

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 what is meant by a conditional fee agreement with a success fee.
(5 marks)
2. State **three** possible ways of obtaining a defendant driver's motor insurance details.
(3 marks)
3. State for what type of injury you would use the MedCo portal.
(1 mark)
4. Identify **three** elements of a negligence claim that a breach of the Highway Code may assist in proving.
(3 marks)
5. Identify the documents which a claimant must file with the court in stage 3 of the Pre-action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (the RTA Protocol).
(5 marks)
6. A car driver's failure to take out motor insurance or to pay an insurance premium will render him/her uninsured.
Identify **two** other circumstances in which a driver may be uninsured.
(2 marks)
7. State **two** reasons why a claim may leave the Pre-action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (the RTA Protocol).
(2 marks)
8. Explain how Regulation 3 of the European Communities (Rights against Insurers) Regulations 2002 assists a potential claimant.
(3 marks)
9. Explain, with reference to section 58 of the Highways Act 1980, how a highway authority may defend an action brought against it arising from an alleged failure to maintain.
(2 marks)
10. Compare a highway authority's statutory duty of care with the common law position in relation to the accumulation of snow on a highway.
(4 marks)

(Total Marks for Section A: 30 marks)

Turn over

SECTION B

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

Scenario 1

Extract from Attendance Note:

Attendance on Kevin Swain (DOB: 21/01/1997). Kevin was involved in a road traffic accident on Saturday, 7 March 2015 while travelling as a pillion passenger on a motorcycle, driven by his friend Matthew Harding (then aged 20 years). Kevin states that, at about 10.45pm, they were going home from the cinema and travelling at about 50mph down Northamberton High Street, West Yorkshire. Kevin was wearing a crash helmet but had not fastened the chin strap. The speed limit was 30mph. Kevin said he felt concerned by Matthew's speed, as Matthew had only passed his driving test the week before. Matthew went round a right-hand bend on the High Street but lost control and crashed the motorcycle into a parked car on the far side of the road, causing Kevin to be thrown across the car and onto the pavement. A passer-by called the emergency services, and the police and ambulance attended. Kevin was taken to Northamberton Royal Infirmary, where a consultant in Accident and Emergency informed him that he had sustained several broken ribs, severe concussion, a fractured scapula and significant cuts and bruises. He only recovered from these injuries in December 2016. As a consequence of this accident, Matthew has been convicted of dangerous driving.

Initial valuation of Kevin's claim, on information available, is in the region of £15,000.

Preliminary evidence to obtain:

- police accident report;
- hospital triage notes;
- certificate of Matthew Harding's criminal conviction.

Scenario 1 Questions

1. Explain why you will obtain the following documents:

(a) The police accident report.

(3 marks)

(b) The hospital triage notes.

(2 marks)

(c) The certificate of conviction.

(4 marks)

(Total: 9 marks)

2. (a) Advise Kevin, with reference to the legal arguments, how Matthew's conduct, as set out in the attendance note, may give rise to liability.

(10 marks)

(b) Advise Kevin, given the information contained in the attendance note, how the defendant may argue against his claim, and mention any effect that this might have.

(5 marks)

(Total: 15 marks)

3. You obtain details of Matthew Harding's insurer.

(a) Explain the steps you will take to give the defendant insurer formal notice of Kevin's claim.

(5 marks)

You send formal notification of Kevin's claim on Friday 17 February 2017. You receive an acknowledgement from the defendant insurer.

(b) Explain, with reference to timescales, what the defendant insurer must do next.

(5 marks)

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

(Total: 10 marks)

Turn over

You receive an admission of liability from the defendant insurer. With Kevin's consent, you obtain and disclose relevant evidence and negotiate full and final settlement of the claim in the total sum of £16,000. The claim is funded by a conditional fee agreement with an agreed success fee of 25%.

4. Calculate to show:

(a) the total costs your firm will receive from the defendant;
(3 marks)

(b) the total damages which Kevin will receive.
(3 marks)

You must show your calculations. You may ignore VAT and disbursements.

