



---

# PAPER TWO - TORT

---

REVISION BOOKLET



**Question 1-5 – These will always be multiple choice questions. They can be about anything from this paper – ELS/theory/torts/defences/remedies. You should only spend one minute per question. (1 mark)**

<p><b>In the context of a duty of care, which one of the following relationships was present in the facts of <i>Donoghue v Stevenson</i>?</b></p> <p>A A car driver and a passenger in the driver’s car          B An employee and one of the employees working for that employer          C A manufacturer of goods and the consumer of those goods          D An organiser of a sporting event and a participant in the event</p> <p>[1 mark]</p>	<p><b>Select the one correct statement about liability under the Occupiers’ Liability Act 1957.</b></p> <p>A It applies to injury or damage caused only to adult visitors to the premises          B It applies to injury or damage caused only by dangers arising from the state of the premises          C It applies only to a person who owns the premises          D It applies only to injury or damage caused in a building</p> <p>[1 mark]</p>
<p><b>Identify the one statement that gives the correct formal name of the process by which the Crown agrees that a Bill shall become an Act of Parliament.</b></p> <p>A Regal Assent          B Regal Consent          C Royal Assent          D Royal Consent</p> <p>[1 mark]</p>	<p><b>A court may award special damages to a successful claimant in an action in negligence. Which one of the following best defines ‘special damages’?</b></p> <p>A Financial losses arising before the trial          B Financial losses arising after the trial          C Non-financial losses arising before the trial          D Non-financial losses arising after the trial</p> <p>[1 mark]</p>
<p><b>In relation to the tort of negligence, which one of the following does not owe a duty of care?</b></p> <p>A A car driver, to other drivers on the road          B A doctor, to his or her patient          C A manufacturer of a washing machine, to the eventual user of that washing machine          D A policeman, to members of the community to catch a criminal</p> <p>[1 mark]</p>	<p><b>Which one of the following is an accurate description of the ‘reasonable man’ test used in establishing breach of duty for the purposes of a claim in negligence?</b></p> <p>A The test is both subjective and objective          B The test is neither objective nor subjective          C The test is objective          D The test is subjective</p> <p>[1 mark]</p>
<p><b>Which one of the following statements about the process of Parliamentary law-making is correct?</b></p> <p>A A Bill must have its first reading in the House of Commons          B A Green Paper is a record of all the debates on the progress of a Bill through Parliament          C A White Paper is used to introduce the first reading of a Bill          D The House of Commons can vote to reject a Bill when the Bill reaches its second reading</p> <p>[1 mark]</p>	<p><b>s1(3) of the Occupiers’ Liability Act 1984 states when an occupier of premises owes a duty of care to an unlawful visitor. Which one of the following is not a requirement of such a duty?</b></p> <p>A Knowledge, or reasonable foreseeability, of a danger          B Any danger is one against which the occupier might reasonably be expected to offer protection          C Knowledge, or reasonable foreseeability, that an unlawful visitor is in, or may come into, the vicinity          D The existence of a warning to the unlawful visitor of the danger</p> <p>[1 mark]</p>
<p><b>The Occupiers’ Liability Act 1957 has special rules for particular categories of visitors. Identify which one of the following is subject to special rules.</b></p> <p>A Hotel guests          B Police officers          C Specialist visitors in the exercise of their calling          D Spectators at a football match</p> <p>[1 mark]</p>	<p><b>In relation to causation when making a claim in negligence, a claimant must prove which one of the following?</b></p> <p>A Both factual causation and legal causation          B Factual causation only          C Legal causation only          D Neither factual causation nor legal causation</p> <p>[1 mark]</p>

