

Diploma in Journalism



Media Law: Court Reporting Programme of Study for England and Wales 2011-2012

Candidates are required to achieve a grade A-C in this exam to meet the industry standard and gain eligibility for entry to the NCTJ's professional qualification, the National Certificate Examination (NCE).

This programme of study provides a detailed list of topics which could occur in the exam.

The exam

150 marks, expressed as a percentage.

Time allowed: 1 hour 30 minutes

The mark out of 150 will be expressed as a percentage by the candidate's mark (out of 150) being multiplied by 3 and divided by 2, the resultant figure being the percentage mark with any half mark in this percentage being rounded up to the nearest whole digit. A mark of 50 per cent or more is required to achieve a C grade or higher.

Grades will be awarded as follows: (percentage marks)

A – 70+	marks
B – 60-69	marks
C – 50-59	marks
D – 40-49	marks
E – 30-39	marks
F – 0-29	marks

Grade descriptors can be found at the back of this programme of study.

The NCTJ syllabus is set out, below, in this programme of study. The syllabus comprises topics which may occur in exam questions and topics which will not occur in exam questions but which, nevertheless, should also be studied. The syllabus is based on information contained in McNae's *Essential Law for Journalists*, 20th edition, July 2009.

Tutors should ensure that candidates buy or have regular access to this textbook, that they are aware of and have access to its associated website, and that they have

copies of or access to this programme of study, including that part below, headed: 'Subjects to be studied, NOT examined'.

Subjects to be studied for the exam
Media Law: Court Reporting (and associated matters)

The descriptions below are to guide tutors and students on the content of the exam.

The descriptions below indicate what scope of knowledge is expected of students during the exam, as regards

- the law;
- the Press Complaints Commission, the Editors' Code of Practice (PCC code);
- Ofcom and the Ofcom Broadcasting Code

when explaining such matters or applying the law or these codes to a scenario.

The descriptions below indicate what scope of knowledge is expected of students during the exam, as regards the law; the Editors' Code of Practice (PCC code); and the Ofcom Broadcasting Code, when explaining such matters or applying the law or these codes to a scenario.

Where these codes share an identical or similar ethical requirement, an exam question which requires a candidate to answer wholly or partly in relation to ethical (i.e. self-regulatory or regulatory) considerations will permit the candidate to answer in respect of either the Editors' Code of Practice (PCC code) or the Ofcom Broadcasting Code – i.e. the candidate will not be expected in the marking guide for such a question to refer to both codes. Tutors should make clear to candidates that such 'alternative' answers are acceptable, and can point out that in the 'Subjects to be studied and examined' part of this programme of study such identical or similar requirements of these codes are referred to in the same sub-section of the programme (see sub-section 5:2, below).

All elements of this programme of study must be studied even in respect of any parts of the codes for which, as explained above, it is acceptable for a candidate in the exam to answer in respect of one code and not the other. It is also the expectation that candidates sitting the Court Reporting exam will have sat, or be intending to sit, the Essential Law for Journalists exam, and will therefore have studied or be due to study material in that exam's programme of study. Indication is given below of material in that Essential Law programme of study which particularly relates to court reporting matters and which therefore gives context for candidates sitting the Court Reporting exam.

Law tutors should also ensure that any resit candidate be reminded that he/she revises by reference to the programme of study for the academic year in which the resit examination is due to occur.

In the programmes of study, 'publication' includes 'broadcasting'.

The level of detailed knowledge expected of candidates in the Court Reporting exam and as regards topics studied but not examined is indicated by the detail (and case examples) included in the text of the 20th edition of *McNae's Essential Law for Journalists* and its companion website, (or, after publication of the 21st edition, that edition) and in the Editors' Code of Practice (PCC code) (<http://www.pcc.org.uk/cop/practice.html>) and in the Ofcom Broadcasting Code (<http://www.ofcom.org.uk/tv/ifi/codes/bcode/>). If in doubt about the level of detail required for any specific topic, tutors are invited to consult the media law board and confidential marking guides. Below, page references given are for the 20th edition of

McNae. These page references are supplied for guidance on the whereabouts in the book of specific matters, to aid teaching, study and revision. Law tutors will be expected to guide candidates about the wider context of such matters, which will involve students needing to read other materials not cited below.

Candidates will not be *required* to quote from PCC or Ofcom adjudications in their answers to examination questions but will receive 'other valid points' credit for discernable references to relevant adjudication(s).

