



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

**UNIT 4 – THE LAW RELATING TO TRIPPING, SLIPPING AND
OCCUPIERS' LIABILITY***

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 who is a legal occupier of premises.
(2 marks)
2. Identify **three** classes of persons who may be regarded as lawful visitors to premises.
(3 marks)
3. Explain the duty of care owed by occupiers to lawful visitors to their premises.
(4 marks)
4. Explain whether a duty of care is owed by an occupier to unlawful visitors.
(5 marks)
5. Explain the doctrine of '*res ipsa loquitur*'.
(4 marks)
6. Give **three** examples of reasonable arguments which a supermarket may raise to defend a claim for slipping or tripping on its premises.
(3 marks)
7. Define, with **two** examples, what is meant by a highway.
(3 marks)
8. Give **three** examples of types of evidence which might be used to establish a breach of duty under s.41 Highways Act 1980.
(3 marks)
9. Explain in what circumstances there may be concurrent liability for the state of the highway.
(3 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

Julianne organised a party for her 30th birthday and invited her family and friends. For the venue, she hired a community centre owned by Dunford County Council. When making the telephone booking, Julianne was told that the hire of the premises was limited to the main hall, the kitchen and the cloakrooms. She was also told that the hot water boiler had a faulty tap and that it was to be repaired by Magic Plumbers on the morning of the party. Julianne was also told that it would be mended in time for the party, which began at 1 pm. Julianne received written confirmation of the terms of hire. One of the council's terms was that it would accept no liability for any personal injury, howsoever caused, arising from the use of the premises.

Julianne and her boyfriend, Winston, both arrived at the community centre at 12.30 pm. There was a note in the kitchen from Magic Plumbers saying 'Back Monday'. Winston turned on the tap on the boiler. The tap came off in his hand and hot water poured out, scalding his hand and lower body.

During the afternoon, Julianne's cousin, Ben, who had been invited to the party, was asked to leave as he was being argumentative with guests, and he was shown out of the premises. Ben attempted to re-enter the premises through a broken panel of glass in a second-floor window in the ladies' cloakroom. Ben caught his arm on a large piece of glass and suffered a serious cut.

Anisha, who is eight, attended the party with her mother. Anisha was dancing to the live band when she slipped on liquid leaking from a bubble machine. The bubble machine was very popular with the children, who gathered around it to catch the bubbles. Julianne had placed the bubble machine just in front of the performers' stage. Julianne knew the machine was leaking and had mopped up some of the bubble liquid 30 minutes before Anisha slipped and fractured her wrist.

Scenario 1 Questions

1. (a) Explain whether Julianne owes a duty of care to any lawful visitors to her party.

(4 marks)

- (b) Advise Winston against whom he should make a claim for his injuries.

(10 marks)

(Total: 14 marks)

2. (a) Advise Ben whether he can bring any claim under the Occupiers' Liability Act 1957.

(4 marks)

- (b) Advise Ben whether he has any legal basis to make a claim for his injuries.

(8 marks)

- (c) Advise Ben how his own actions might impact on his claim.

(4 marks)

(Total: 16 marks)

3. Advise Anisha whether she has any claim for her injuries.

(10 marks)

(Total Marks for Scenario 1: 40 marks)

Turn over

Scenario 2

Michaela lives on Gillingham Road, Sundale, which is a busy road with houses on either side, a row of shops, a doctors' surgery and a primary school. On 14 November 2017, Michaela started out on her usual walk to work, when she tripped on uneven paving slabs just outside her house and was injured. Michaela received hospital treatment for her injuries.

Michaela had previously complained to Daeshire County Council nine times in three months about the uneven slabs. She complained to the council again following her trip. The council helpline officer told her that the uneven slabs had been noted at the last inspection 11 months ago, but it was decided that they did not require repair. Michaela replied that she had photographs of the pavement, which she described as a 'total hazard'. Although she was not able to confirm where she tripped, Michaela had measured one defect at 25mm. Michaela clarified that she had used a ruler to take the measurement and had pushed it well down into the soil at the side of the slab she was measuring. Michaela was told that no other complaints had been received and that the council's policy for residential areas was annual highway inspections.

On the afternoon of 14 December 2017, following a forecast of freezing weather, Daeshire County Council sent out a gritting lorry to grit Gillingham Road, among others. The lorry driver had complied with all requirements for gritting and had deposited grit evenly across the carriageway. One hour after Gillingham Road was gritted, Kasim was cycling home from the gym. He skidded in grit deposited from the lorry and was thrown from his bicycle, sustaining an injury. At the time, there were no snow or ice deposits on the road surface, although snow had fallen earlier in the day.

Scenario 2 Questions

1. (a) (i) Explain to Michaela why Daleshire County Council's legal responsibility for the state of the highway arises.
(3 marks)
- (ii) Explain to Michaela what she must prove in law to establish a claim against Daleshire County Council.
(4 marks)
- (b) Advise Michaela whether she has the basis of a sound claim against Daleshire County Council.
(9 marks)
(Total: 16 marks)
2. Advise Michaela as to how Daleshire County Council may defend her claim.
(10 marks)
3. (a) Explain to Kasim why Daleshire County Council would have ordered gritting of the roads to take place.
(4 marks)
- (b) Advise Kasim whether he has a claim against Daleshire County Council for his injuries.
(10 marks)
(Total: 14 marks)

(Total Marks for Scenario 2: 40 marks)

End of Examination Paper

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