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Centre number

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Candidate number

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Surname

Forename(s)

Candidate signature

GCSE LAW

Paper 2 Law in Action

Thursday 19 May 2016

Afternoon

Time allowed: 1 hour 30 minutes

Materials

You will need no other materials.

Instructions

- Use black ink or black ball-point pen.
- Fill in the boxes at the top of this page.
- Answer any **two** questions based on the topics you have studied.
- Answer **all** parts of the questions you choose.
- You must answer the questions in the spaces provided. Do not write outside the box around each page or on blank pages.
- Do all rough work in this book. Cross through any work you do not want to be marked.
- Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Information

- The marks for questions are shown in brackets.
- The maximum mark for this paper is 90.
- In questions 1(d), 2(e), 3(f)(ii) and 4(a)(ii), you will be marked on your ability to:
 - use good English
 - organise information clearly
 - use specialist vocabulary where appropriate.

Answer these questions in **continuous prose**.

Advice

- You are advised to spend no more than 45 minutes on each of the two questions you answer, and to read through **all** parts of a question before you start your answer.



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Answer any **two** questions based on the topics you have studied during your course.

Carefully read all questions before you make your choice.

Answer **all** parts of the questions you choose.

As you work through the parts of the questions you choose, you will need to refer back to the scenario which is given at the beginning of each question.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Tort

1 The tort of nuisance exists in two different forms.

- Public nuisance consists of actions which cause annoyance, inconvenience or danger to the general public or some section of the public.
- Private nuisance consists of the unreasonable interference with a person's use or enjoyment of his land.

Negligence involves the claimant being able to prove that the defendant breached a duty of care, resulting in damage to the claimant or their property. A similar duty of care is owed by occupiers of land to lawful visitors under the Occupiers Liability Act 1957.

A defendant who is sued may be able to plead one of a number of defences in order to escape liability. These defences include consent, Act of God and inevitable accident.

The Problem

Adney Town Council (ATC) has recently opened a children's adventure playground in their area. The playground is open from 9.00 am until 8.00 pm, seven days a week and is supervised by play group leaders who are employed by ATC. The playground is designed for both younger and older children, with height restrictions on some of the equipment. During the first six months of operation, there have been a number of problems associated with the playground.

- ATC have received a large number of complaints from local residents. They are complaining about excessive noise from the playground, both during the day and at night, even when the playground is supposed to be closed. Bev, who lives closest to the playground, has complained about the noise which prevents her from sleeping. She has also complained about an increase in the number of cars parking along her road which frequently block her drive.
- Cal, aged 7, was using the playground one day after school. He decided to go on the rope slide, even though he was too small to use it. Dipak, the supervisor, was texting on his mobile phone and did not see Cal using the slide. Cal fell and broke his leg.
- Erik, aged 14, was using the playground one Saturday morning. He fell off the platform of the giant slide because a safety bar had not been properly secured. As a result of his fall, Erik suffered a fractured skull. Fran, the supervisor on duty, had failed to notice the problem with the safety bar when she opened the playground that day.
- Gavin, aged 19, climbed over the playground fence one night. He was followed by his younger brother Hal, aged 5. Because it was dark, neither noticed that a piece of equipment had been removed and that there was a deep hole in a corner of the playground. They both also failed to notice the warning signs which had been put up by ATC. Both Gavin and Hal fell into the hole, suffering serious injuries.



Extra space

1 (c) (i) Cal proceeds with a claim in negligence. Outline **both** of the following:

- how he would prove that he was owed a duty of care
and
- how he would prove that the duty was breached.

[6 marks]



Extra space

1 (c) (ii) Briefly discuss **both** of the following:

- whether Cal would have a valid claim for negligence against Dipak’s employer, ATC
and
- whether Cal would be able to successfully claim full damages under these circumstances, or whether his damages would be reduced.

[6 marks]



Turn over ►

Extra space _____

1 (d) Compare, contrast **and** briefly comment on the **remedies** available in nuisance and negligence cases. **(Answer in continuous prose.)**

[6 marks]

Extra space _____



1 (f) (ii) Comment on whether occupiers of land should be held liable for injuries to trespassers.

[4 marks]

Extra space

Turn over for the next question

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Turn over ▶

2

Criminal Law

There is a range of non-fatal offences against the person. These offences include:

- assault and battery – these are two separate offences, governed by the Criminal Justice Act 1988,
- assault occasioning actual bodily harm – this is an offence based upon an injury to the victim and is governed by the Offences Against the Person Act 1861,
- grievous bodily harm and wounding – these offences exist in different forms and are also governed by the 1861 Act.