Tutors and candidates need to check the McNae Online Resource Centre (for its web address, see McNae's) for updates on law and ethical matters. There is indication below of some topics for which there are updates, or will be updates should new statute come into effect.

1. Basic knowledge of the law, of court processes and of the hierarchy of the courts

NB: It should be noted by tutors that, although no question in this exam will be set specifically about the following matters in italics (because these matters are covered by the Essential Law exam) a candidate in the Court Reporting exam must have knowledge of such matters, and may need to display that knowledge to give context and precision in an answer:

That sources of UK law include common law, precedent/case law, statute; that in many instances courts have to consider the European Convention on Human Rights when making decisions (McNae, pp. 6-10)

The divisions between civil and criminal law and examples of an event which could give rise to both criminal and civil proceedings (McNae, pp. 13-14)

Correct use of the following terms: claimant (McNae, pp. 14, 153 and 573); defendant (as appropriate in relation to civil or criminal courts – McNae, p. 14, 26 and 153); solicitor, barrister counsel (McNae, pp. 14-15, 77 and 574); to sue, damages, to prosecute (McNae, p. 14, 153, 155); claim form, tort, injunction, settlement, held liable (McNae, pp. 14, 150, 154-155, 573, 576, 578).

That most criminal cases are dealt with by magistrates, but that more serious cases are dealt with by the Crown courts, where the verdict is determined by jury, and where judges sentence (McNae, pp. 42, 75-76). The appeal routes for criminal cases (McNae, pp.8, 70-71, 88-91). That in criminal cases the High Court deals with points of law (McNae, pp. 91-92). That most juveniles prosecuted appear in youth courts, unless the offence is grave or an adult is co-accused (see also section 4 below). That the main civil courts are the county courts and the High Court (McNae, pp.150-152, 155,); examples of the types of case heard before civil courts, including county courts, e.g. debt recovery, breach of contract and other torts (e.g. defamation, trespass, negligence), bankruptcy, adoption (McNae, pp.150-151, 168). That juries may be used in certain categories of civil cases, including those involving claims of defamation, malicious prosecution or false imprisonment (McNae, pp.158).

- 1.1: That criminal proceedings start because of an arrest, or charge, or summons, or written charge and requisition, or arrest warrant (*McNae pp. 22, 24, 25-27*);
The extent of information set out in a charge, i.e. that it contains basic details of the allegation (*McNae, p. 24*), including normally the date of the alleged offence, where it allegedly took place, the name of any alleged victim, and of any property allegedly involved, e.g. in a theft case, for example, a description of and monetary value for the property allegedly stolen;
What police bail is (*McNae, pp. 24, 284, 577*).
- 1.2: The definitions of theft, taking a vehicle without the owner's authority/consent, handling, burglary, aggravated burglary, robbery, blackmail, fraud, perjury, murder, manslaughter, and whether these offences are indictable-only or either-way (*McNae, pp. 36, 38-40*) - see also 2.1, below.

- 1.3: What court bail is, that it may well have conditions, and when it must be granted; who a surety is, that an appeal against refusal of bail by magistrates is made to a Crown court, where the appeal hearing may be held in private/ in chambers (*McNae, pp. 44-45, 198*).
- 1.4: Procedure in (i.e. the stages of) summary trials in magistrates courts and youth courts (*McNae, pp. 68-69, 95*). Definition of hostile witness (*McNae, p. 70*). What mitigation is (*McNae, p. 63*). The difference between previous convictions and cases taken into consideration (*McNae, p. 63*).
- 1.5: Limits on the sentencing / punishment powers of magistrates (*McNae, p. 45*). Definitions of suspended sentence, concurrent sentence, consecutive sentence, absolute discharge, conditional discharge, community punishment/community order (*McNae, p. 46, 71-72, 574*).
- 1.6: That Crown court functions include trials and sentencing (*McNae, pp. 83-86*), and hearing appeals from magistrates courts against verdict/sentence (*McNae, pp. 91*). What an indictment is (*McNae, pp. 34, 576*); The role of juries in criminal cases, and that judges sentence (*McNae, pp. 75-76, 85-86*); acceptable ratios in jury votes on criminal verdicts, and best practice in the reporting of majority verdicts (*McNae, pp. 84-85*).
- 1.7: Types of judges, including district judges (*McNae, pp. 43, 76-77, 152-153*) That the High Court hears appeals from magistrates' courts and Crown courts on points of law, and conducts judicial reviews (*McNae, pp. 91-92, 152*); That the Court of Appeal in criminal cases can uphold or quash convictions - and may order there to be a re-trial by jury - and can change sentences (*McNae, pp. 88-89*).

