



Foundation Stage: Professional and Legal Skills - Legal Research (F6)

SAMPLE ASSESSMENT 2

First live assessment – January 2022

Note: The formatting of this assessment will appear differently when presented onscreen.

The following sample assessment links to the Professional and Legal Skills module.

This assessment will be sat:

- Online
- Using remote invigilation

Remote invigilated assessments can be taken in any undisturbed location, with good internet connection.

Time allowed: 2 hours and 30 minutes

Instructions to candidates:

- The assessment is closed book
- The task must be completed electronically on the software provided.
- All documentation will be available in the candidates onscreen document library. These documents may be viewed alongside the questions using 'split-screen' functionality.

This assessment is graded pass/fail and carries 40 marks in total.

Notional pass threshold - 60%.

SECTION A

24 marks

Research Process and Methods – Carrying Out Legal Research

Question 1

1 mark

Match the following legal research term with the appropriate definition:

- A** A summary added to the text of a court decision to aid readers in locating discussion of a legal issue in an opinion.
- B** A legal source resulting from judicial precedent or legislative enactment.
- C** The practice of crediting and referring to authoritative legal documents and sources.
- D** The written form of the court's decision. The final ruling in a case which determines the rights and obligations of the opposing parties.

Research Term	Definition
1) Legal Citation	C The practice of crediting and referring to authoritative legal documents and sources.
2) Primary Source	B A legal source resulting from judicial precedent or legislative enactment.
3) Judgment	D The written form of the court's decision. The final ruling in a case which determines the rights and obligations of the opposing parties.
4) Headnote	A A summary added to the text of a court decision to aid readers in locating discussion of a legal issue in an opinion.

Question 2

1 mark

The internet is a useful tool when carrying out legal research, yet you are also likely to make use of print resources such as legal textbooks.

Identify TWO potential advantages of using print resources instead of the internet:

- | | | |
|----------|--|---|
| A | Faster to find the information you need, especially in respect of providing advice on a specific point | |
| B | Provides greater structure to the research process as a textbook offers an opportunity for a narrower, more focused search, than using a keyword search (correct) | X |
| C | Much cheaper to use an established text on the subject, with the added benefit that access is easier | |
| D | More likely to have the relevant information required, due to the ever-changing nature of the law | |
| E | More effective than using the internet when learning about the law, providing context as well as authority | X |

Question 3

1 mark

Carrying out legal research requires you to access other people's work. As an exception to the normal copyright laws, 'fair use' is permitted.

Identify what 'fair use' use entails:

- | | | |
|----------|--|---|
| A | The lawful use or reproduction of work without having to seek permission from the copyright owner or creator or infringing their interest | X |
| B | Establishing a contractual arrangement with the publisher of the work and therefore avoiding the need for permission from the owner or creator | |
| C | Lawfully using or reproducing work having received permission from the copyright holder, usually through the publisher of the work | |
| D | Reproducing or using material from a source which has ceased to be protected by the copyright owner or creator through registration | |

Question 4

1 mark

Which of the following is a primary source?

- A** Child Care Act 1972 (Australian Commonwealth)
- B** The South Somerset (Electoral Changes) Order 2018
- C** Blackstone's Commentaries on the Laws of England (1765–1770)
- D** The Modern Law Review

X

Review the extract from the Limitation Act 1980 and answer the questions below.

Question 5

1 mark

The Act contains the statement that it is “An Act to consolidate the Limitation Acts 1939 to 1980.”

This is the:

- A** Short Title
- B** Long Title
- C** Parliamentary Title
- D** Official Title

X

Question 6

1 mark

Identify when the majority of the Limitation Act 1980 came into force.

- A** 13 November 1980
- B** 8 May 1981
- C** 1 May 1981
- D** 6 August 1981

X

Question 7

1 mark

Identify the date when the Limitation Act was given Royal assent.

- A** 13 November 1980
- B** 12 May 1980
- C** 14 October 1980
- D** 1 May 1981

X

Question 8

1 mark

Identify the territories to which the Limitation Act 1980 extended in its entirety when it was originally enacted.

