ESSENTIAL MEDIA LAW TEST EXAM

Date: June 2010

Time allowed: 2 ½ hours

Instructions:

• Put your name on the top of each sheet of paper used and number each page.
• Do NOT include the training centre at which you are sitting the examination.
• Dictionaries and other reference books are NOT allowed.
• Write each question number clearly in the left-hand margin.
• Where a question is divided into sections marked (a), (b), etc, divide your answer by putting (a), (b), etc, in the margin as appropriate.
• Questions which refer to the Press Complaints Commission code or the Ofcom Broadcasting Code require an answer relevant to only ONE of these codes.
• Answer 10 questions.
• Questions 1 to 9 must be answered plus either Question 10 or 11.

Information:

• The maximum score for this paper is 200 marks.
• Candidates are advised to allocate their time proportionately.
• The Examining Body for this paper is the NCTJ.
ESSENTIAL MEDIA LAW EXAMINATION

Questions 1-9 MUST be answered PLUS EITHER Question 10 OR Question 11

1. A TV actor is convicted of rape. After the trial, a magazine reporter approaches the woman who was the rape victim. She agrees to give an interview about her ordeal and what she experienced giving evidence in the trial. “And it is OK to identify me. I want to encourage other women to report rapes to the police,” she tells the reporter.

What should the reporter do to safeguard the magazine’s position under sexual offence law, before the interview is published?

Explain the relevant law.  

(15 marks)

2. A gang has been jailed for various offences and as a result a newspaper is preparing a feature on local crime. With the feature it has a picture of a red-light district in its town.

The picture shows clearly vehicles being driven in a street or being at a kerb with people apparently talking to drivers. People are also walking on a pavement.

A check call establishes no appeal has been lodged against the jail sentences.

What legal danger exists in publishing the clear picture and how can it be avoided? The answer must show how conclusions are reached.

(15 marks)
3. Traffic jams develop in a city’s centre after police close a road because a man on the top floor of a public car park is threatening to jump from it into the road.

A few hours later a DVD is delivered anonymously to your newsroom, where you are news editor. The DVD is a copy of dramatic footage, from the city council’s CCTV cameras, showing how police officers approached the man in the car park as he sat on a parapet. The clear footage shows, in close-up, the man weeping as he talked to a policewoman, and how - after she bravely grabbed him as he seemed about to jump - she managed to restrain him until her colleagues rushed to her aid.

You know that this rescued man, who has not been named by police, has since been taken to a secure mental hospital. Police say he will not be charged with any offence.

Should this footage be immediately shown on your website to illustrate a news story about the jams, and about the policewoman’s bravery? Explain your conclusions with regards to:

(a) copyright

(b) what either the Press Complaints Commission code or the Ofcom Broadcasting Code states in relation to privacy.

(c) privacy law

(30 marks)

4. a) In what circumstances does the 1981 Contempt of Court Act compel journalists to reveal to a court their sources of information?

b) Set out what the Ofcom Broadcasting Code code or the Press Complaints Commission code states about journalists’ confidential sources of information.

c) Give one example of a journalist who refused to reveal a source to the police or to a court or to a tribunal/public inquiry.

(20 marks)

5. After an explosion in a block of council flats, in which several people died, the district council which owns the flats calls a press conference.

The council’s press officer tells journalists: “Last night’s explosion occurred because the tenant of number 21, whose gas supply had been cut off owing to non-payment of a bill, had reconnected it illegally by a piece of rubber hose. He was uninjured.”

If the newspaper publishes a report of the press officer’s statement, can it be successfully sued for libel? Explain the relevant law.

(20 marks)
6. You are a reporter. A woman reader rings up and tells you: “I want you to do a feature about my son. He is 14. He has just been made subject to an anti-social behaviour order after he got into a bit of trouble for vandalism. This ASBO is grossly unfair. It stops him associating with his two best friends, and he is not even allowed to visit the street in which they live. I have a video of them at my son’s birthday party, and I want you to use it to show their happy, smiling faces to your readers, so everyone would realise these are just young kids and that this ASBO has made them all very miserable. All they have done is the normal kind of mischief we all did as kids. I want you to tell the public all this about my son, and I want you to interview him and his friends, and you can take photos of them or film them.”