2. Automatic restrictions on media reports of preliminary hearings in indictable-only and either-way cases at magistrates' courts, and on media reports of cases at youth courts which retain the potential for jury trial; court procedure in such hearings

- 2.1: The distinction between summary, either-way and indictable-only offences in the magistrates (adult) courts (*McNae, pp. 33-35*); What happens in the "plea-before-venue" and "mode of trial" procedure before magistrates, including the difference between indication of plea and formal plea, and what happens in committal hearings, e.g. committal for trial (*McNae, pp. 47-50*); The meanings of sending for trial, transfer, notice of transfer and committal for sentence (*McNae, pp. 46-47, 59, 64*).
- 2.2: Restrictions under section 8 of the Magistrates' Courts Act 1980 on the reporting of preliminary proceedings - including bail applications, mode of trial hearings, committal hearings, sending for trial hearings and transfer hearings – in cases which retain potential for jury trial; when such restrictions cease to apply; that it is safe to report a basic protestation of innocence and/or that the defendant has chosen to be tried by a jury, even when section 8 restrictions apply (*McNae, pp. 51-59*); The contempt danger in disclosing previous convictions aired in court during a preliminary hearing, even if the 1980 Act section 8 restrictions do not apply (*McNae, p. 56*).
- 2.3: That the 1980 Act section 8 restrictions apply to media reports of preliminary proceedings - including bail applications, mode of trial hearings and committal hearings – in serious cases at youth court, i.e. those retaining the potential of being dealt with at Crown court, including those concerning murder, manslaughter, and certain other types of case (*McNae, pp. 96-97*). But no exam question will ask candidates to list all the types of case at youth court which can end up at Crown court.

3. Contempt and related matters

- 3.1: The strict liability rule of the Contempt of Court Act 1981, including knowledge of when criminal and civil cases and inquests become, and cease to be, “active”; the type of material which if published could breach the rule, and why; the type of information which can be published without breaching the rule, and why (*McNae, pp.274-282, 284-285, 295-296*);
The contempt risk of archive material accessible to the public on websites, and how the media should react to complaints that such material could or does cause prejudice (*McNae, p. 283*).
- 3.2: What risk exists (if any) of breaching the strict liability rule as regards publishing background features after a verdict/verdicts are reached in a Crown court case, or publishing material relating to criminal cases pending appeal hearings in the Crown court, or in Court of Appeal, or directed for re-trial by jury (*McNae, pp. 88-89, 91, 285-286*).
- 3.3: Who has powers to instigate contempt proceedings under the 1981 Act (*McNae, p. 275*).
- 3.4: The protection under section 4(1) of the 1981 Act for reports of court cases, including inquests (*McNae, pp. 288-289*).
- 3.5: The power, and its scope, under section 4(2) of the 1981 Act for courts to make orders postponing publication; examples of circumstances in which a court may make such an order; the practice direction for such orders, and grounds on which the imposition or continuation of such an order can be challenged (*McNae, pp 82, 223-224, 289-290*). The danger of reporting, even if no section 4(2) order is made, Crown court proceedings heard during a trial but in the absence of the jury (*McNae, pp 83, 290-293*).
- 3.6: The general danger of contempt as regards failure to obey court orders (*McNae, pp. 274, 393*).
- 3.7: The ban under section 9 of the 1981 Act on audio-recording devices being taken into / used without permission in court, and on any such recorded material being broadcast without permission (*McNae, pp. 145-146*).
- 3.8: The scope of the ban on photography / videoing / filming / portrait-making / sketching in and around the court, and on publication of such material, under the Criminal Justice Act 1925 (*McNae, pp. 143-145*); difficulties of interpretation of “precincts”, and how the media legally make / publish portraits /sketches of court proceedings (*McNae, p. 144*); common law contempt as regards photography / videoing / filming in and around a court (*McNae, p. 144-145*).
- 3.9: The power under section 11 of the Contempt of Court Act 1981 Act to permanently ban publication of a name or matter in media reports of such cases; typical usage of section 11; and case law defining its scope – as defined generally by the ruling in Attorney General v. Leveller Magazine Ltd, and in other cases in respect of names/matter already mentioned in open court; the ‘comfort and feelings’ of defendants; and the risk of defendants or witnesses being attacked, i.e. that there must be a ‘real and immediate’ risk, i.e. grounds on which the imposition or continuation of such anonymity can be challenged (*McNae, pp. 128-130, 212-214, 216-219*).
The danger of jigsaw identification if section 11 anonymity applies (*McNae, p. 105*).
- 3.10: The power of courts, under section 46 of the Youth Justice and Criminal Evidence Act 1999, to make an order forbidding in media reports the identification of adult witnesses during their lifetime as due to be or having been a witness in such a case, when the witness is considered to be in fear or distress about identification in such reports, and the scope of such restriction; grounds for challenging such an order (*McNae, pp 133-135, 220-222*); the danger of jigsaw identification if section 46 anonymity applies (*McNae, p. 105*).
- 3.11: The protection, in section 8 of the 1981 Contempt of Court Act, of the confidentiality of jury deliberations (*McNae, pp. xxxi, 146-148*).

