



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 13 – LAW OF TORT*

Time allowed: 3 hours 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.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Contract, Tort & Restitution 2018-2019, 29th edition, Francis Rose, Oxford University Press, 2018.**
- 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 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

SECTION A
(Answer at least one question from this section)

1. Critically analyse the extent to which the rules on remoteness of damage in negligence enable the courts to keep liability within reasonable limits.

(25 marks)

2. (a) Explain the interests protected by the torts of assault, battery and false imprisonment.

(5 marks)

- (b) Evaluate the extent to which torts of assault, battery and false imprisonment adequately protect these interests.

(20 marks)

(Total: 25 marks)

3. Critically analyse whether the law of negligence promotes sufficient accountability where the police fail to respond, or respond inadequately, to calls for help.

(25 marks)

4. Critically evaluate the extent to which the rules on nuisance liability enable the courts to balance the rights of neighbouring occupiers of land.

(25 marks)

SECTION B
(Answer at least one question from this section)

Question 1

One morning on her way shopping in the family car, Amy stopped at a T-junction, before turning right onto a busy main road. She looked right and then left and then started pulling out. At that moment, there was a serious collision as Amy crossed the path of a car driven by Ben. Ben had approached from Amy's right-hand side along the main road. He had ignored the road sign instructing motorists to slow down on the approach to the junction and was not keeping a proper lookout for vehicles that might emerge in front of him.

The junction was a notorious accident hotspot, partly due to a number of trees on adjacent farmland at the side of the road, which obscured the view of approaching traffic on the main road. The local authority responsible for the maintenance of the highway was aware of the problem, but had consistently failed to take action in order to clear the sight lines.

Amy was badly injured in the collision, though Ben luckily escaped harm. Charles, a passenger in Ben's car, suffered recurring flashbacks of the incident for many months afterwards, though he suffered no physical injury.

A passer-by dialled 999. Daniel, Amy's husband, happened to be one of the ambulance paramedics attending the incident. He suffered post-traumatic stress disorder as a result of discovering Amy at the scene and tending to her injuries.

Advise the following as to any claims they may have in negligence:

- (a) Amy; **(12 marks)**
- (b) Charles; **(6 marks)**
- (c) Daniel. **(7 marks)**

(Total: 25 marks)

Turn over

Question 2

Evelyn recently purchased a large, dilapidated Victorian house for her family. She engaged Frank, a builder and decorator, to carry out some of the refurbishment work. She placed a prominent sign on the front door, which stated: 'WARNING – construction work in progress'.

One day, while Evelyn was at work, Frank's wife, Georgina, visited Frank during her lunch break. It had been raining, and Evelyn had yet to purchase a doormat for the front door. Georgina slipped on the wet floor tiles in Evelyn's hallway, fracturing her wrist as she put out her hand to break her fall. Georgina's mobile phone was also badly damaged.

The next day, Frank suffered painful electrocution burns when he drilled through a live electric cable buried in the wall, while he was hanging some kitchen cupboards.

Henry, Evelyn's teenage son, was stripping some wallpaper from the living room wall. He fell off Evelyn's stepladder and suffered a broken ankle.

Ivy, Evelyn's four-year-old daughter, fell ill after eating small bits of old lead-based paint that had flaked away from the woodwork in the conservatory.

Jaah, Evelyn's partner, was injured when a kitchen cupboard fell on him as the couple were preparing dinner. It was discovered that the fixings, supplied by Frank to mount the cupboard on the wall, were inadequate to support the weight of the unit.

Advise Evelyn as to her potential liability under the Occupiers' Liability Acts.

(25 marks)

Question 3

Kamal owns and manages a successful independent petrol station and car service/repair business in a busy city centre. Six months ago, Kamal employed an experienced and well-qualified mechanic, Lisa, to supervise staff in the service centre. Lisa was given responsibility for overseeing all aspects of health and safety both in the service centre workshop and in the petrol station.

One day, Michael, who was employed as a mechanic, carelessly spilt a large quantity of engine oil on the workshop floor. Lisa had forgotten to order new absorbent pads for dealing with oil spillages and there was insufficient sand to cover the area of floor affected. Noel, an administrator employed on the customer service desk, entered the workshop to enquire as to the service progress of a customer's vehicle. Noel slipped on an untreated area of the floor and broke his leg. Noel was not wearing the slip-resistant boots provided for staff entering the workshop.

Osman was employed as a cashier in the petrol station. He was approached by a customer, Paolo, who had dishonestly filled his car with petrol without having the means to pay. Paolo claimed that he had forgotten his payment cards. Osman insisted that Paolo complete a payment declaration form. Paolo became increasingly agitated, reached across the counter and punched Osman in the face, breaking his nose.

Michael was close friends with a fellow employee, Quinn. Both worked as mechanics in neighbouring service bays in the workshop. As a practical joke, Quinn sprayed some highly flammable paint-thinner over Michael's overalls and then ignited a cigarette lighter, waving it around in front of Michael to frighten him. The overalls went up in flames. Even though a fire extinguisher quickly put out the fire, Michael nonetheless suffered very severe burns. While Michael and Quinn were known to frequently 'mess around', no incident of this magnitude had ever occurred before in the service centre.

Advise Kamal as to whether he may be:

(a) primarily liable in negligence **as an employer** in relation to any of these incidents;

(15 marks)

(b) vicariously liable in relation to the actions of any of his employees.

(10 marks)

(Total: 25 marks)

Turn over

Question 4

Rachel, a law student, put up a poster on the Wessex University Student Law Society (WUSLS) noticeboard, announcing that: 'The WUSLS Treasurer is not to be trusted – he is a spliff-toting, crooked shyster'. The noticeboard is located in the busy student common room.

Shabina, another law student, took a photo of the notice on her mobile phone and uploaded it to her Facebook page.

Terry, an administrator employed in the Law Department, who had overall responsibility for updating the WUSLS noticeboard, was aware that the poster had been placed on the board, but did not remove it for several days.

It was the start of the new academic year. Xavier had very recently been elected as the new Treasurer of the WUSLS. He was about to officially take over the position from Wayne, the outgoing Treasurer. Xavier had recently ended his relationship with Rachel, after he became romantically involved with another student. Last year, Xavier received a Penalty Notice for Disorder from the Wessex Police for cannabis possession, for which Xavier paid an £80 on-the-spot fine.

Advise Rachel, Shabina and Terry as to their liability in defamation.

(25 marks)

End of Examination Paper

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