- A** England, Wales and Northern Ireland
- B** England and Wales
- C** England, Wales and Scotland
- D** England, Wales, Northern Ireland and Scotland

X

Question 9

1 mark

Identify which Act inserted (with saving) Sections 14A and 14B into the Limitation Act 1980.

- A** Consumer Protection Act 1987
- B** Latent Damage Act 1986
- C** Protection from Harassment Act 1997
- D** Law Reform (Miscellaneous Provisions) Act 1934

X

Question 10

1 mark

Identify the correct definition of “personal injuries” under the Limitation Act 1980.

- A** Physical or psychological harm to a person, as opposed to any property
- B** Physical injury inflicted to a person's body, as opposed to damage to property or reputation
- C** Recognised damage, physical or emotional, which has given rise to pain and suffering
- D** any disease and any impairment of a person’s physical or mental condition

X

Question 11

1 mark

The Textual Amendments under Section 38 of the Limitation Act 1980, at F66 refers to S.I. 2014/768.**Identify what S.I. 2014/768 means:**

- A** S.I. stands for Statutory Instrument, 2014 is the year it was proposed and 768 indicates that it was the 768th of that year
- B** S.I. stands for Statute Instrument, 2014 is the year it was proposed and 768 indicates that 768 Members of Parliament voted for it
- C** S.I stands for Statute Instrument, 2014 is the year it came into force and 768 indicates that it was published on page 768 of the annual list of statutory instruments
- D** S.I. stands for Statutory Instrument, 2014 is the year it came into force and 768 indicates that it was the 768th of that year

X

Question 12

1 mark

Identify which section the Cross-Border Mediation (EU Directive) Regulations 2011 amended

- A** Section 38
- B** Section 14A
- C** Section 12
- D** Section 28

X

Case Law

Review this extract from the judgment in *Jolley v Sutton London Borough Council* [2000] and answer the questions below.

Question 13

1 mark

The report of the *Jolley* case states at paragraph 1 that the Court of Appeal decision was reported on in the *Weekly Law Reports - WLR*. Identify from the list below 3 other recognised law reports from England & Wales: -

- A** Industrial Relations Law Reports – IRLR.
- B** Butterworths Company Law Cases – BCLC.
- C** Competition Policy Cases – CPC.
- D** Reports of Mental Health Law. – RMHL
- E** Trafalgar Square Reports – TSR.
- F** All England Law Reports – All ER.
- G** Modern Law Review – MLR.

X
X
X

Question 14

1 mark

Identify the judge who gave the lead judgment in the House of Lords case of Jolley v Sutton London Borough Council:

A Lord Hobhouse of Woodborough

B Lord Browne-Wilkinson

C Lord Steyn

D Lord Woolf MR

E Lord Mackay of Clashfern

F Lord Hoffmann

X

Question 15

1 mark

Identify the name of the judge at first instance:

A Lord Woolf MR

B Judge LJ

C Geoffrey Brice QC

D Roch LJ

X

Question 16

1 mark

In respect of the cases of *Hughes v. Lord Advocate* [1963] AC 837 and *The Wagon Mound (No. 1)* [1961] AC 388, what did Lord Steyn state in terms of compatibility.

- A** The two cases are not to be taken as being a definitive consideration of the test of remoteness but are nonetheless to be considered to be both effective and appropriate
- B** Both cases provide a starting point, but are not to be considered to be authority to ascertain the definitive and appropriate response to a breach of duty, or indeed the extent of injury
- C** The authority of the two cases are not in conflict, the determination of a specific case will depend upon the circumstances of each case, context being an overriding factor
- D** The cases are not compatible, the context of the two cases differ to such an extent that neither can be relied upon as being a definitive and appropriate precedent on which to rely

X

Question 17

1 mark

The neutral citation for the Jolley case is [2000] UKHL 31. Identify what [2000] UKHL 31 means.

- A** The case was heard in the House of Lords in 2000 and can be found at page 31 of the Neutral Case Report
- B** The case was heard by the House of Lords and was the 31st case of 2000
- C** The case was heard by the House of Lords in 2000 and was the 31st case heard in another part of the jurisdiction (UKHL)
- D** The case was heard by the House of Lords and was the 31st case in the period from 1999 to 2000.

