

Pearson BTEC Level 3 Nationals Certificate, Extended Certificate

January 2020

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.

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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 six hours on this research.

Part A Set Task Information

Orchard v Lee [2009] EWCA Civ 295

This case involved two 13-year-old schoolboys. Whilst playing tag at school, one of them ran into the lunchtime supervisor. Although her initial injuries seemed slight, they later developed into quite serious injuries and she brought a case against the boys. The trial judge dismissed the claim saying that, despite his sympathy for the appellant, he was satisfied that it was a simple accident caused by 'horseplay between two 13-year-old boys in and around an outside courtyard ... boys doing what boys do'. The case was then appealed.

During the appeal, the court referred to the earlier case of *Mullin v Richards* [1998], which involved two schoolgirls 'play-fighting' with plastic rulers. A ruler snapped and one of the girls sustained an eye injury. In this case, the court approached the issue as to whether a 16-year-old girl should be held liable by primarily addressing the question of foreseeability of injury.

However, in *Orchard v Lee*, the judge doubted this approach and said 'I respectfully suggest that the primary question should be whether the conduct of the child is culpable, i.e. whether it has fallen below the standard that should objectively be expected of a child of that age. That will be assisted by what injury the child could foresee as likely to be caused by that conduct, but that is still a separate question.'

The judge then referred to an Australian case called *McHale* and concluded that the proper approach was that 'for a child to be held culpable the conduct must be careless to a very high degree and where a child of 13 is partaking in a game within a play area, not breaking any rules, and is not acting to any significant degree beyond the norms of that game, he or she will not be held culpable'.

(Source: adapted from the judgment in *Orchard v Lee* [2009]
available at: <https://www.bailii.org>)

(Source: © Crown Copyright 2019)

Pearson BTEC Level 3 Nationals Certificate, Extended Certificate

Wednesday 8 January 2020

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.

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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

Learners 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 working as a case adviser for Ontheline Solicitors, a web-based law firm. They are responding to information left on an online enquiry form by Pawel Gaboska.

You have been asked to prepare further file notes to be included in the Client Advice File relating to Pawel'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

Pawel has been informed of the likely outcome of the case and now he wants further advice.

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

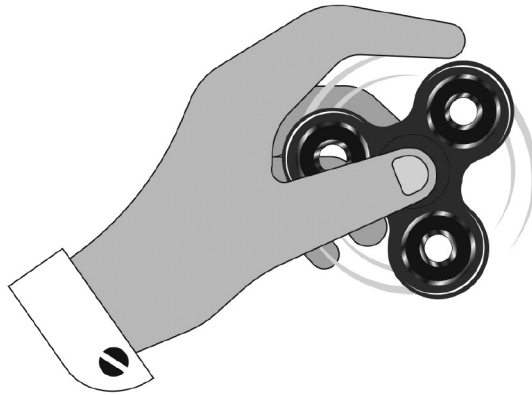
- the likely damages Pawel could expect if he is successful
- the ways the claim could be funded and alternative sources of advice
- the use of Alternate Dispute Resolution instead of using the appropriate civil court for Pawel's case.

(Total for Activity 2 = 30 marks)

TOTAL FOR PAPER = 60 MARKS

Set Task Information

Your potential client, Pawel (who is 15 years old), suffered injuries to his eye when he was hit in an unusual accident. The accident happened at Gregor's house during his birthday party. Pawel's friend, Gregor (also 15 years old), was given a fidget spinner for his birthday.



(Source: © vivasis/Shutterstock)

A common example of a fidget spinner

Gregor's fidget spinner is a metal star-shaped device designed not only to spin but to perform throwing tricks. These devices had been banned at school where there had been a school assembly to warn pupils of the dangers of fidget spinners – especially when attempting throwing tricks. The spinner came with a warning not to use the device indoors or near people, animals or breakable objects.

In spite of all the warnings, Gregor was showing off by spinning the device very fast and attempting throwing tricks indoors. He then decided to see how close to Pawel he could throw the spinner without hitting him. Pawel and the other party guests were warning him that there would be an accident. Shortly afterwards, he lost control of the spinner, which flew into Pawel's eye.

Pawel was rushed to hospital where it was confirmed that he had lost the sight in one eye. Since the accident, Pawel has had a number of issues.

- As he can no longer see properly, he has lost his job as a youth football referee for which he was paid £32 a match and could always rely on three matches every week.
- He has become depressed and anxious about the effect his injuries may have on his future.
- He has developed blurred vision in his other eye because he has not been taking the medication he was prescribed and he has not been attending his therapy sessions.

As a schoolboy, Gregor has very few financial assets. However, his parents have legal insurance that covers all accidents in the home.

Pawel also has few financial assets and has been advised that there is no legal aid for personal injury cases. However, he has been advised that the damages for the loss of one eye would be £40,000 to £50,000.

A colleague's research has disclosed that there are no cases involving harm by fidget spinners.



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