There is also a range of property offences set out in the Theft Acts 1968 and 1978. These offences include:

- theft – requires the dishonest appropriation of property belonging to another with the intention to permanently deprive,
- burglary – exists in several different forms, governed by S.9(1)(a) and S.9(1)(b) Theft Act 1968,
- making off without payment – governed by the Theft Act 1978.

A person charged with any of these criminal offences may be able to plead a general defence which, if successful, may lead to an acquittal. These defences include intoxication, self-defence, duress, insanity and consent.

The Problem

Ivan is the landlord of the Jockey and Whip public house. The pub has a large bar and restaurant and also a smoking area at the back, facing the pub's beer garden. One Saturday night, Ivan was forced to deal with a number of incidents in his pub which eventually led to the police being called and arrests being made. The incidents were as follows:

Kevin was smoking a cigarette in the back garden. Len objected to the smell of smoke and an argument broke out between them. Len threatened to "stuff the cigarette down Kevin's throat" and Kevin reacted by pushing Len, who fell against a table, bruising his arm.

Len's friend, Mick, who was very drunk, then grabbed Kevin and head-butted him in the face. Kevin was later found to have a broken nose and fractured cheekbone.

Ivan, seeing that Kevin was injured, came from behind the bar to protect his customer. He grabbed a chair and smashed it over Mick's head. Mick suffered a fractured skull and was in hospital for weeks afterwards.

In all the commotion, Ivan did not notice Norris who had gone behind the bar, opened the till and grabbed a handful of £10 notes. In addition, Olive, who was short of money, took Mick's wallet from his jacket which was on the back of a chair in the bar. She then left the pub. Penny, who had just finished her meal in the restaurant, noticed that all the staff were dealing with the incident in the garden and left the pub without paying for her meal.



2 (a) Consider the criminal liability of the following:

2 (a) (i) Len, for what he said to Kevin,

2 (a) (ii) Kevin, for what he did to Len.

[6 marks]

Extra space



2 (b) Discuss Mick's criminal liability for the incident with Kevin. Your answer should include any defence he may be able to plead.

[8 marks]

Extra space _____



2 (c) Discuss Ivan's criminal liability for the incident with Mick. Your answer should include any defence he may be able to plead.

[8 marks]

Extra space _____



2 (d) Norris, Olive and Penny are all likely to be prosecuted for property offences under the Theft Acts.

2 (d) (i) Consider the criminal liability of Norris for taking the money from the till.

[5 marks]

Extra space

2 (d) (ii) Consider the criminal liability of Olive for taking Mick's wallet.

[4 marks]



Extra space

2 (d) (iii) Consider the criminal liability of Penny for leaving the pub without paying for her meal.

[4 marks]

Extra space



Turn over ►

2 (e) Comment on any problems relating to the law of theft. **(Answer in continuous prose.)**

[5 marks]

Extra space



3

Family Law

Different Acts of Parliament control both the making of a will and the distribution of an estate where the deceased dies without leaving a valid will (intestate). The legislation requires that certain basic requirements must be met for making a will.

In 2014, new rules governing the distribution of an estate following an intestacy were brought in. These rules are designed to protect the succession rights of any surviving spouse and children of the deceased.

A will can be revoked in a number of ways including destruction, or by marriage/civil partnership. Divorce will also affect the rights of the ex-spouse.

A will can be contested under the provisions of the Inheritance (Provision for Family and Dependents) Act 1975.

The Problem

Quinn and Rosie have been married for 35 years and have two children, Samantha aged 18, and Tim aged 15. They also have two older adopted children, Una aged 24, and Vic aged 20. Samantha and Tim both live at home. Vic is away at university. Una left home five years ago, is married to Wesley and has a baby daughter, Yasmin. Following a row with Rosie, Una never contacts her parents and has not visited home for over three years.

Quinn and Rosie both made new wills shortly after Tim was born. Both left their entire estates to each other, but in the event of them both dying together, their entire estates were to be split equally between their children. Neither of them made any provision for Rosie's father, Colin, who lived in a nursing home and was financially supported by Quinn and Rosie.

Quinn's will, in those terms, was safely locked in his desk at home. Rosie tore up her will six months ago saying that she was going to make a new will, and leave nothing to Una. However, she failed to make a new will before she and Quinn were both killed in a car accident two months ago. Quinn and Rosie's estates are valued at £400 000 each.

