



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

**UNIT 3 – THE LAW AND PRACTICE RELATING TO ROAD TRAFFIC
ACCIDENTS***

Time allowed: 1 hour and 30 minutes plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are two scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEx qualifications: **LEVEL 4 DIPLOMA IN PERSONAL INJURY LITIGATION** and **LEVEL 4 EXTENDED DIPLOMA IN PERSONAL INJURY LITIGATION**

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SECTION A

(Answer ALL questions in Section A)

1. Explain the purpose of a claimant's solicitor carrying out an askCUE PI search.

(3 marks)
2. (a) Explain what a contingency fee/deductible amount is in a damages-based agreement.

(3 marks)

(b) Explain when and how the contingency fee/deductible amount is paid.

(3 marks)

(Total: 6 marks)
3. Explain whether a Highway Authority is liable for repair work carried out negligently on the fabric of the highway by subcontractors.

(4 marks)
4. Identify **two** examples of extensions which may be included in a motor insurance policy on the use of the insured vehicle.

(2 marks)
5. Explain how failure to secure the chinstrap on his helmet might affect a claimant motorcyclist's damages for head injuries caused by the negligent driving of the defendant.

(4 marks)
6. Explain the evidential status of the Highway Code in road traffic accident claims.

(3 marks)
7. State the purpose of conducting a search of the Motor Insurance Database (MID).

(1 mark)
8. Identify **two** items which are not included in a valuation of a road traffic accident personal injury claim to ascertain whether or not it should be pursued under the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (the 'RTA Protocol').

(2 marks)
9. In relation to the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (the 'RTA Protocol'):
 - (a) identify **two** reasons for a claim to leave Stage 1 of the RTA Protocol;

(2 marks)
 - (b) define a soft-tissue injury claim in the RTA Protocol.

(3 marks)

(Total: 5 marks)

(Total Marks for Section A: 30 marks)

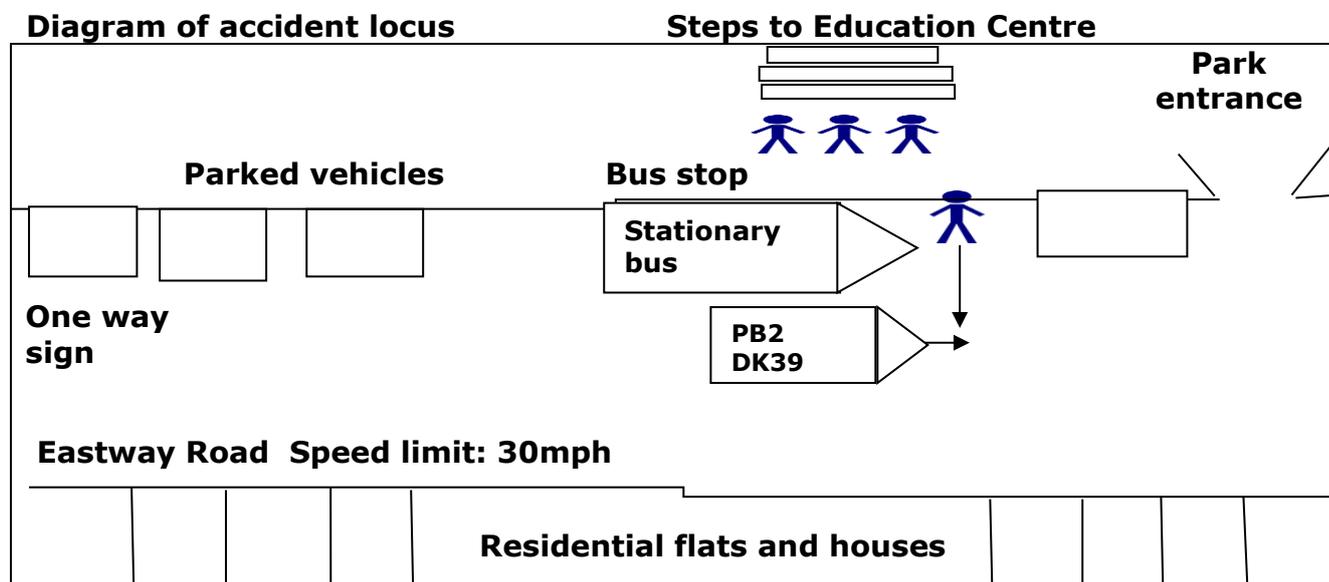
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SECTION B