(Total: 6 marks)

(Total Marks for Scenario 1: 40 marks)

2017 calendar for use with Scenario 1 Question 3(b)

2017

January

M	T	W	T	F	S	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

February

M	T	W	T	F	S	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

March

M	T	W	T	F	S	S
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6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April

M	T	W	T	F	S	S
					1	2
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May

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8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June

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			1	2	3	4
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

July

M	T	W	T	F	S	S
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August

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28	29	30	31			

September

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October

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23	24	25	26	27	28	29

November

M	T	W	T	F	S	S
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20	21	22	23	24	25	26
27	28	29	30			

December

M	T	W	T	F	S	S
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Scenario 2

Extract from Aldrite Insurers' Incident Report Form:

Name:	Irene Erda	Date of birth:	15/03/1990
Vehicle model:	Mini Cooper	Registration Number:	BD36 TPD
Date of accident:	14/12/2015	Time:	2pm
Weather conditions:	Dry	Visibility:	Good
Description of accident:	<p>I was driving along Chesterfield Road, Salisbury, and approaching a light-controlled pelican crossing before the junction with Drayton Road. There was no-one on, or at, the crossing but I slowed down as the amber light was flashing. The light changed to green but I still continued to drive slowly, at about 15mph. As I drew level with the crossing, a young man suddenly appeared from my right and sprinted across the crossing directly in front of my car. I braked heavily and swerved to my left but it was too late to stop; the front of my car hit him and he fell to the ground. With the force of my braking, my car swivelled round at virtually 90 degrees. After putting my hazard lights on, I went to see the man. He was lying on the road, conscious, but clearly in pain and unable to get up. I called for the ambulance service and the police on my mobile phone. They both attended and I gave a statement to the police. There were several bystanders who also gave statements to the police, including a local shopkeeper who had plenty to say but I could not hear exactly what. The police have informed me that I will not be charged with any offences, which is a relief as I genuinely do not believe that I could have avoided this incident. However, I have received a claim notification from solicitors acting for the pedestrian who I now know to be Victor Murzak, who was aged 22 at the date of the accident.</p>		

END OF EXTRACT

Scenario 2 Questions

Your firm is instructed by Irene Erda's insurers, Aldrite Insurers.

1. (a) Advise Aldrite Insurers on the circumstances that the court may consider in determining whether Irene breached her duty of care to Victor Murzak.
(4 marks)
- (b) Advise Aldrite Insurers how Victor's conduct might lead to his claim against Irene failing entirely.
(4 marks)
- (c) Explain to Aldrite Insurers how, if Victor's claim does not fail, any damages awarded to him might be reduced.
(2 marks)

Victor Murzak's solicitors argue that Irene breached the Highway Code by not stopping for a pedestrian on a pelican crossing.

- (d) Explain whether a breach of the Highway Code may support Victor Murzak's civil claim in court.
(5 marks)

(Total: 15 marks)

Aldrite Insurers considers admitting liability.

2. Explain to Aldrite Insurers, if liability was admitted, the next steps that you anticipate Victor Murzak's solicitors would take to progress the claim towards potential settlement.
(6 marks)

Turn over

Before providing a liability response, you obtain a copy of the police accident report. It contains a statement from shopkeeper, Robert McBride. He says that he saw Victor run into the road as he was chasing him because Victor had stolen cash from his shop till. The police report confirms that Victor was subsequently convicted of the theft.

3. (a) Advise Aldrite Insurers how this information may assist in defending Victor's civil claim against Irene. **(7 marks)**

On the strength of Robert McBride's statement, you advise Aldrite Insurers to defend Victor's claim to trial. At trial, the defence succeeds.

- (b) Explain the likely costs consequences of this outcome. **(7 marks)**

(Total: 14 marks)

4. (a) Explain whether Victor could have made any claim had Irene and her car not been insured at the date of the accident. **(3 marks)**
- (b) Explain who would have been responsible for paying Victor's damages had he succeeded in his claim against the uninsured Irene. **(2 marks)**

(Total: 5 marks)

(Total Marks for Scenario 2: 40 marks)

End of Examination Paper

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