Explain what legal and ethical considerations you need to consider before researching and publishing/broadcasting such a feature. In your answer:

   a) Refer to relevant law

   b) Explain relevant matter in either the Press Complaints Commission Code or the Ofcom Broadcasting Code, in respect of what the mother wants.

(30 marks)

7. a) You are a news editor. A man offers you a picture taken by him, using his mobile phone, of his brother being sentenced in the dock at the local Crown court. The brother has been convicted today of a series of charges involving terrorising old people in their homes. You know there is tremendous public interest in the case, which your newspaper has been covering. Should you publish this picture? State what law applies.

   b) The man also offers a picture, which he took, of a 76-year-old witness in the case sitting in a cafe inside the courthouse. The court did not make any order which would prevent the media identifying the witness, who was happy to speak to reporters after the case ended. Should you publish this picture? Explain your decision with reference to law.

(10 marks)
8. Your paper has become a “web-first” publication, i.e., a story breaking too late in the day to catch newspaper deadline for that day’s edition is placed on the newspaper’s website.

At lunchtime on one day (too late to “make” that day’s paper) a woman is found dead in a suburban house and a murder investigation begins.

At the crime scene at 5pm that day, Detective Superintendent Strade issues a police statement in which he says: “This lady was well-known locally, and most people in the neighbourhood are very shocked to hear she is dead. The post mortem shows she died from head injuries. My officers need to hear from anyone who saw a man, who one witness has described as being in his thirties, with fair hair and a beard, leaving the house yesterday at around 4pm. We regard this man as a suspect.”

You transmit these words electronically back to the office. Det Supt Strade’s statement is added to the website and a page is made up including his statement for tomorrow’s paper.

At a press conference at 7 am the following morning, the police announce that the dead woman’s husband has been charged with murdering his wife and is to appear in court that morning. He is named by police in that announcement, but no other information is given. The paper’s deadline for that day’s edition is 7.30 am.

From the detail provided above, explain if any changes are now needed as regards the website coverage and the report already prepared for the paper (apart from adding the news from the 7 am press conference). Explain your conclusions about what can or cannot be published as regards the above detail.

(30 marks)

9. Explain the dangers inherent in phrasing, for publication, a correction and/or apology for something published earlier which was subject to a complaint that it was defamatory.

(10 marks)
ONE of the following TWO questions must be answered

10. A reporter arrives late at an important match for a local football team. He misses the pre-match announcement that Gary Smith, the star goalkeeper, was injured in a car accident on the way to the game, and won’t be playing. His place is taken by the reserve goalie.

   In his match report, the reporter writes: “Smith’s performance was not of the standard I would have expected of a player who is attracting interest from big clubs.”

   Smith subsequently announces his intention to sue the newspaper for defamation, and the newspaper informs him it will plead fair comment.

   Is this defence likely to succeed?

   The answer must indicate how conclusions are reached by setting out the requirements of this defence and by stating if each applies in this instance.

   (20 marks)

OR

11. A reporter investigating claims of fraudulent practice telephones a second-hand car dealer as a member of the public and records the call without informing the dealer that she/he is a reporter or that the call is being recorded.

   (a) Is the reporter in this scenario breaking the law by failing to tell the dealer that she/he was a reporter? Briefly explain.

   (b) Is the reporter in this scenario breaking the law by making the covert (i.e. secret) recording of the phone call? Briefly explain.

   (c) What does the Press Complaints Commission code or the Ofcom Broadcasting Code say about such covert recording of phone calls and about reporters failing to declare that they are journalists?

   As regards one of the above codes, explain in your answer whether in the scenario set out above the reporter investigating the car dealer has breached the code’s provisions about covert recording and declaring oneself to be a journalist.

   (20 marks)