<p><b>Which one of the following does the test in Caparo v Dickman not require the court to ask?</b></p> <p>A Is it just and reasonable to impose a duty?  B Was the damage caused reasonably foreseeable?  C Was there a relationship of proximity between the two parties?  D What are the financial resources of the defendant?</p> <p>[1 mark]</p>	<p><b>Select the court that would normally hear the trial of a case allocated to the fast track.</b></p> <p>A County Court  B Crown Court  C Magistrates' Court  D Queen's Bench Division of the High Court</p> <p>[1 mark]</p>
<p><b>In resolving a negligence case, which one method is likely to be the most expensive?</b></p> <p>A A court case  B A tribunal case  C Mediation  D Negotiation</p> <p>[1 mark]</p>	<p><b>For the purposes of the Occupiers' Liability Act 1984, which one of the following is not a trespasser?</b></p> <p>A A burglar  B A police officer executing a search warrant  C A hiker who accidentally crosses onto private land  D A visitor who passes through a door marked 'Authorised Personnel Only'</p> <p>[1 mark]</p>
<p><b>In Parliamentary law making, which one of these statements is false?</b></p> <p>A Before it becomes law a legislative proposal is called a Bill  B Government Bills and Private Members' Bills are both kinds of Public Bills  C Law is enacted when both the House of Commons and the House of Lords agree on its terms  D The role of the House of Lords is to scrutinise and amend proposed legislation</p> <p>[1 mark]</p>	<p><b>Alf has been involved in a car accident caused by the negligence of another driver who collided with Alf's car. Which one of the following can Alf not claim for in an action for negligence against the other driver?</b></p> <p>A Alf's concern and worry at the distress the accident caused to his wife  B Alf's loss of wages caused by his taking six weeks off work to recover from his injuries  C Damage to Alf's car  D Loss of Alf's shopping which was in the boot of his car</p> <p>[1 mark]</p>
<p><b>Select the one court which can supervise the lawfulness of the conduct of national and local government, of inferior courts and tribunals, and of other public bodies.</b></p> <p>A The Administrative Court  B The Chancery Division of the High Court  C The County Court  D The Family Division of the High Court</p> <p>[1 mark]</p>	<p><b>The decision in Donoghue v Stevenson established that one person owes a duty of care to which other person?</b></p> <p>A An associate  B A neighbour  C A partner  D A relative</p> <p>[1 mark]</p>
<p><b>The Supreme Court is most likely to give permission for an appeal involving which one of the following?</b></p> <p>A A claim allocated to the small claims track  B A point of European Union law  C A point of law of general public importance  D An important person</p> <p>[1 mark]</p>	<p><b>In relation to the tort of negligence, which test is used to establish 'causation in fact'?</b></p> <p>A Reasonable foreseeability  B The 'but for' test  C The 'thin skull' rule  D The three-part Caparo test</p> <p>[1 mark]</p>
<p><b>In the trial of a civil claim, which one of the following is not part of the role of the judge?</b></p> <p>A Deciding the amount of compensation, if any, to be awarded  B Deciding whether any appeal should succeed  C Deciding whether the claimant or the defendant should pay legal costs  D Deciding whether the claimant should succeed in his or her claim</p> <p>[1 mark]</p>	<p><b>Which one of the following would you normally associate with the work of the Law Commission?</b></p> <p>A The enactment of new legislation  B The proposal of reforms to the law  C The publication of Green Papers  D The repeal of legislation which is no longer needed</p> <p>[1 mark]</p>

