

Pearson BTEC Level 3 Nationals Certificate/Extended Certificate

# Applied Law

## Unit 1: Dispute Solving in Civil Law

**Part A**

Release date: Monday 30 April 2018

Paper Reference

**20168K**

**You do not need any other materials.**

### Instructions

- **Part A** contains material for the completion of the preparatory work for the Set Task in **Part B**.
- **Part A** is given to learners one week before **Part B** is scheduled. Learners are advised to spend no more than 6 hours on **Part A**.
- **Part A** must be given to learners on the date specified by Pearson so that learners can prepare in the way specified.
- **Part A** is specific to each series and this material must only be issued to learners who have been entered to take the task in that series.
- **Part B** materials for the Set Task must only be issued to learners on the date specified by Pearson.

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## Instructions to Teachers/Tutors

This paper must be read in conjunction with the information on conduct for the task in the unit specification and in the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

This Set Task has a preparatory period. **Part A** sets out how learners should prepare for the completion of the task under supervised conditions.

Learners should undertake independent research on the **Part A** Set Task Information given in this booklet.

Learners are advised to spend no more than 6 hours undertaking **Part A**.

Centres must issue this booklet at the appropriate time and advise learners of the timetabled sessions during which they can prepare. It is expected that scheduled lessons or other timetabled slots will be used for some or all of the preparation.

Learners may prepare summary notes on the **Part A** Set Task Information. Learners may take up to two A4 sides of notes into the supervised assessment period (**Part B**). Learner notes must only contain details of legal principles and authorities, such as case law and statute law. Learner notes must also comply with the guidelines stated in the Administrative Support Guide for this unit.

Teachers/tutors cannot give any guidance or feedback to learners in the preparation of assessment notes, which must be completed independently by the learner.

The **Part B** supervised assessment will take place in a timetabled slot on a date specified by Pearson.

Refer carefully to the instructions in this booklet and the *Instructions for Conducting External Assessments (ICEA)* document to ensure that the preparatory period is conducted correctly so that learners have completed their preparation validly and independently.

Learner notes will be retained securely by the centre after the **Part B** supervised assessment and may be requested by Pearson if there is suspected malpractice.

## Instructions for Learners

Read the Set Task Brief and the Set Task Information carefully.

This contains **Part A** of the information you need to prepare for the Set Task in **Part B**.

In **Part B** you will be given detailed information. Use this **Part A** booklet to prepare by relating your learning to the specific information given.

You must work independently and must not share your work with other learners.

Your teacher/tutor may give you guidance on when you can complete the preparation.

Your teacher/tutor cannot give you guidance or feedback in the preparation of your assessment notes.

### Set Task Brief

You must research the law relating to the extracts in the **Part A** Set Task Information.

You need to know about the law of negligence, including damages.

You also need to know about civil dispute resolution, enforcement of civil law and how precedent works.

In **Part B** you will need to apply your research to the new information provided.

Using this **Part A** booklet, you may prepare short notes to refer to when completing the Set Task in **Part B**, for example on specific cases. Your notes may be up to two sides of A4. Your notes must only contain details of legal principles and authorities, such as case law and statute law.

You should spend no more than 6 hours on this research.

## Part A Set Task Information

### SOURCE A

You are acting for your client, Claire Smith, who has been to see you about an injury she received when she was hit by a golf ball when she was walking through a local golf course. You have been asked to include your findings in a client file to assess Claire's chances of a successful claim and recommend further action. You have been told to consider the following information, which will assist your research.

### SOURCE B

#### Breach and the Likelihood of Harm

A claim in negligence requires the claimant to prove that the defendant owed them a duty of care, that the defendant breached their duty of care and that the breach caused reasonably foreseeable harm. When a duty of care has been established, it is then necessary to prove a breach of that duty. The test is an objective one that measures the potential breach based on what the reasonable man or woman would do in the same circumstances.

In some situations other characteristics may be taken into account. In the following cases the likelihood of harm based on the precautions taken was taken into account.

In ***Bolton v Stone* [1951] AC 850 (HL)**<sup>1</sup> Miss Stone was standing on the pavement when she was hit by a cricket ball that had been hit out of a cricket ground nearby. She was standing 100 yards away from where the ball was hit and she was 78 yards from a 17-foot-high fence that the ball had gone over. Cricket had been played at the ground for 90 years and there was evidence that balls had only been hit out of the cricket ground six times in the last 30 years. The cricket club was held not to be liable. It was held that the likelihood of harm was extremely low and that the club had done everything they could be reasonably expected to do to avoid such incidents. There was no breach of duty according to Lord Ratcliffe, who stated that 'unless there has been something which a reasonable man would blame as falling beneath the standard of conduct that he would set for himself ... there has been no breach of legal duty.'

In ***Miller v Jackson* [1977] 3 All ER 338**<sup>1</sup>, Mrs Miller did not suffer any personal injury but her property was damaged when cricket balls were hit out of a cricket ground next to her house. The club had built a fence, but the fence was of limited effectiveness and cricket balls were hit over the fence eight or nine times a season. In this case, the club were held liable in negligence as a greater risk of damage than normal increases the standard of care expected.

