



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES
UNIT 9 - PREPARATIONS FOR PERSONAL INJURY TRIALS*

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

Instructions to Candidates

- You have been provided with a copy of the supporting materials for you to use in this examination.
- You have **THIRTY** minutes to read through the supporting materials and this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read the supporting materials and this question paper fully.** However, you may make notes on the supporting materials, this question paper or in your answer booklet during this time, if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- 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**

Question 1

Reference: Question 1 relates to **Documents 1 and 2** of the supporting materials.

The value of Mr Patel's claim exceeds £25,000

- (a) Explain which protocol you would follow in Mr Patel's case and why. **(3 marks)**

You send a letter of claim to West Bedford Castings Limited. In your letter you request copies of Mr Patel's occupational health records and the minutes of the Health and Safety Committee meetings. The defendant refuses to allow you access to these documents. You therefore decide to make an application for pre-action disclosure.

- (b) Outline, with reference to authority, the factors the court would take into account when deciding on your application. **(7 marks)**

You are successful in your application and proceed to try to negotiate a settlement with the defendant. You are not able to reach an agreement with the defendant, as it denies liability for the onset of Mr Patel's condition. You therefore decide to start court proceedings.

- (c) Identify the documents you should file at court in order to commence proceedings. **(4 marks)**

It is now **1 May 2019**. Proceedings have been issued by the court and it has returned all the necessary papers to you for service. You send the papers to the defendant by first class post today.

- (d) Explain the timescale within which the defendant should respond to the proceedings. **(6 marks)**

The defendant does respond to the proceedings in time and continues to deny liability. You therefore decide to obtain expert evidence on the conditions that the claimant worked in.

- (e) Outline what you would have to do in order to obtain such evidence. **(7 marks)**

You obtain the expert evidence, which is supportive of your case. The defendant then accepts that it was negligent but continues to cast doubt on the precise cause of Mr Patel's symptoms.

You contact Mr Patel to inform him of this and you receive an email reply from him explaining his current situation (**Document 2**). On the basis of his message you decide to make an application for an interim payment.

(f) Identify what documents you would serve in support of the application.
(3 marks)

(g) Identify the information that should be contained in the evidence to be presented to the court.
(4 marks)

Your application is heard and the interim payment is made.

(h) Explain what court hearing(s) will take place now that the defendant has admitted liability
(4 marks)

(Total: 38 marks)

Question 2

Reference: Question 2 relates to **Documents 3 and 4** of the supporting materials.

In his email, Andrew Holness has indicated that he has received the letter of claim from the claimant's solicitors.

(a) Outline what steps the defendant will now have to take in this case.
(5 marks)

You take the necessary steps outlined above but these do not result in settlement of the claim. The claimant therefore issues proceedings against Heart of England Adventure Parks Limited. You review the file in order to prepare your defence and decide to involve Velospeed in the case.

(b) Outline what steps you would need to take in order to implement this decision.
(3 marks)

You take the necessary procedural steps and the court sends you a Directions Questionnaire to complete.

(c) Outline the information you would have to include on the Questionnaire in order to complete it properly.
(7 marks)

Turn over

The matter proceeds in the normal fashion and all parties deal with disclosure. You send copies of the relevant documents to Joe Brown, one of the directors of Heart of England Adventure Parks Limited, for his comments. He leaves a message with your secretary to ask you to ring him back (**Document 4**).

- (d) Explain what advice you will give him when you return his call. You **do not** need to deal with any professional conduct issues in your answer.

(4 marks)

Given the value of the case the court allows you to obtain your own medical evidence. The report suggests that the claimant's expert is mistaken in his assessment of how much care the claimant will require. You decide to rely on the report and serve it on the claimant.

- (e) Outline, with reference to authorities, what steps might be taken in order to resolve the differences between the two experts.

(8 marks)

The issues with the medical evidence are dealt with and the matter is then listed for a three-day trial, which will take place in six weeks. You contact the various witnesses and you receive a message from Joe Brown explaining that he has now moved to another holiday company and that it will be difficult for him to arrange time off to attend trial. The advice you have from your barrister is that you will need Mr Brown to attend the hearing.

- (f) Explain what steps you could take to ensure Mr Brown attends the trial of the matter.

(5 marks)

(Total: 32 marks)

End of Examination Paper