



MARKING GUIDE

National Certificate Examination: England & Wales

NEWSPAPER PRACTICE

CONFIDENTIAL

Date: 4 November 2011

The maximum score for this paper is 100 marks. 60% is the pass mark.

Examiners' marks and comments should be clearly distinguishable from the candidates' answers. Examiners should make clear in the margin how marks have been awarded.

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PART A

Answer EITHER question 1 OR question 2

Question 1

You hear from a reliable source that the secretary of your county Football Association is under police investigation for expenses fiddling. The allegation is that he has dishonestly claimed £1,000 travel expenses.

A check with the police press office confirms that an investigation is under way into expense claims at the FA, but no one has been arrested.

a) What is the legal position in running a story about the issue now? (15 marks)

Later that week the police press office issue a statement that a man has been arrested under suspicion of fraud and is being questioned by police. The press officer refuses to confirm that it is the FA secretary, saying that it is not force policy to reveal names until accused people have been brought before the courts. A police contact confirms off the record that it is the secretary.

b) What are your legal concerns at this stage? (15 marks)

The chairman of the county FA issues a press release saying that following a meeting of the disciplinary committee, the secretary's duties will be performed by a committee member pending the outcome of any police investigation and criminal proceedings.

c) How does this affect your reporting of the story? (5 marks)

The secretary is up before the magistrates today on a fraud charge. The case is adjourned for committal proceedings in two weeks' time.

d) Assuming no applications are made concerning reporting, what do you have to bear in mind when writing your report? (5 marks)

At the end of the hearing, magistrates agree to a request from the defence for a section 11 order under the Contempt of Court Act 1981 banning the defendant's name and address from being reported, as he has an elderly mother who is unaware of his arrest and news of it may affect her health.

e) What would you do in these circumstances? (10 marks)

Total: (50 marks)

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Question 1

- a) This is defamatory to the secretary (3 marks) and at this stage it would be highly dangerous to report the man's name (2 marks). However, if you ran the story without the identifying secretary you could run the risk of a group libel if the number of FA officials is small enough. The only defence is qualified privilege (3 marks) under the Defamation Act 1996 (1 mark) for the police statement that an investigation is taking place. Reward candidates who have given all the QP criteria (4 marks). [If a candidate gives it in b) then the marks can be awarded there]. Your reliable source is not covered (2 marks).
(15 marks)
- b) The police statement could be reported as it has QP (1 mark) but the lack of confirmation of the man's name would still make it dangerous to publish it (5 marks), especially if he is not subsequently charged under the principle of no smoke without fire (3 marks). If your police contact is reliable your editor may make a decision to publish, (1 mark) especially if you find out that the man is charged (1 mark). The arrest has made the case active under the Contempt of Court Act 1981 (1 mark) so nothing must be published that will cause a substantial risk of serious prejudice (3 marks).
(15 marks)
- c) The statement from the FA could attract qualified privilege under the Defamation Act 1996 Part II, clause 14 (C), which states that privilege would attach to a fair and accurate report of any finding or decision of an association formed for the purpose of promoting or safeguarding the interests of a game, sport or pastime. (2 marks) We should reward candidates who debate the pros and cons rather than merely ask them to say yes or no. (2 marks)
- As long as the details of the release are not embellished upon when reported (nothing in the reporting to say anything more than there is an investigation) you might also have a defence of justification. (1 mark)
(5 marks)
- d) Your report would be subject to 10 points under section 8 of the Magistrates' Court Act 1980. (5 marks) If the candidate relates the points to the questions then they should be rewarded if they have not done so well in other parts. However, with an overall borderline answer this should not push them into a pass.
(5 marks)
- e) You should seek to challenge this ruling (2 marks) pointing out that a) it cannot be done after such details have been given in open court (3 marks) and b) that such an order should only be used in the administration of justice and not the comfort and feeling of the defendant (3 marks). Candidates who cite cases should be rewarded (2 marks).
(10 marks)

Total: (50 marks)

Question 2

Following a rape in which the victim suffered severe injuries, police hold a press conference at which they make a plea for help in tracing a named man who they want to question. He is described as highly dangerous and has numerous convictions for sexual and violent crimes.

Apart from a description of the man, police also issue a photograph of him and say a warrant has been issued for his arrest.

