor ask him about his feelings of grievance in an attempt to undermine his evidence?

### Question 5

Explain the different standards of proof in Scotland.

**END OF PAPER**