

WJEC Eduqas GCE AS in LAW

Component 2 Section A: The Law of Tort Suggested activities



Component 2 Section A: The Law of Tort

EXAM LEVEL: AS LEVEL

AREA OF STUDY: Rules of the Law of Tort

Key Points:

- Learners should be able to explain the origins of the law of tort.
- Learners should be able to explain the different categories of tort.

Provides an opportunity to develop the following skills:

- Analysis of data by identifying the key issues and applying the law in order to form a legal argument.
- Analysis, application and evaluation of the legal rules and principles of public and private areas of law.
- Identification and breaking down into constituent parts the relevant legal rules and principles for each area of law and applying those legal principles to a hypothetical scenario.
- Evaluation of the law in order to reach a reasoned conclusion.
- Construction of clear, concise and logical legal arguments which are substantiated by legal authority, using appropriate legal terminology.

Suggested Activities:

1. The Man on the Clapham Omnibus Activity

Learners are to read Lord Reed's explanation of the 'reasonable man' test in Healthcare at *Home Limited v The Common Services Agency* [2014] UKSC 49 paras 1-4.

https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0108_Judgment.pdf

What or who is the reasonable person?

2. Learners are to be divided into groups. Each group then investigates one of the following torts:

- Private nuisance
- Defamation
- False imprisonment
- Trespass to land
- Trespass to the person
- *Rule in Rylands v Fletcher*.

Each group then reports back to the other groups with a brief explanation of that tort.

Useful Websites:

YouTube has some interesting examples of people trying to fake an accident such as slipping in a supermarket or being hit by a car.

BBC News has a variety of articles that cover some of the compensation payments made by the NHS.

Component 2: The Law of Tort

EXAM LEVEL: AS LEVEL

AREA OF STUDY: Liability in negligence for injury to people and damage to property

Key Points:

- Learners should be able to explain the duty of care owed to people and damage to property.
- Learners should be able to apply the neighbour principle and *Caparo* test.
- Learners should be able to explain breach of duty.
- Learners should be able to explain the objective standard of care.
- Learners should be able to apply the reasonable person test.
- Learners should be able to explain causation of damage.
- Learners should be able to apply the 'but for' test.
- Learners should be able to explain legal causation.
- Learners should be able to explain and apply foreseeability and remoteness of damage.
- Learners should be able to explain the effect of an intervening act.
- Learners should be able to explain liability for psychiatric injury.
- Learners should be able to distinguish between primary and secondary victim.
- Learners should be able to understand the main defences to negligence.

Provides an opportunity to develop the following skills:

- Analysis of data by identifying the key issues and applying the law in order to form a legal argument.
- Analysis, application and evaluation of the legal rules and principles of public and private areas of law.
- Identification and breaking down into constituent parts the relevant legal rules and principles for each area of law and applying those legal principles to a hypothetical scenario.
- Evaluation of the law in order to reach a reasoned conclusion.
- Construction of clear, concise and logical legal arguments which are substantiated by legal authority, using appropriate legal terminology.

Suggested Activities:

Much of the case law for negligence can only be understood if the learner has an understanding of the defences to negligence particularly *volenti non fit injuria* and contributory negligence. It should be noted that the defences are not mentioned in the specification and therefore a specific question on a defence will not be set. However, learners should expect questions where defences could be used as a part of their answer.

1. Learners are to make two wall displays in which they:
 - Show Lord Atkin's definition of the neighbour principle
 - State the *Caparo* three-part test.
2. Learners are to select one of the following free online resources to find out more about *Donoghue v Stevenson*.
Incorporated Council of Law Reporting
<http://www.iclr.co.uk/learning-zone/training-materials/the-snail-and-the-ginger-beer/>
Scottish Council of Law Reporting
<http://www.scottishlawreports.org.uk/resources/dvs/mrs-donoghue-journey.html>

3. Learners are to research the following cases:

Blyth v The Company of Proprietors of The Birmingham Waterworks [1856]
Healthcare at Home Limited v The Common Services Agency [2014] UKSC

What is meant by the 'standard of care' (i.e. the reasonable person test)?