<p><b>Select the one true statement about D's liability to compensate V for losses resulting from D's negligence:</b></p> <p>A D will not be liable for losses made more serious by any pre-existing special weakness in V</p> <p>B D will be liable to compensate V for all of the losses caused in fact by D</p> <p>C D may be liable to compensate V for some, but not all, of the losses</p> <p>D D will be liable to compensate V for some, but not all, of the losses caused in law by D</p> <p>[1 mark]</p>	<p><b>In some negligence cases, the defendant pleads that the claimant consented to the risk of injury or damage from the defendant's conduct. Which statement about the defence of consent is untrue?</b></p> <p>A If the defence succeeds, the claimant's action will fail and no remedy will be available</p> <p>B It can be used in any claims arising out of road traffic accidents</p> <p>C It cannot succeed unless the claimant knew of the precise risk</p> <p>D It cannot succeed unless the claimant had a free choice about consenting to the risk</p> <p>[1 mark]</p>
<p><b>In an action in negligence arising out of an accident, which of the claimant's losses is not a pecuniary loss?</b></p> <p>A Cancellation of a holiday because of the accident</p> <p>B Damage to property</p> <p>C Earnings between the dates of the accident and the trial</p> <p>D Pain, suffering and loss of amenity</p> <p>[1 mark]</p>	<p><b>Which of the following is not a function of a mediator?</b></p> <p>A To consult with the parties to identify common ground</p> <p>B To explore the needs of the parties</p> <p>C To make a decision that is legally binding on the parties</p> <p>D To suggest solutions not available to the courts</p> <p>[1 mark]</p>
<p><b>In which of the following is the "balance of probabilities" normally used as the standard of proof?</b></p> <p>A Both criminal cases and civil cases</p> <p>B Civil cases but not criminal cases</p> <p>C Criminal cases but not civil cases</p> <p>D Neither criminal cases nor civil cases</p> <p>[1 mark]</p>	<p><b>Which of the following is not a consideration of the court in a case concerning negligent misstatement?</b></p> <p>A Special Skill</p> <p>B Known User</p> <p>C Reasonable Reliance</p> <p>D Practical Precautions</p> <p>[1 mark]</p>
<p><b>Which of the following is not a defence under the rule from Rylands v Fletcher?</b></p> <p>A Statutory Authority</p> <p>B Act of a Stranger</p> <p>C Common Good</p> <p>D Prescription</p> <p>[1 mark]</p>	<p><b>Which of the following is a self-help remedy available under a claim in nuisance?</b></p> <p>A Abatement</p> <p>B Mitigation of Loss</p> <p>C Injunction</p> <p>D Damages</p> <p>[1 mark]</p>
<p><b>For how many years must the nuisance have been carrying on for the defence of prescription to be successful?</b></p> <p>A 10 years</p> <p>B 15 years</p> <p>C 20 years</p> <p>D 25 years</p> <p>[1 mark]</p>	<p><b>What test was created in the Ready Mixed Concrete case concerning Vicarious Liability?</b></p> <p>A The test for who is an employee</p> <p>B The test for who is an employer</p> <p>C The test for who is an independent contractor</p> <p>D The test for who is a tortfeasor</p> <p>[1 mark]</p>
<p><b>Which of the following best describes acts which are a 'frolic of his own' and not 'in the course of employment'?</b></p> <p>A Acts not authorised by the employer but with a close connection to what they're employed to do</p> <p>B Acts not authorised by employer</p> <p>C Acts authorised by employer but done in an unauthorised way</p> <p>D Acts not authorised by employer but benefiting employer</p> <p>[1 mark]</p>	<p><b>Which of the following correctly identifies methods of funding available to a claimant bringing an action in negligence?</b></p> <p>A A conditional fee agreement, legal aid and insurance</p> <p>B A conditional fee agreement, legal aid and own funds</p> <p>C A conditional fee agreement, insurance and own funds</p> <p>D Legal aid, insurance and own funds</p> <p>[1 mark]</p>

**Question 6 – This will only ever be about an ELS topic. It will never be about a tort, defence or remedy. You will be asked to explain two things and then one more specific thing. (5 marks)**

Explain two tracks which a civil case might be allocated to and one reason the leapfrog procedure might be used.	
Explain two methods of alternative dispute resolution and give an example which shows why it might be preferable to the civil courts.	
Explain two ways in which the role of a civil judge differs to that of a criminal judge. Explain the role of Supreme Court Justices.	
Explain two ways in which the role of a civil solicitor and a civil barrister differ. Explain the role of a legal executive.	
Explain two sources of funding for a civil case and one way in which someone might be able to gain free advice for their dispute.	
Explain two ways in which a backbench MP can introduce a Private Members' Bill to Parliament. Explain the purpose of a green paper.	
Explain two influences on Parliament. Explain how a bill can be delayed by the House of Lords.	
Explain two roles of the Law Commission. Explain one limitation on parliamentary supremacy.	