(There are two scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)

Scenario 1

Information from Police Accident Report



Selected Details:

Injured party: Rafad Tarrig
Date of birth: 5 March 2007
Date and time of incident: Saturday, 10 June 2017 at 2.30 pm

Witness 1

Name: Hamza Malek (adult)
Occupation: Bus Driver for Go-Buzzes Ltd

Statement:

I was sitting in my legally parked bus at the bus stop on Eastway Road outside the Education Centre, having dropped off the last of my passengers. I saw a group of four children playing near the steps of the Education Centre. This was not unusual; there were usually kids around there. A boy jumped in the air and then suddenly ran in front of my bus into the road, where he was hit by a passing car.

Witness 2

Name: Paul Domino (adult)
Occupation: Electrician

Statement:

I was driving my Ford Mondeo car, registration number PB2 DK39, along Eastway Road in the direction of the park. My speed was between 28 and 30 mph. I am familiar with the road as my aunt lives on it. As I approached the Education Centre on my nearside, my view of the pavement was restricted by parked cars. I pulled out slightly to pass a stationary bus and, through a space, glimpsed a group of children playing a lively game near the steps of the Education Centre. As I drew alongside the bus, a small boy suddenly ran out from the front of the bus and the front of my car collided with him. I pulled over and phoned the emergency services.

[END OF EXTRACTS]

Scenario 1 Questions

You receive instructions from Rafad Tariq's mother, acting as his litigation friend, to pursue a claim on behalf of Rafad, who sustained significant injuries in the accident.

1. Explain the further evidence you may need to obtain in order to assess liability.

(7 marks)

It is accepted that each party owed the other a duty of care in law and on the facts.

2. (a) Explain, with reference to relevant law and facts, whether the court is likely to find that Paul Domino breached his duty of care owed to Rafad.

(7 marks)

- (b) Explain, with reference to the circumstances, the legal arguments upon which Paul Domino may rely to defend Rafad's claim and the court's likely decision.

(7 marks)

(Total: 14 marks)

Despite the seriousness of the accident circumstances, Rafad makes a steady recovery from his injuries and you estimate the value of the claim to be below £25,000. You formally notify Paul Domino's insurer of Rafad's claim and obtain an admission of liability.

3. (a) Explain which stage Rafad's claim has reached and the steps you will take to obtain medical evidence in support of the claim.

(4 marks)

The initial medical report you obtain indicates that Rafad needs further surgery and physiotherapy treatment at an estimated cost of £5,000. Rafad's mother cannot afford to pay for this treatment and the NHS waiting time is too long. You disclose the report, but Paul Domino's insurance company refuses to pay for this treatment and you cannot secure agreement from a medical agency to fund the cost of treatment as an 'upfront' disbursement.

- (b) Explain the next steps you should take to progress the matter.

(4 marks)

(Total: 8 marks)

You finalise the medical evidence and enter into negotiations with Paul Domino's insurance company, when his insurer informs you that it has recently discovered that Paul's car had failed its MOT at the date of the accident, and that the car's worn brakes and bald tyres may have caused the accident. Paul Domino's insurance company refuses to deal with Rafad's claim on the basis that Paul Domino has breached his insurance policy by failing to keep his vehicle in a roadworthy condition.

4. In view of the defendant insurer's stance, explain the steps you should take to progress Rafad's claim.

(3 marks)

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The claim concludes successfully at a court hearing, where the judge awards Rafad damages for pain, suffering and loss of amenity and past losses in the total sum of £20,000. You consult the relevant costs rules and calculate that the fixed costs payable under the Civil Procedure Rules are £8,360.

Rafad's claim is funded by a Conditional Fee Agreement with an agreed success fee of 20%.

You may assume that the court considers that the costs and success fee are reasonable.