4. Juveniles / children / young persons in court cases and inquests; associated reporting restrictions and ethical considerations

- 4.1: The age of criminal responsibility, including that a child aged under 10 cannot be prosecuted, what the term 'juvenile' embraces (*McNae, pp. 94-95, 98*).
- 4.2: The scope of the discretionary restrictions under section 39 and the automatic restrictions under section 49 of the Children and Young Persons Act 1933 which forbid the identification, in media reports of court cases, of juvenile defendants, juvenile witnesses and juveniles who are not witnesses but who are the victim/alleged victim of an offence (*McNae, pp. 98 - 100, 102-104*); that section 49 (and probably section 39) ceases to apply when the juvenile reaches the age of 18 (*McNae, pp. 102 and 105*); that sections 39 and 49 do not apply to dead juveniles (*McNae, pp. 99, 235-236*); (*McNae pp.100-101*); the danger of jigsaw identification when such anonymity applies (*McNae, pp. 98-107*); That a youth court may lift the section 49 anonymity in respect of a convicted juvenile if there is the public interest justification; that the youth court must hear representations from parties/their lawyers before deciding whether to lift this anonymity, and should also consider representations from the media; arguments a journalist can make, drawing on official guidance to the courts, about why it is particularly appropriate for the court to lift the anonymity in some circumstances (*McNae, pp. 229-231*); Grounds on which the imposition / continuation of section 39 restrictions can be challenged, namely that there must be a good reason for the restriction; the juvenile must be concerned in the proceedings; that a child victim / alleged child victim may be too young to need anonymity; that section 39 is not to be used to specifically give anonymity to adults - and relevant case law for such challenges (*McNae, pp. 231-237*).
- 4.3: That hearings occur in the magistrates courts or youth courts to consider imposition of anti-social behaviour orders on juveniles and the circumstances, as regards such hearings, in which section 39 or section 49 reporting restrictions apply or do not apply (*McNae, pp. 107-110*); official guidance / case law on identification of juveniles as regards media reports of such cases, i.e. grounds on which the imposition or continuation of such anonymity can be challenged (*McNae, pp. 237-239*).
- 4.4: That hearings occur in youth courts to try / sentence in cases of breaches / alleged breaches of anti-social behaviour orders on juveniles; that such a breach is a criminal offence; that section 49 reporting restrictions do not apply to such hearings; that a section 39 order may apply; that if a court imposes a section 39 order in such a hearing, it must state the reasons why; official guidance / case law on identification of juveniles as regards media reports of such cases, i.e. grounds on which the imposition or continuation of such anonymity can be challenged (*McNae, pp. 110 -111, 237-239*).

