



ICM

JUNE 2016

THE LAW OF EVIDENCE

Instructions to candidates:

- a) Time allowed: Three hours (plus an extra ten minutes' reading time at the start – do not write anything during this time)
 - b) Answer any FIVE questions
 - c) All questions carry equal marks. Marks for each question are shown in []
1. Are the rules for witnesses to refresh their memories in the best interests of justice? [20]
 2. Eloise is suing the Dogs Vacation Home [DVH] for negligently causing the death of her pet dog by leaving it in a van without water on a hot summer day. She had paid to have the dog in the kennels for a week. Peter is a member of a charity organisation called Keep Pets Safe. He works as a clerk for Sue Grabbit and Run, the lawyers acting for DVH. He sends to Eloise anonymously a copy of an email DVH's insurers have sent to Sue Grabbit and Run which refers to poor staffing levels at DVH. Advise Eloise whether she can use the text of this email at trial. [20]
 3. Compare and contrast the functions of the judge and jury. [20]
 4. Does the concept of the Judge's Invisible Burden have relevance today? [20]
 5. Does the prosecution's right to draw inferences from the accused's silence violate Article 6 of the European Convention? [20]
 6. Explain what a **Turnbull direction** is and when it should be made. [20]
 7. Distinguish between background evidence and similar fact evidence. [20]
 8. The principal weakness in the English law concerning the reception of expert evidence is that the development has been based on pragmatism rather than principle. Assess the validity of this observation in relation to recent miscarriages of justice. [20]