

Candidate Name

Candidate Number

Centre Name

Centre Number

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Paper 3B: Law in action: Tort

Sample paper

(1 hour 30 minutes)

It is necessary to respond on the answer sheet provided alongside this question paper. Additionally, you must have a dark blue or black pen.

INSTRUCTIONS:

- You must write your name, candidate number, centre name and centre number on the answer sheet in the designated space.
- Answer two questions in total.
- Answer all parts of question 1 in section A.
- Answer one question only in section B.
- You should spend no more than 45 minutes on either section.
- Your answers should be supported by references to relevant instruments and/or authority. Full case citations are not required. A partial reference to the title and/or a brief description of facts will be sufficient.
- It is important to follow the instructions provided on the answer sheet.
- Do not use correction fluid.
- Avoid writing on any bar codes.

INFORMATION:

- The total mark for this paper is 60.
- The number of marks for each question or part question is shown in brackets []

Section A

Answer all parts of question 1. You should spend no more than 45 minutes on this section.

1. (a) Alice keeps bees and makes clay pots to put the honey in. She sells these pots of honey to visitors to her area. She sold one such pot to Brian, who in turn gave the pot of honey to his cousin Claire for her birthday. Claire put a spoonful of honey on some cereal. When she took a mouthful, she crunched on something hard and felt her mouth fill with blood. She spat out the cereal and saw a tiny piece of glass. The physical injury was relatively minor but did include dentist's bills for which Claire had to pay. Subsequent examination by an expert has confirmed that the glass fragment was in the honey. Alice accepts the expert evidence but denies this proves she was negligent. She does accept that, if negligence is proven, there is no question of Claire's harm being too remote.

Advise Claire about negligence, and whether she will need further proof that Alice was negligent. [10 marks]

(b) Edward is very proud of the model village he has made in his back garden. His new neighbour, Freda, is a cat lover. She has an enclosure constructed in her back garden and has encouraged stray cats from the local area to live in the enclosure. Edward expresses some concern about this. One day part of the enclosure fence breaks. The cats in the enclosure escape, and ruin Edward's model village in various ways. Edward writes to Freda wanting compensation, referring to the rule in *Rylands and Fletcher*.

Advise Freda as to the rule, and whether you think Edward's claim will be successful. [10 marks]

(c) Gina lives in a detached house next to Harriet. A passageway runs between their two houses. The border between the two properties runs down the centre of the passageway. Until recently, relations between Gina and Harriet have been good. However, a few weeks ago, Gina had air conditioning installed in one of her bedrooms. The outlet for the air conditioning is fixed to the outside wall, about 5 metres above ground level over the passageway. Harriet comes around to complain, mainly because she thinks air conditioning is bad for the environment, but also because the outlet protrudes over her land. Gina makes Harriet a cup of tea, and then goes to have a look. Fearing Harriet will make a scene outside, she locks Harriet in her living room, although Harriet does not know this. Gina returns a few minutes later, unlocking the door. "Yes," she says to Harriet. "The unit does cross over your land, but only by about 6cm. Surely it doesn't matter?" However, Harriet, now realising she had been locked in, angrily leaves the house. Gina gets a letter from Harriet's solicitors threatening action for two matters of trespass.

Explain to Gina the basis for Harriet's claims.

[10 marks]

Section B

Answer one question only from this section

2. (a) Explain the difference between damages, injunctions and abatement in a nuisance action. [5 marks]

(b) the torts of public nuisance and private nuisance. [25 marks]

3. (a) How did the case of *Robinson v Chief Constable of West Yorkshire Police* [2018] UKSC 4 change the position regarding the liability of the police in negligence? [5 marks]

(b) Evaluate the current relevance of the concept of remoteness in relation to the tort of negligence. [25 marks]

4. (a) What is meant by strict liability in tort? [5 marks]

(b) Describe when an employer will be liable in tort for the acts of an employee. [25 marks]

5. (a) Outline the nature of self-defence with regard to trespass to person.

[5 marks]

(b) Compare and contrast the defences of contributory negligence, volenti no fit injuria and necessity in tort. [25 marks]