5. Restrictions on identifying complainants in sexual offence cases; ethical considerations relevant to such identification and to the identification of child witnesses in such cases

- 5.1: The scope of restrictions which automatically confer anonymity on complainants/ victims / alleged victims in sexual offence cases in general, as regards media reports of them (*McNae, pp. 113-119*); the danger of jigsaw identification if such anonymity applies (*McNae, p. 105*).
- NB: As regards particular offences, candidates should be able to recognise in an exam that the anonymity normally applies in respect of allegations of rape, of assault by penetration, of other types of sexual activity with a child (including by

an adult family member and including what is termed in older law as incest), of sexual assault, of trafficking a person for sexual exploitation, of controlling a prostitute for gain, of exposure, of voyeurism, and of meeting or intending to meet a child following sexual grooming;

The circumstances in which this anonymity ceases to, or does not, apply, including that such a person can, if aged 16 or over, sign a written waiver to consent to be identified in a media report of such a crime/such a court case, and the conditions which need to be honoured to make the consent valid (*McNae, p. 123*); that in some circumstances a court may lift this anonymity (*McNae, pp. 121-123*); that it does not apply when the charge is not one listed by relevant legislation on sex offences, e.g. such anonymity does not apply when a person who was a complainant in a sexual offence case is subsequently prosecuted in respect of that complaint for perjury, wasting police time, or perverting the course of justice (*McNae, pp. 123-124*);

That charges of rape, of assault by penetration and of any other sexual activity with a child under 13 which allegedly involves penetration are indictable-only, and that the other sexual offences listed above are either-way (*McNae, pp. 117-119*). See also 2:1, above.

NB: Candidates should know that the anonymity applies in respect of alleged attempts to commit sexual offences, and allegations of conspiracy, incitement, and aiding in respect of such offences.

NB: exam candidates will only be expected, as regards legislation in this context, to name the Sexual Offences Act 2003, and therefore, in the marking of the exam, such a reference will be deemed to refer to any part of earlier legislation still relevant to such anonymity.

- 5.2: Ethical considerations as regards identification of children in sex cases, as expressed in Clause Seven (of the Editor's Code of Practice (PCC code) and that code's public interest exceptions (*McNae, pp. 17, 125-126, 570-572*), or in rule 1.8 of the Ofcom Broadcasting Code (Protecting the Under Eighteens - section 1) as regards coverage of sexual offences involving under-18s (*McNae, p. 125*); that jigsaw identification could be regarded as an ethical breach in these contexts (*McNae, pp. 105-107, 125-126, 570*);
- 5.3: Ethical considerations as regards identification of complainants in sexual offence cases, as expressed in Clause Eleven (Victims of Sexual Assault) of the Editor's Code of Practice (PCC code); and that jigsaw identification could be regarded as an ethical breach in these contexts (*McNae, pp. 17, 105, 125-126, 571*).

6. Open justice (and exceptions)

- 6.1: That the fundamental rule / principle in common law is that court proceedings are in most circumstances open to the public and media; that this is expressed in *Scott v Scott*; the common law exceptions to this open justice principle; that *Attorney General v Leveller Magazine Ltd* is also a leading case, in that it states that departure from the principle is only justified if the administration of justice would otherwise be frustrated or rendered impracticable; the meaning of the term "in private" as regards a court hearing, and that it encompasses these older terms still in use - 'in camera' and 'in chambers'; that it is possible in common law to allow reporters to be in court while excluding the public (*McNae, pp. 188-192*); That some statutes apply in particular circumstances as regards whether the public and/or media can be present during court proceedings; namely section 121 of the Magistrates Courts Act 1980, section 37 of the Children and Young Persons Act 1933, and section 25 of the Youth Justice and Criminal Evidence Act 1999; and that as regards section 25 of the 1999 Act, the court should permit one reporter to remain in court when such a vulnerable or intimidated witness gives evidence (*McNae, pp. 193-194*).

- 6.2: Case law on media rights to know the names of magistrates (*McNae, p.199*).
- 6.3: Section 47 of the 1933 Act states that the public cannot attend youth court cases, but 'bona fide' reporters can.

7. Challenges to court orders restricting reporting and excluding the press

- 7.1: Methods to query or challenge restrictive decisions made by magistrates and by Crown court judges on what may be reported or to exclude the media from a court hearing; good practice as regards what a court clerk can be asked to provide /specify / state; the legal routes of formal challenge; the advantages and disadvantages of each method / route; that an invalid order made by a court must be obeyed until it is rescinded by a court (*McNae, pp.207-211*).
- 7.2: Relevance of Article 10 of the European Convention on Human Rights to such challenges, and that it should be quoted in them (*McNae, pp.11-12, 193, 209, 566*).