Una also made a will, using a wills form which she bought from her local newsagents. In it, she left everything in trust to her daughter, Yasmin. She left nothing to Wesley because she was thinking about leaving him. Having written her will, she signed it at the bottom of the first page, forgetting that her will continued on the next page. She asked her blind friend, Zoe, to sign as a witness, which she did. She then asked her next door neighbour, Alan, and his 13-year-old daughter, Bella, to also sign as witnesses, which they did. Two weeks ago, Una was killed in an accident at work. Her estate on her death was worth £350 000.



Extra space



3 (c) Outline what will happen to Una's estate if her will is declared invalid.

[4 marks]

Extra space

3 (d) Briefly explain the legal effect on a will of **each** the following:

- destruction of a will
- **and**
- how a divorce will affect the rights of the ex-spouse.

[5 marks]



Extra space

3 (e) Briefly explain what will happen to both Quinn **and** Rosie's estates in the circumstances set out in the problem.

[6 marks]



Turn over ►

3 (f) (ii) Both Wesley and Colin have a right under the Inheritance (Provision for Family and Dependants) Act 1975 to contest the terms of a will.

Discuss whether or not these rules are fair. **(Answer in continuous prose.)**

[6 marks]

Extra space _____



4

Rights and Responsibilities

The law sets out the duties owed by one person to another and also the rights that all people have. Many of these rights are contained within the Human Rights Act 1998. However, most of these rights are restricted in some way.

For example, people have the right to communicate thoughts and ideas to others, both when speaking and in writing. They also have a duty not to damage the reputation of those they speak or write about. Breaching that duty can lead to an action for defamation.

People also have the right, subject to restrictions, not to be discriminated against in the workplace on the grounds of race, gender or disability. In addition, employees are largely protected from being sued if they commit a tort whilst working for their employer.

Article 6 of the Human Rights Act contains the right to a fair trial. English law contains a number of provisions which are designed to protect that right.

The Problem

The Courier is a free local newspaper, published once a week and distributed to all properties in the area. The Courier employs a number of people including Dan, who works in the local news department.

Dan has been investigating a major story concerning the local council's dealings with a waste disposal company (WDC). The company is keen to build a waste incinerator on the edge of town, but there has been a lot of local environmental opposition led by Flora. Flora has told Dan that she has evidence that Grant, a council official, has accepted a 'bribe' from WDC to support the plans for the incinerator. Dan is planning to print the story in next week's Courier.

Last week, The Courier accepted an advert from Ernie. Ernie was offering to sell a set of golf clubs for 'around £100'. Freddie rang the number in the advert and left a message to say he was willing to pay the £100. However, Ernie had already sold the clubs privately for £120. Freddie has since contacted The Courier to complain about Ernie's actions.

The Courier has also had to deal with two separate incidents involving two of their delivery drivers, Ian and Janis. In the first, Ian was delivering newspapers to a local newsagent and was involved in a collision with a parked car owned by Kalini. Kalini's car was slightly damaged and will cost about £500 to repair. In the second, Janis was supposed to be delivering newspapers, but had taken a short detour to collect her sick daughter from school. Whilst driving quickly to the school, Janis hit and badly damaged a car belonging to Len.

As a result of these incidents, both drivers faced disciplinary action. Ian was given a formal warning about the standard of his driving, but Janis was dismissed from her job. Janis is convinced that she was treated more harshly either because she is a woman or because she is black.



Extra space _____

4 (c) (ii) Discuss the liability of The Courier as a result of the incident between Janis and Len.

[4 marks]

Extra space _____



Turn over ►

4 (c) (iii) Briefly discuss the advantages **and** disadvantages of an employer being found liable for any tort committed by an employee.

[4 marks]

Extra space _____

4 (d) Janis is clearly convinced that she has not been treated fairly by The Courier.

Outline the legal implications of any unfair treatment arising from:

- the fact that she is a woman
and
- the fact that she is black.

[6 marks]



Extra space

4 (e) Any of the above ‘cases’ could eventually need a hearing in court or elsewhere.
State where **each** of the following cases would be heard **and** briefly explain your answers:

- Grant’s case against The Courier
- Kalini’s case against The Courier
- Janis’s case against The Courier.

[5 marks]



Turn over ►

- 4 (f)** Article 6 of the Human Rights Act contains the right to a fair trial.
Discuss the different ways in which the right to a fair trial is protected under English law.

[6 marks]



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45

END OF QUESTIONS



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