

Pearson BTEC Level 3 Nationals Certificate, Extended Certificate

May 2019

Paper Reference **20168K**

Applied Law

Unit 1: Dispute Solving in Civil Law

Part A

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.

Turn over ►

W61141A

©2019 Pearson Education Ltd.

1/1/1/1




Pearson

BLANK PAGE

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 on 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 are advised to spend no more than 6 hours on this research.

Part A Set Task Information

SOURCE A

The file of a client, Rhiannon Jones, has been passed to you for further action. Rhiannon was injured when she was knocked over on the pavement by a skateboarder, Branwen Owen. Rhiannon wants to sue Branwen for her negligence. You have been directed to the following legal authority, which you are advised will be important.

SOURCE B

Robinson v Chief Constable of West Yorkshire Police [2018] UKSC 4

“The case concerned an injury to a member of the public present at the scene of an arrest. On appeal to the United Kingdom Supreme Court the law on the imposition of duties of care was reviewed.

The proposition that there is a *Caparo* test which applies to all claims in the modern law of negligence, and that in consequence the court will only impose a duty of care where it considers it fair, just and reasonable to do so on the particular facts, is mistaken. [21].

[...] there are many situations in which it has been clearly established that a duty of care is or is not owed: for example, by motorists to other road users, by manufacturers to consumers, by employers to their employees, and by doctors to their patients. [...] Where the existence or non-existence of a duty of care has been established, a consideration of justice and reasonableness forms part of the basis on which the law has arrived at the relevant principles. It is therefore unnecessary and inappropriate to reconsider whether the existence of the duty is fair, just and reasonable (subject to the possibility that this court may be invited to depart from an established line of authority). [26]

It is normally only in a novel type of case, where established principles do not provide an answer, that the courts need to go beyond those principles in order to decide whether a duty of care should be recognised. Following *Caparo*, the characteristic approach of the common law in such situations is to develop incrementally and by analogy with established authority. The drawing of an analogy depends on identifying the legally significant features of the situations with which the earlier authorities were concerned. The courts also have to exercise judgement when deciding whether a duty of care should be recognised in a novel type of case. [27]

[...] it is neither necessary nor appropriate to treat *Caparo Industries v Dickman* [1990] 2 AC 605 as requiring the application of its familiar three-stage examination afresh to every action brought. Where the law is clear that a particular relationship, or recurrent factual situation, gives rise to a duty of care, there is no occasion to resort to *Caparo*, at least unless the court is being invited to depart from previous authority. [100]”

(Source: Adapted from the judgment in *Robinson v Chief Constable of West Yorkshire* [2018] available at: <https://www.supremecourt.uk/cases/uksc-2016-0082.html>)

© Crown Copyright 2018

Pearson BTEC Level 3 Nationals Certificate, Extended Certificate

Tuesday 7 May 2019

Supervised hours: 1 hour 30 minutes

Paper Reference **20168K**

Applied Law

Unit 1: Dispute Solving in Civil Law

Part B

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.

Turn over ►

P61142A

©2019 Pearson Education Ltd.

1/1/1




Pearson

Instructions to Teachers/Tutors and/or 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 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 learners 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 paralegal working for 'Blame 'n' Claim Ltd', a personal injury claims management company. You are responsible for gathering information from telephone interviews with potential claimants.

You have been asked to prepare file notes from one such interview to be included in the Client Advice File relating to Rhiannon Jones'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.

(Total for Activity 1 = 30 marks)

Activity 2

Rhiannon has been told of the likely outcome of the case and she now wants more advice.

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

- the likely damages Rhiannon could expect if she is successful
- the ways in which the claim could be funded and alternative sources of advice
- the appropriate track and civil court, and why Alternative Dispute Resolution would not be suitable for Rhiannon's case.

(Total for Activity 2 = 30 marks)

TOTAL FOR PAPER = 60 MARKS

Set Task Information

Your client, Rhiannon, was walking along the pavement when she was knocked over by a passing skateboarder, Branwen. Witness statements and CCTV footage establish the following facts:

- Rhiannon was using the pavement in a normal manner and speed and could clearly be seen by other people using the pavement
- the weather was dry and clear
- Rhiannon was wearing earphones, that may have limited her awareness of her surroundings
- Branwen was wearing skateboarding safety clothing and a helmet but she was travelling too fast and she should not have been skateboarding on the pavement.

As a result of the accident, Rhiannon sustained a broken arm. She has been told that the claim could be worth up to £10,000.

Rhiannon works as a self-employed mechanic. She earns approximately £300 a week. Because of the accident she was not able to work for six weeks.

Branwen is a well-paid graphic designer and has a significant income.

You are aware of cases involving bicycles but not skateboards.



BLANK PAGE



BLANK PAGE



BLANK PAGE