**Question 7 – This will be a short scenario where you must prove why the tort/defence would NOT succeed. You only have 5 minutes to write this, so you must be highly focused on the reason why it would fail rather than spending time writing about the elements which would succeed. (5 marks)**

For the past few months, Bestco had been aware that youths were getting in to their loading areas when the supermarket was closed to the public. Bestco had tried to stop them by installing automated gates and higher fences. Even so, Dan got in one night and was seriously injured when a stacked pile of wooden pallets fell onto him as he climbed up them. Dan’s expensive clothes were ruined during the incident.

**Suggest why, in law, Dan’s claim against Bestco probably would not be successful. (5 marks)**

Oscar owned a large field at the back of his house. In recent years, all the nearby fields had been sold off and Oscar’s field was now completely surrounded by housing. Oscar kept a large collection of quad bikes and other vehicles, which he allowed his older children and their friends to drive around his field. In the summer, this often went on until late at night and led to many complaints from the neighbours. This only seemed to result in even noisier driving, which occurred more frequently and even later at night.

**Suggest why, in law, Oscar probably would not be able to continue the activities in his field. (5 marks)**

Nathan visited Ali’s hotel for a weekend break with his five-year-old son, Ben. While Ben was playing in a children’s outdoor play area under Nathan’s supervision, he cut his head by falling on to a very low wall made of sharp stone.

**Suggest why, in law, Ali probably would not be able to use the defence of contributory negligence. (5 marks)**

**Question 8 – This will be a short scenario, where the tort you must prove/disprove is stated in the question. (10 marks)**

Kate was an investment analyst working for Growfast, a company which promoted investment in small companies. She produced a report, available free of charge to potential investors, which made recommendations about particularly good investment opportunities. Henry lost £100,000 after a business in which he had invested went bankrupt. At the time when Kate wrote the report, she was experiencing severe personal problems. As a result, she had failed to notice evidence which clearly suggested that the business was beginning to go into decline after a period of rapid growth.

**Advise Henry as to his rights and remedies through Negligent Misstatement against Kate in connection with the investment advice contained in Kate's report.**

Martin was driving a pick-up truck with a heavy load. When he had secured the load, he had been distracted by his children and had failed properly to tighten the straps on one side. Whilst negotiating a bend in the road near a school, the load suddenly shifted position and the truck overturned, crushing Paul, aged 8, who had darted across the road without looking. Paul's arm and leg were broken in the crush.

**Advise Paul as to his rights and remedies against Martin through Negligence in relation to his injuries.**

Andrews had owned and operated a chemical factory for many years. Originally, the site was fairly isolated but a new housing estate had recently been built which was situated about a mile from the factory. Residents of the housing estate complained that their properties had been damaged by a chemical which was released into the air from the factory when a new manufacturing process proved to be faulty. They also alleged that the release was responsible for a significant rise in skin complaints, particularly amongst children.

**Advise the residents on whether their rights and remedies under Rylands v Fletcher in relation the pollution caused by the factory.**

Potts Ltd ran a builders merchants which was often visited by suppliers, tradespeople and customers, sometimes on foot, sometimes by car. Potts Ltd had put up a notice at the entrance to the yard which warned everyone to be careful of the many holes in the surface of the yard. When Chris arrived and got out of his lorry, he put his foot into a deep hole, which was partly filled with water. In consequence, he broke his ankle and had to take 3 months off from his job as a lorry driver.