### Acknowledgments

<sup>1</sup> Source from: <http://www.bailii.org>

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# Applied Law

## Unit 1: Dispute Solving in Civil Law

**Part B**

Tuesday 8 May 2018

**Supervised hours: 1 hour 30 minutes**

Paper Reference

**20168K**

**You do not need any other materials.**

### Instructions

- **Part B** contains material for the completion of the Set Task under supervised conditions.
- **Part B** should be undertaken by learners in 1 hour 30 minutes on the date specified by Pearson.
- **Part B** is specific to each series and this material must only be issued to learners who have been entered to undertake the task in that series.
- **Part B** should be kept securely until the start of the supervised assessment period.
- This booklet should not be returned to Pearson.

### Information

- The total mark for this Set Task is 60 marks.

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## Instructions to Teachers/Tutors/Invigilators

This paper must be read in conjunction with the information on conduct for the task in the unit specification and the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

The **Part B** Set Task is undertaken under supervision in a single session of 1 hour 30 minutes on the timetabled date.

The **Part B** Set Task requires learners to apply research. Learners should bring in notes as defined in **Part A**. The teacher/tutor and/or invigilator needs to ensure that notes comply with the requirements set out in the Administrative Support Guide for this unit.

Learners will need to complete the activities for the **Part B** Set Task using a computer.

The **Part B** Set Task is undertaken in a single session of 1 hour 30 minutes in a timetabled period. In order to enable learners to have access to computer resources, a period of one day is provided for centres to timetable the assessment.

Centres should schedule all learners in the same session if possible and must release **Part B** to individual learners only for their scheduled session.

Learner's work must be completed independently and authenticated before being submitted to Pearson by the teacher/tutor and/or invigilator.

Learners must not bring anything into the supervised environment or take anything out of it without your knowledge and approval.

Centres are responsible for putting in place appropriate checks to ensure that only permitted material is introduced into the supervised environment.

### Maintaining security

- During supervised assessment periods, the assessment areas must be accessible only to the individual learner and to named members of staff.
- Learners can access their work only under supervision.
- Any work that learners produce under supervision must be kept securely.
- Any materials being used by learners must be collected in at the end and retained by the centre.
- Learner notes related to **Part A** must be checked to ensure length and contents comply with the requirements. Learner notes will be retained securely by the centre after **Part B** has been undertaken and may be requested by Pearson if there is suspected malpractice.

### Outcomes for submission

The learner will need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a solicitor's letter for Activity 2
- a completed Declaration of Authenticity.



### Instructions for Learners

Read the activities **and** the Set Task Information carefully.

You have a total of 1 hour 30 minutes in this session to complete the task.

You should use the notes you prepared during **Part A** to complete this Set Task.

Your notes must be your own work and will be retained by your centre until results are issued.

You will complete this Set Task under supervision and your work will be kept securely at all times.

You must work independently throughout the supervised assessment period and must not share your work with other learners.

You should complete **both** activities.

### Outcomes for submission

You will need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a solicitor's letter for Activity 2
- a completed Declaration of Authenticity.

Your work must be word processed in size 12-point font.

Your prepared notes do not need to be submitted with the final outcomes to Pearson.

## Set Task

You should complete **both** activities.

Using the information provided in the **Set Task Information** and your notes from **Part A**, complete the following activities.

### Activity 1

You are a trainee solicitor at Willow and Lake Solicitors who are advising a client, Claire.

You have been asked to prepare file notes to be included in the Client Advice File relating to Claire's case.

The file notes need to:

- show your understanding of the law relevant to the law of negligence
- show how the law of negligence applies to this case
- establish the likely outcome of the case.

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**(Total for Activity 1 = 30 marks)**

### Activity 2

Claire has been informed of the likely outcome of the case and she now wants further advice.

Prepare a solicitor's letter that shows your understanding of:

- the likely damages Claire could expect if she is successful
- the ways in which the claim could be funded and alternative sources of advice
- the use of Alternate Dispute Resolution instead of using the appropriate civil court for Claire's case.

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**(Total for Activity 2 = 30 marks)**

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**TOTAL FOR PAPER = 60 MARKS**

### **Set Task Information**

Claire was walking along a public right of way through Bigtown Golf Club when she was hit by a flying golf ball.

At the time of the incident Bigtown Golf Club was closed for maintenance.

Warning signs at the entrance to the golf course and on the public right of way cautioned players and pedestrians not to use the course.

Despite the club's closure, Bob was practising shots close to the path when he hit Claire with a ball.

She has sustained minor injuries that you have been advised are worth less than £3,000. She has also been off work for the last two weeks and lost £800 in earnings.

Claire is complaining that she is now agoraphobic (afraid to go outdoors) as a result of the incident.

Claire is not on a high income and is unsure if she can afford a lawyer.

Claire is worried about going to court as she thinks it will be quite intimidating.



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