8. Other matter concerning coroners

- 8.1: The purpose/functions of coroners' courts in death inquests and treasure inquests; a legal definition of treasure in this context; the consequence of an object/objects being thus legally decided to be treasure (*McNae, pp. 243, 250-251, and check McNae Online Resource Centre for updates*);
Coroners' Rules on evidence by documentary statement, and the circumstance in which press and public may be excluded from inquests by coroners (*McNae, p. 245 and check McNae Online Resource Centre for updates*);
Route of appeal against inquest verdicts/coroners' decisions (*McNae, p. 247 and check McNae Online Resource Centre for updates*).

9. General principles of defamation, in the context of reporting court and inquest cases, or commenting on them.

- 9.1: General principles of defamation / libel law, including the definitions of a defamatory statement and of an inference and of an innuendo (*McNae, pp. 303-306*);
Libel dangers from juxtaposition of published matter creating inference, and from lax captioning/use of photographs / footage (*McNae, pp. 306, 321, 553*);
What a libel claimant must prove, and the 'repetition rule' (*McNae, pp. 318-323*);
That normally a claimant must commence a defamation action within one year of the publication of the relevant material (*McNae, p. 354*);
The test of identification in defamation law, the risk of libelling an individual by reference to a group of people, and case law relevant to this risk (*McNae, pp. 319-321*).
- 9.2: That if matter is published which falls outside the protection of absolute or qualified privilege, there may be no defence available or only the difficult defence of justification, e.g. difficulty of proof (*McNae, pp. 309-311, 327-331*).
- 9.3: The scope and requirements of absolute and (under Part 1 of Schedule 1 to the Defamation Act 1996) qualified privilege as defences, when reporting matter aired in courts, inquests and in courts martial held in the UK, and in court cases or courts martial held abroad; good practice which should be followed to ensure fairness in a report, e.g. attribution of quotes/allegations, reporting that a trial defendant denies the charge, that evidence has been contested, that an ongoing trial "continues"; danger in publishing matter vented from the public gallery (*McNae, pp. 92, 248, 337-342, 345-346*).

9.4: The requirements of honest opinion as a defence (but only in the context of published comment about court cases or inquests, e.g. criticism of judges / magistrates / coroners / defendants) (*McNae*, pp. 298-299, 333-337, 376).

Subjects to be studied, NOT examined:

The NCTJ media law board has decided that, until further notice, it will not set, in either exam, questions on:

- The status, responsibilities and powers of the PCC and Ofcom (*McNae, pp. 16-17*), and their codes other than those parts of the codes detailed in the 'Subjects to be studied and examined' section of this programme of study.
Nevertheless, candidates should study the following:
 - All parts of the Editors' Code of Practice (the PCC code); how the PCC and Editors' Code Committee are constituted; the ability of the PCC to request that an adjudication is published with due prominence.
 - How Ofcom is constituted and its legal status; its powers and penalties, e.g. power to order publication of corrections and apologies, power to fine.
 - The key differences between the Ofcom system of regulation and the PCC system of self-regulation
 - The general scope of the Ofcom Broadcasting Code in respect of journalism; that the BBC is subject to Ofcom regulation in some respects and has similar but separate guidelines

- The power of a youth court to lift the anonymity under section 49 of the Children and Young Persons Act 1933 in respect of a juvenile unlawfully at large after being charged with or convicted of a serious violent or sexual offence, or to avoid injustice for a juvenile.

- Anonymity provision in respect of children involved in family law cases, including cases concerning wards of court (*McNae, pp.171, 174-179 and check McNae Online Resource Centre for updates*); and of people whose cases are being dealt with by mental health tribunals (*McNae, pp. 257 and 260*)

- Contempt danger under section 12 of the Administration of Justice Act 1960 in the reporting of some categories of private hearings/hearing in chambers including those involving a child's upbringing, e.g. a feature writer should be very wary of quoting from a social worker's report on a child, even if the child is not to be identified in what is published (*McNae, pp.130-132, 179-182 and check McNae Online Resource Centre for updates*)

- Rights of access to family proceedings in magistrate and county courts, and in the High Court (including wardship cases) (*McNae, pp.169-171*)

- Divorce terminology; reporting restrictions in divorce cases (*McNae, pp. 153, 170, 172-173*)

- Liability for financial penalty under the Courts Act 2003 for serious misconduct which results in a wasted or aborted trial (*McNae, p. 284*)

- The risk of common law contempt if jurors are identified in the media (*McNae, pp. 144, 147-148*)

- The common law contempts of scandalising the court and of interference with witnesses/their evidence (*McNae, pp. 298-299*)