4. Learners are to draft an answer to the following question:
Explain what is meant by factual causation in the law of tort.
Points to be considered include:
 - the 'but for' test,
 - intervening acts
 - loss of chance cases
 - supporting case law.
 - Learners are to research the following two cases:
 - *Re Polemis & Furness, Withy & Co Ltd* [1921]
 - *Overseas Tankship (UK) Ltd v Morts Dock and Engineering Co Ltd (The Wagon Mound) (No. 1)* [1961]
 - What are the two tests for remoteness?
 - What is the main difference between the two tests?
 - Which one do the courts follow today
5. Learners are to use their multi-media devices to research the Hillsborough Disaster.
Where did the disaster take place?
What caused the disaster?
How many people died?
Was anyone negligent in causing the disaster?
<https://www.youtube.com/watch?v=MNS26Oj9B4o>

6. Learners are to research whether each of the claimants in *Alcock v Chief Constable of South Yorkshire* [1991] UKHL 5 (28 November 1991) was successful in their claim for negligence.
<http://www.bailii.org/uk/cases/UKHL/1991/5.htm>
7. Learners are to research the following and then answer the question that follows:
- The defence of *volenti non fit injuria*
 - Law Reform (Contributory Negligence) Act 1945 s1(1).
 - For the following three scenarios consider if the driver is liable for your injuries and, if so, whether your damages will be reduced because of your contributory negligence.
 - Scenario One: You accept a lift home from a driver who you do not know is drunk. The car crashes through the negligence of the driver.
 - Scenario Two: You accept a lift home from a driver who you know is drunk. The car crashes through the negligence of the driver.
 - Scenario Three: You accept a lift home from a driver who you do not know is drunk although the reasonable person would have known. The car crashes through the negligence of the driver.

Component 2 – The Law of Tort

EXAM LEVEL: AS LEVEL

AREA OF STUDY: Occupiers' Liability

Key Points:

- Learners should be able to describe liability in relation to lawful visitors under the *Occupiers' Liability Act 1957*.
- Learners should be able to describe liability in relation to trespassers under the *Occupiers' Liability Act 1984*.
- Learners should be able to apply the relevant legislation to hypothetical situations.
- Learners should be able to evaluate the provisions of relevant legislation.
- Learners should be able to discuss special categories of visitors, including children.

Provides an opportunity to develop the following skills:

- Analysis of legislation by applying the rules and principles of misrepresentation and analyzing case law by applying the doctrine of precedent in order to form a legal argument.
- Analysis of a factual scenario by identification of the key facts and applying the law in order to form a legal argument.
- Construction of a persuasive argument including instances where they have recognised that there are no clear legal precedents or conflicting precedents to solve a problem.
- Analysis, application and evaluation of the legal rules and principles of private areas of law.
- Identifying and breaking down into constituent parts the relevant legal rules and principles for each area of law and applying those legal principles to a hypothetical scenario.
- Evaluation of the law in order to reach a reasoned conclusion.
- Analysis and critical evaluation of legal issues by identification of different perspectives, being able to support their identification of the strongest viewpoint and demonstrating the ability to counter alternative viewpoints.
- Construction of clear, concise and logical legal arguments which are substantiated by legal authority, using appropriate legal terminology.

Suggested Activities:

1. Learners could be presented with hypothetical scenarios in order to develop their skills of application. Examples are provided below:
 - a) *Trevor is a milkman delivering milk to Archie's door.*
 - b) *Gordon, a football fan with a season ticket for Arsenal, arrives at the stadium on Wednesday night for the match with Manchester United.*
 - c) *Hannah regularly crosses Farmer Giles's field using a well-known public path.*
 - d) *Grace is at Laura's house on Sunday afternoon as agreed, cleaning it.*
 - e) *Phillip is a fire fighter who has called to Pamela's house for a routine smoke detector test.*
 - f) *Tom regularly climbs over his neighbour's back fence and comes through his back garden on his way home, knowing that his neighbour works late and will be out.*

Learners could make up their own examples using their knowledge, to test each other. These scenarios could be developed further into role play scenarios – learners are split into pairs, one taking the role of the client and one the legal adviser.