5. (a) Explain the total costs your firm will receive.

(5 marks)

(b) Explain the total damages that Rafad will receive.

(3 marks)

(Total: 8 marks)

(Total Marks for Scenario 1: 40 marks)

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Scenario 2

Extract from proof of evidence

1. My name is Rachel Foster. My date of birth is 8 April 1982.
2. On 20 November 2017, at approximately 11 am, I was driving my Ford Fiesta motor car, registration number FZ12 MTD, along a minor road named Acaster Road, Metpool, in the direction of the T-junction with Oxby Road, which is an 'A' road.
3. The weather was dry and fine, and visibility was good.
4. I was intending to turn right from Acaster Road onto Oxby Road.
5. I stopped at the junction before the broken, white 'give way' lines and looked to my right.
6. I saw a blue car approaching on my right some distance away.
7. I gauged that I had enough time to turn before the car reached the junction and, therefore, I started to turn.
8. My car was across the carriageway and at about 45 degrees to the road when I felt and heard a loud impact on the offside rear passenger door of my car.
9. I looked round and saw that the blue car had collided with my car. I noticed that the driver, who I now know to be Craig Hopworth, was not wearing a seatbelt.
10. At the time of the accident, I had comprehensive vehicle insurance cover with Aldrite Insurance. I also have legal expenses insurance.
11. I understand from my insurance company that Craig Hopworth is planning to make a claim for personal injuries and property damage as a result of this incident.

[END OF EXTRACT]

Scenario 2 Questions

You act for Aldrite Insurance, whose policyholder is Rachel Foster.

1. Advise Aldrite Insurance of the duty of care owed by its insured, Rachel Foster, to Craig Hopworth.

(5 marks)

You ascertain that it is a criminal offence under section 36 of the Road Traffic Act 1988 to fail to comply with an indication given in a road traffic sign. Rule 172 of the Highway Code also provides that you must give way to traffic on the main road when emerging from a junction with broken white lines.

2. (a) Explain, if Rachel is convicted of a breach of section 36 of the Road Traffic Act 1988, how Craig Hopworth's solicitors may be able to use this to support the claim against her.

(4 marks)

- (b) State how Craig Hopworth's solicitors could use Rachel's breach of the Highway Code to support Craig's claim against her.

(1 mark)

(Total: 5 marks)

On Thursday, 4 January 2018, Aldrite Insurance receives formal notification of Craig Hopworth's claim brought under the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (the 'RTA Protocol').

3. (a) Explain, with reference to timescales and specific dates, the next steps that Aldrite Insurance must take.

(7 marks)

There is a calendar overleaf to assist you with question 3(a).

Aldrite Insurance instructs you to admit liability but to allege contributory negligence as Craig Hopworth was not wearing a seatbelt at the time of the accident.

- (b) Advise what impact, if any, this allegation will have on the progress of the claim.

(3 marks)

You receive medical evidence from Craig Hopworth's solicitors in relation to his injuries.

- (c) (i) Explain what else the claimant's solicitors should include when disclosing this evidence.

(3 marks)

- (ii) Explain the next steps you and the claimant's solicitors will take to seek to progress the claim to settlement.

(4 marks)

(Total: 17 marks)

Turn over

The medical report indicates that Craig Hopworth had a latent cancerous condition which was triggered by the accident. He now faces extensive treatment.

4. Advise Aldrite Insurance why it has to pay damages in respect of Craig's pre-existing cancerous condition.

(7 marks)

You agree with Craig Hopworth's solicitors that the claim should be re-valued as above £25,000.

The claim proceeds to a final court hearing where, on the evidence, the judge finds that Craig Hopworth deliberately drove into Rachel Foster's car to cause an accident and then fraudulently claimed compensation. The judge, therefore, dismisses Craig Hopworth's claim against Rachel Foster.

5. Advise Aldrite Insurance whether it can pursue Craig Hopworth for its costs.

(6 marks)

(Total Marks for Scenario 2: 40 marks)

2018 calendar for use with Scenario 2 Qu 3(a)

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January	February	March	April
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May	June	July	August
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September	October	November	December
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