- a) Explain what details you can report to comply with contempt and defamation laws. (20 marks)

A trawl through your paper's archives and other websites reveal details of cases for which he was convicted.

- b) Is there anything to prevent you reporting this along with the police plea? Explain your answer. (5 marks)

After the man is arrested, his solicitor informs the media that mistaken identity is at the heart of the defence.

- c) Will this cause any problem for the paper with pre-trial coverage or with its website? Explain your answer. (5 marks)

At the subsequent trial one of the witnesses for the prosecution is a 15-year-old brother of the alleged victim. He is not made the subject of any orders.

- d) What restrictions do you face in reporting his evidence and details about him? (20 marks)

Total: (50 marks)

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Question 2

- a) Linking an identified man to such a crime is defamatory but reports of a police appeal will carry qualified privilege under the Defamation Act 1996. (3 marks) Reward candidates up to (3 marks) for QP criteria they give. Warrant has made case active (1 mark) under Contempt of Court Act 1981 (1 mark) so under the strict liability rule (1 mark) nothing must be published that could create a substantial risk of serious prejudice (2 marks). Normally this would include references to previous convictions (2 marks) and the possible use of the photograph (1 mark). No statutory protection (2 marks) but paper would rely on the Attorney General's assurance (1 mark). Reward candidates up to (3 marks) for more detailed references to AG's comment and the fact no media has been prosecuted. (20 marks)
- b) This is not part of the police appeal so could constitute a SRSP (3 marks) as it is not covered by the AG's assurance. (2 marks) (5 marks)
- c) Publication of the photograph in these circumstances could create a SRSP. (3 marks) Remove any picture from the website for the same reason. (1 mark) Reference to The Sun's prosecution or another relevant case should be rewarded. (1 mark) (5 marks)
- d) If the brother is not subject to a section 39 order under the Children and Young Persons' Act 1933 you are legally free to report his name. (5 marks) However, under section 7 (1 mark) of the Editor's Code of Practice the press must not, even if legally free to do so, identify children under 16 who are victims or witnesses in cases involving sexual offences. (5 marks) Reward candidates who refer to the public interest exception as long as they make it clear that in cases involving children under 16, editors must demonstrate an exception in the public interest. (3 marks) As the victims in sexual offences allegations get automatic anonymity, (2 marks) it is essential that nothing is said about the brother that could lead to his sister being identified. (2 marks) Good explanations about how this could happen should be rewarded by up to (3 marks). (20 marks)

Total: (50 marks)

PART B

Answer two of the following three questions

Question 3

You learn that a church wedding is due to take place next Wednesday after the bridal couple met through an internet forum discussing ways of committing suicide.

You receive a call from the bridegroom who tells you he had exchanged emails with the bride following her posting asking for help and support in taking her own life.

Using emails, the two, who had not previously known one another, plotted a joint suicide. When they met, however, they immediately fell in love and as a result put aside the plan to kill themselves.

The bridegroom says: "I just want people to know that love can overcome everything."

- a) How would you pursue this story for your newspaper? What sources would you use and what questions would you ask? (15 marks)
- b) How would you handle the story using digital media? (10 marks)

Total: (25 marks)

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Question 3

a) Sources for this unusual story could include:

The couple
Best man
Bridesmaids (if old enough)
The couple's families
Friends
Parish priest
Samaritans
Police
Website providers

It is essential to question the bride and bridegroom fully but candidates should realise that any interview with the couple or their friends and family will demand sensitivity.

The couple should be encouraged to explain what drove them to consider suicide, how and when their meeting took place and how they now see their future.

The dangers of online suicide forums should be probed with the police, Samaritans and the website owners, if they can be contacted. Mark down candidates who fail to pursue this line of inquiry.

Picture suggestions must include coverage of the wedding itself.

(15 marks)

b) Because the wedding is not until next week, the editor might want to break the story as soon as possible on the newspaper's website. Mark up candidates who discuss the pros and cons of such a move.

Reward those who suggest inventive ways in which the story can be extended on the website, including use of video and slide shows. Adding a comment section to the foot of the story and encouraging blogs will be minimal requirements.

Links could be inserted to other relevant websites, which might include the Samaritans. Helpline numbers should be included in both online and newspaper stories. It would be inappropriate to provide links to the suicide forums.

Mark up those who suggest newflashes, SMS messages and other alerts.

