



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 6 – DAMAGES, SETTLEMENT AND COSTS IN PERSONAL INJURY CASES*

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 **Document 1** of the supporting materials.

- (a) State **four** factors which the court is likely to take into account when determining Gaia's award for general damages.
(4 marks)
- (b) Advise Gaia whether the road traffic accident in which she was involved has any relevance to her current claim for general damages.
(4 marks)
- (c) Explain how you will approach valuing Gaia's claim for her neck injury.
(6 marks)
- (d) Explain whether it makes a difference to the likely award for general damages that Gaia sustained two different injuries.
(6 marks)

(Total: 20 marks)

Question 2

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

- (a) Advise Gaia whether she is likely to recover the cost of all the purchases that she made on 17 May 2016.
(7 marks)
- (b) Explain why it would be appropriate to claim interest on these expenses at the rate of 0.5%.
(2 marks)
- (c) Explain the provisions by which the state recoups the cost of the medical treatment given to Gaia.
(3 marks)
- (d) Explain why Jennifer will need to notify the defendant of Gaia's National Insurance number and the hospital where she was treated.
(3 marks)

(Total: 15 marks)

Question 3

Reference: Question 3 relates to **Documents 1 and 2** of the supporting materials.

It is now 7 March 2017. You intend to issue proceedings on Gaia's behalf and begin preparation of her schedule of special damages.

- (a) Explain, with reference to the figures provided only on the **second page of Document 1**, how you would calculate Gaia's monthly loss of earnings.
(3 marks)

It is now 18 March 2017. Gaia has been examined by an orthopaedic expert. He has now told her that she cannot return to work full-time for the foreseeable future because of ongoing ankle instability. An operation may be needed. She has sent you some more detailed figures relating to her earnings (**Document 2**).

- (b) (i) Explain, with reference to the figures provided in **Document 2**, how you will calculate Gaia's relevant pre-accident average weekly salary.
(5 marks)
- (ii) Explain what the relevant earnings figure will be for the purpose of calculating future loss of earnings from March 2017 if Gaia is unable to find alternative employment.
(2 marks)

Gaia telephones you on 30 May 2017 to inform you that, having been unable to find suitable part-time employment as a teacher, she has been working from home as a tutor earning £600 net per week. This particularly suits her because of her anxiety and it allows her to rest her ankle.

- (c) (i) Explain how this information affects Gaia's claim for future loss of earnings.
(3 marks)

Gaia is concerned that in the future her anxiety may prevent her from working as a tutor and says that she must find alternative employment.

- (ii) Explain the nature of the claim which you may make on Gaia's behalf to compensate her for this risk.
(6 marks)

(Total: 19 marks)

Turn over

Question 4

Reference: Question 4 relates to **Document 3** of the supporting materials.

Proceedings have been served on behalf of Gaia against the school. Gert LLP is instructed on behalf of the defendant and has served a defence admitting liability but alleging contributory negligence. You receive a letter from Gert LLP (**Document 3**).

- (a) Explain why it would be sensible to attempt to negotiate a settlement of Gaia's claim.

(4 marks)

- (b) Explain how in your negotiations with Gert LLP you would argue against their assertions regarding contributory negligence.

(6 marks)

(Total: 10 marks)

Question 5

Reference: Question 5 relates to **Document 4** of the supporting materials.

You have settled Gaia's claim by accepting the defendant's Part 36 offer.

- (a) Explain why a Tomlin Order is not necessary to provide for payment of damages.

(2 marks)

- (b) Explain, given the information available to you, how costs are most likely to be assessed.

(4 marks)

(Total: 6 marks)

End of Examination Paper