- Restrictions on reporting derogatory assertions made in mitigation (*McNae, pp.141-143*)
- The reporting of indecent material from court cases (*McNae, p. 143*)
- The meaning of habeas corpus (*McNae, p. 23*)
- The meaning of "case stated" (*McNae, pp. 91-92*)
- Restrictions on the reporting of prosecutions appeals against the staying/ dismissal of cases (*McNae, p. 83*)
- That the 1980 Act section 8C restrictions apply to media reports of preliminary hearings in summary cases after a 'not guilty' plea is made (*McNae, pp. 64-68*)
- Restrictions on the reporting of pre-trial/ preparatory/ preliminary hearings at Crown court, including applications to dismiss the case for insufficient evidence, and on the reporting of orders made in such hearings, or of discussion on the making of such orders (*McNae, pp. 78-83*)
- The automatic restriction, under section 47 of the Youth Justice and Criminal Evidence Act 1999, on reporting during any ongoing case that in it a special measures direction has been made as regards a witness (*McNae, pp. 139-141*)
- That qualified privilege applies, if the defence's requirements are met, to reports of court notices of transfer, i.e. a written notice, officially displayed for public inspection, that a case has been transferred by a magistrates' court to a Crown court (*McNae, pp. 59, 341. 345*)
- The effect of the Rehabilitation of Offenders Act in removing privilege defences from any mention in a court report of someone's spent conviction if (and only if) that conviction was ruled in that court case to be inadmissible in those proceedings (*McNae, pp. 375, 377*)
- The power of employment tribunals to make restricted reporting orders in cases in which sexual misconduct or discrimination on disability grounds is alleged; the scope of such orders and when they cease to apply; that in such sexual misconduct cases in which an employer is held liable any such order lasts until the judgment on 'remedy' is promulgated, unless revoked earlier; the danger of jigsaw identification if such anonymity applies (*McNae, pp. 105, 262, 263-266*); that the term sexual misconduct could refer to a sex offence, but may also refer to sexual harassment, i.e. conduct which is not a sexual offence, or to other adverse conduct related to sex or sexual orientation (*McNae, p. 263*); the effect of sexual offences law on media reports if anyone who, in a case before an employment tribunal, is a victim / alleged victim of a sexual offence, and when such anonymity ceases to apply (*McNae, p. 266*). *Circumstances in which employment tribunals can sit in private* (*McNae, p. 263*); that the protection of the defamation defences of qualified privilege and absolute privilege which can apply to media reports of employment tribunal cases, and the requirements of these defences (*McNae, p. 267*).

The topics listed above should be studied, in addition to topics listed as potential exam content.

If required to, centres must be able to produce material (and student representatives) to assure the NCTJ, e.g. during accreditation visits, that all such topics are covered.

The media law board wishes to stress that the following requirements are important in the effective delivery of the programme of study:

- (1) continuous assessment of candidates' work;
- (2) regular story-writing visits to courts;
- (3) close liaison with other course tutors, to ensure subject integration.

MEDIA LAW GRADE DESCRIPTORS

Grades	Key Issues and content	Examples and Application
A (70+)	Very broad knowledge, very detailed, accurate	Excellent explanations with reference to relevant examples and practical application to local/national stories. Candidate should not make basic legal errors or create legal risks in journalistic output. Significant analysis and good application.
B (60-69)	Broad knowledge, detailed, mainly accurate	Good explanations with reference to relevant examples and practical application to local/national stories. Candidate is very unlikely to make basic legal errors or create legal risks in journalistic output. Provides evidence of analysis and application.
C (50-59)	Basic understanding of key concepts	Acceptable explanations with reference to relevant examples and practical application to local/national stories. Candidate is unlikely to make basic legal errors or create legal risks in journalistic output.
D (40-49)	Some grasp but a number of misunderstandings and evidence of limited understanding of key concepts	Limited use of appropriate examples and or use of irrelevant examples, lacks application to local/national stories and limited appreciation of the demands of practical journalism. Candidate is likely to make basic legal errors or create legal risks in journalistic output.
E (30-39)	A large number of inaccuracies evident, plus confusion and lack of basic understanding of key content	Makes a few and/or misplaced references to examples. Far too generalised. Candidate is very likely to make basic legal errors or create legal risks in journalistic output.
F (0-29)	No relevant knowledge	No understanding of context. Candidate will almost certainly make serious legal errors and create serious legal risks in journalistic output.