Workable and effective ideas for using Facebook and Twitter should add to candidates' scores. The main aim should be to generate discussion leading people to the newspaper's website. Reward candidates who suggest online comments might be worked up into a story.

(10 marks)

Total: (25 marks)

Question 4

Earlier this year research by the Office for National Statistics found that working women were suffering the most during the recession as employers cut staffing levels. Female staff were shown to be more likely than men to lose their full-time jobs.

A professor in psychology at your city's university now claims this has been a factor in increasing levels of obesity among unemployed women who are less active and subject to 'comfort eating'. At the same time two of the best known local slimming clubs announce record memberships – and they are all women.

The editor tells you: "In the summer there was a story that teenage girls' junk food is leaving them starved of vitamins – and it must be making them fat, too. I want all this tied up in one story, maybe two or three, depending on what you find".

How would you follow the editor's instructions for:

- a) Your newspaper (15 marks)

- b) Its website. How might you link the two? (10 marks)

Total: (25 marks)

Marking guide - Question 4

a) Sources could include:

Slimming club leaders
Club members
Jobless women
Other psychologists
JobCentre / employment agencies
Trades union officials
MPs/MSPs (esp women)
Human relations experts
Medical experts (doctors, nutritionists, etc)
Celebrity cooks (eg Jamie Oliver)
Fast food outlets / sandwich bars
Employers (eg Chamber of Commerce / Trade)
Consumer groups
ONS (for latest stats)

Questions should be put to a broad selection of sources and must probe all the issues that have been raised.

Reward candidates who make workable suggestions for a series of linked stories or features.

In-paper coverage will require pictures so mark down candidates who fail to suggest this.

The story should also direct readers to the newspaper's website for updates, videos and a slideshow of pictures.

Facebook and Twitter comments could be used in-paper, after vetting.

(15 marks)

b) A version of the story should be run on the website, with updates as they become available.

Reward candidates who try to set up a dialogue with readers through a comment section at the foot of the web story, and through Twitter, Facebook and other social networking sites. Use of these deserves the greatest reward when they encourage users to visit the newspaper's website.

Blogs could be sought from other slimmers, club leaders, psychologists, etc.

Links can be inserted (e.g. to the slimming clubs' websites, fitness centres, health agencies).

Score other ideas according to their validity and merit.

The fact that a number of candidates will come from newspapers covering exclusively urban areas should not be an excuse for offering a limited number of ideas.

(10 marks)

Total: (25 marks)

Question 5

Your newspaper covers a coastal area that has earned European accolades for the cleanliness of its sea water. Now your city's university announces that it has conducted research into a compound produced from a local seaweed free of pollution and man-made chemicals. It is claimed the compound has been shown to suppress breast cancer cell development by turning off a signal in the body which in turn starves a growing tumour of essential blood and oxygen.

The university press release refers to a "small group" of breast cancer survivors who underwent fasting before eating a measured quantity of the compound. They then provided blood samples over the next 24 hours, which showed the seaweed could have an "important role" to play in limiting cancer development.

Your first inquiry shows that the "small group" was only 14 women.

- a) Discuss the issues involved and sources you might use. (15 marks)
- b) How would you use the internet to help develop the story? (10 marks)

Total: (25 marks)

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a) Basically this question invites candidates to discuss the dangers of overstating a story that is based on only limited research. They should grasp the fact that a study involving this number of people cannot be conclusive.

'Seaweed may prevent breast cancer' could be a headline grabber but how should this be tempered by the known scope of the research and how should these claims be tested? Why was the university so coy about the numbers? What does the scientific community have to say? Views and reaction should be sought from cancer research groups.

Reward candidates according to the validity, breadth and depth of their proposals and the questions they would put to both the university and other relevant sources.

Mark down any candidates who say they would hide the number of breast cancer survivors involved in the research.

(15 marks)

b) Candidates should be able to point to some of the sites they would visit, e.g. Cancer Research UK at CancerResearchUK.org and/or the World Cancer Research Fund at wcrf-uk.org.

Blogs could be invited from a variety of sources, including some of the women who took part in the research. These could be used to provoke feedback.

Facebook and Twitter could be used to start discussions and draw people into both the in-paper and web stories.

Score ideas according to their validity and merit.

(10 marks)

Total: (25 marks)