CHAPTER 20

1. No—only those communications between a solicitor and client that involve the giving or obtaining of legal advice.

2. The test requires the dominant purpose of the communication to be in connection with pending or actual litigation.

3. Legal privilege vests in the client.

4. The privilege against self-incrimination allows a witness to refuse to answer a question which would expose the witness to the possibility of any criminal charge under United Kingdom law. It also extends to a defendant who has been compelled to answer questions as part of an extra-judicial investigation where, at a subsequent criminal prosecution, the prosecution seeks to use the answers given in evidence against the defendant. Evidence obtained in breach of the privilege against self-incrimination may not violate Article 6 and may therefore be admissible (see the decision in Brown v Stott [2001] 2 WLR 817). Until the Supreme Court delivers a definitive judgment on the point, the law remains uncertain whether documents or items which exist independent of the will of the suspect must be disclosed even though they expose the suspect to a later prosecution—or whether the evidence obtained as a consequence of forced disclosure can be used in evidence against an accused.