2. Picture clues could be created for each key case, and learners are given the task of guessing the case within a set time limit. Timers are available at www.classtools.net or a timed PowerPoint could be created.
3. Flashcards could be created for the key provisions of the legislation – the section of the *Occupiers' Liability Acts* could be printed on one side and the rule of law on the other:
 - a) Learners could test each other with the flashcards; or
 - b) Cards could be randomly picked out of a box and class discussion can be facilitated.
4. Learners could be encouraged to look at newsworthy cases, and these could be used to facilitate discussion on whether the law on Occupiers' Liability is adequate, or is in need of reform. There are some examples below:
 - **Matthew Marsden** drowned in Greenacres Holiday Park in 2009:
<http://news.bbc.co.uk/1/hi/wales/8116163.stm> - BBC News
 - **Kylie Grimes** hit her head on the bottom of a swimming pool during a late-night party in Surrey:
<http://www.bbc.co.uk/news/uk-england-surrey-14387945> - BBC News
 - **PC Richard Seymour** tore his Achilles tendon when he fell down a hole after being called out to a night-time break-in at Maidenhead Aquatics shop.
<http://www.bbc.co.uk/news/uk-england-surrey-22119832> - BBC News
5. Split the class into two sides to facilitate the discussion:

'Is it your civic duty to clear snow and ice from the pavement outside your home?'

Learners should be given time to prepare and research their side of the argument and should be encouraged to use sections of the legislation as well as cases to support their arguments.

Component 2 – The Law of Tort

EXAM LEVEL: AS LEVEL

AREA OF STUDY: Remedies

Key Points:

- Learners should be able to describe the types of damages that can be awarded under the law of tort.
- Learners should be able to explain how damages are calculated.
- Learners should be able to outline the role of injunctions as a remedy in the law of tort.
- Learners should be able to evaluate when damages will be ordered instead of an injunction.

Provides an opportunity to develop the following skills:

- Analysis of legislation by applying the rules and principles of misrepresentation and analysis of case law by applying the doctrine of precedent in order to form a legal argument.
- Analysis of a factual scenario by identification of the key facts and applying the law in order to form a legal argument.
- Construction of a persuasive argument including instances where they have recognised that there are no clear legal precedents or conflicting precedents to solve a problem.
- Analysis, application and evaluation of the legal rules and principles of private areas of law.
- Identification and breaking down into constituent parts the relevant legal rules and principles for each area of law and applying those legal principles to a hypothetical scenario.
- Evaluation of the law in order to reach a reasoned conclusion.
- Analysis and critical evaluation of legal issues by identification of different perspectives, being able to support their identification of the strongest viewpoint and demonstrating the ability to counter alternative viewpoints.
- Construction of clear, concise and logical legal arguments which are substantiated by legal authority, using appropriate legal terminology.

Suggested Activities:

1. Class Discussion:

“Evaluate the concept of measuring loss in damages claims for injured parties.”

Discussion can be facilitated as a debate where one half of the class discusses the positive aspects of the system of measuring damages and the other half discusses the negative aspects. Encourage learners to think about how far the system truly puts the claimant in the position they would have been had the tort not been committed.

2. Learners could be encouraged to research Law Commission papers in relation to proposals for the reform of the law in relation to damages – examples include:

- *The Law Commission 1999 (No 262): DAMAGES FOR PERSONAL INJURY: MEDICAL, NURSING AND OTHER EXPENSES; COLLATERAL BENEFITS*
http://www.lawcom.gov.uk/wp-content/uploads/2015/03/lc262_Damages_Personal_Injury_Medical_Nursing_Collateral_Benefits.pdf
- *The Law Commission 1999 (No 257): DAMAGES FOR PERSONAL INJURY: NON-PECUNIARY LOSS* http://www.lawcom.gov.uk/wp-content/uploads/2015/03/lc257_Damages_Personal_Injury_Non-pecuniary_Loss.pdf

3. Learners could be split into pairs and set role play scenarios in which one person plays the role of the client and one the role of the legal adviser to advise what damages or remedies would be appropriate in the fictional scenario. The scenarios can be drawn from real cases and newsworthy items.