**Advise Chris as to his rights and remedies under Occupier's Liability in relation to his broken ankle.**



**Question 9 – This will be an essay question, where you describe an element of theory (usually justice or fault) and then link the theory to an area of law which is specified in the question. (10 marks theory + 5 marks application)**

**The principles concerning pure economic loss are very strict. Examine the meaning of fault and discuss the extent to which negligent misstatement is based on fault. (15 marks)**

--	--

**Examine the reasons why the law imposes vicarious liability on employers in relation to the torts of their employees. Discuss the extent to which the rules concerning whether an employee is acting in the course of employment reflect those reasons. (15 marks)**

--	--

**Question 10 – This will be a long scenario. There will usually be three topics (torts including relevant defences and remedies) to either prove or disprove. You are essentially writing three of my model answers – each should only take 10 minutes, so you'll need to be concise. You cannot include every theory principle I taught you, be selective and relevant. (30 marks)**

Harry engaged workmen to complete a loft conversion on his house. Kris erected scaffolding to enable him to have safe access to the roof, but he and Harry were annoyed to discover that youths, including Lennie, had been playing about on it at night. Whilst climbing a ladder on the scaffolding late one night, Lennie fell and broke his back because the ladder was not properly secured. The next day whilst Kris was on the roof, a loose chimney pot toppled off the chimney stack and struck him. Kris overbalanced and fell from the roof, breaking his arm and leg. Manjit happened to be passing by at the time and was almost struck by Kris. Manjit suffered severe panic attacks for months afterwards.

**Consider whether Lennie, Kris and Manjit have any rights and remedies in connection with their various injuries. (30 marks)**

--	--	--

Colin hired a narrowboat for a day's trip along the canal. He had never previously steered a narrowboat and he found it difficult. As he rounded a gentle bend in the canal, he lost control and the boat began to drift to the opposite bank. At that moment, a boat steered by Derek, an experienced narrowboat owner, was approaching from the opposite direction. Derek was not keeping proper lookout because he was distracted by a conversation he was having with his wife, Ellie, who was inside the narrowboat. Colin's boat struck Derek's, knocking both Derek and Ellie's closest friend, Fran, into the water. Derek swallowed a lot of water and subsequently suffered from a serious kidney infection. Fran was seriously injured when crushed between Colin's boat and the canal wall. Ellie witnessed Fran being crushed and was extremely distressed for months afterwards.

**Consider the rights and remedies of Derek, Ellie and Fran against Colin in relation to the collision. (30 marks)**

--	--	--

**Question 11 – This will be a long scenario. There will usually be two substantive topics (torts including defences and remedies) to either prove or disprove. This is worth 23 marks. There will also be an evaluative theory element related to the scenario. This is worth 7 marks. (23 marks scenario + 7 marks theory)**

George and Harry were neighbours who were considering loft conversions in their respective houses. George engaged Index Services to advise him on the suitability of his house for the conversion. Index Services sent Jim, a surveyor, whom they usually used for this purpose. Jim advised that George would first need to strengthen the ceilings below the loft, at a cost of about £3000. Harry was in George’s house at the time and asked Jim whether the same would be true for Harry’s house. After a very quick look at Harry’s loft, Jim said that it would. Harry spent £2500 on strengthening the ceilings before discovering that only a small area actually required any work. This could have been done for about £500.

**Consider whether Harry has any rights and remedies against Jim and against Index Services in connection with the advice about the work to strengthen the ceilings.**

**Assess the extent to which the rules on vicarious liability are based on fault. (30 marks)**

--	--	--

Andrew recently bought a disused boatyard situated alongside a canal. Close by were a number of houses which had been built after the boatyard had closed down. Andrew restored the buildings and began work repairing, servicing and maintaining all kinds of boats. Andrew worked very long hours and the residents in the houses were annoyed by the noise from the boatyard, and by the traffic problems caused when some boats were transported around the narrow lanes. When the residents suggested to Andrew that he could reduce the hours that he worked, he reacted angrily and seems to work even longer hours. Whilst Andrew was working on an old diesel engine, a small explosion took place which resulted in oily deposits being thrown out onto the garden of Brian, whose house was closest to the boatyard.

**Consider the rights and remedies of Andrew's neighbours in relation to the noise and traffic.**

**Consider the rights and remedies of Brian in relation to the oily deposits.**

**Assess the extent to which injunctions achieve a fair balance of interests in nuisance cases. (30 marks)**

--	--	--