X

Question 18

1 mark

Lord Reid in *Hughes v. Lord Advocate* [1963] AC 837 restated the test for reasonable foreseeability found in *The Wagon Mound (No. 1)* [1961] AC 388. The best way to summarise the test is:

- A** Provided that the defendant was undertaking an activity which could be foreseeably seen as being dangerous and the said activity caused damage, then the defendant will be held responsible for all that flows from the breach
- B** The damage must be of a kind that was foreseeable and provided that is the case, the defendant will be liable for the full extent of the damage, regardless of whether the extent of damage was foreseeable
- C** The defendant will only be responsible for damage which is not effectively or appropriately guarded against, the damage caused must be foreseeable and the defendant will not be responsible for all that flows from the breach
- D** In deciding whether the breach was of a type which is reasonably foreseeable, the court will consider the activity undertaken by the defendant and will limit the extent of damages that can be claimed accordingly

X

Secondary sources

Review the extract from the Construction News Article reproduced in your supplementary materials and answer the questions below: -

Question 19

1 mark

Identify the intended audience for the article.

- A** General public
- B** Legal profession
- C** Contractors
- D** Owners of land

X

Question 20

1 mark

What stage of the proceedings had the Jolley case reached when the article was written?

- A** Supreme Court
- B** Court of Appeal
- C** High Court
- D** House of Lords

X

Question 21

1 mark

The article quotes Lord Hoffman in the case of Tomlinson as stating the accident did not arise 'because of the state of the premises. . . but rather because the claimant had chosen to indulge in an activity which is inherently dangerous'.

Identify the potential risk of relying on this type of statement in a secondary source.

- A** This type of quote adds little to the overall understanding of the complexity of the subject as there is little in terms of underpinning knowledge to rely on.
- B** The secondary source is not considered to be an appropriate source from which such a quote can be used.
- C** A quote used in these circumstances may not be accurate, or it may be taken out of context from the primary source.
- D** Where a secondary source contains such a direct quote, then the researcher needs to focus on the authority of the writer of the article.

X

Question 22

1 mark

You are instructed by a local authority who, in circumstances like that in the case of Tomlinson, are being sued by an adult trespasser who was injured. From the list below, identify three key words or phrases in the article that would provide the best starting point for a key-concept search?

- A** Inherently dangerous
- B** Trespassers
- C** Landowner or occupier
- D** Warning sign
- E** Occupiers liability
- F** Cost benefit analysis

X
X
X

Question 23

1 mark

From the list below, identify the two most significant issues in respect of the validity of the article.

- A** The article was written a number of years ago
- B** The article does not provide sufficient detail about the author
- C** The article is not specific in terms of the common law to be applied
- D** The article is not specific in terms of the legislation to be applied
- E** The article does not refer to the specific citations for the cases mentioned

X
X

Question 24

1 mark

According to the article, the Occupiers Liability Act 1984 relates to:

- A** Visitors
- B** Trespassers
- C** Adults
- D** Employees

X

SECTION B

16 marks

Research analysis and reporting

Background

You are a paralegal employed by the firm Kempstons of Manor House, Bedford, MK42 7AB. Your supervising lawyer is Tina Agrawal, who is a partner in the firm. Tina has asked you to conduct research on a client's case and has sent you the following memo.

Memorandum

To: Paralegal
From: T Agrawal
Client: New instructions
File reference: New matter
I have spoken to Mr. Robert Surtees, the owner of Pandora's Fun Park in Kempston. Mr. Surtees has today received notification from Mr. Terry Notts that he intends to claim compensation for an injury he sustained at the Fun Park. Mr. Surtees was surprised by the letter, as the incident occurred almost six years ago, when Mr. Notts was fourteen years of age. Mr. Notts was a lawful visitor to the Fun Park and he was injured when one of the rides developed an electrical problem and he was electrocuted. When no action was taken by Mr. Notts at the time, Mr. Surtees believed that the matter was settled. Although Mr. Surtees is the owner of the Fun Park, he rents the land on which the Fun Park operates. He is of the belief that if compensation has to be paid to Mr. Notts it should come from his landlord, Pricemount Estate Ltd. To help me advise this client, I would like you to carry out research on the following: • The circumstances where a visitor is able to make a claim for compensation when they are injured.

- The potential liability of another party to have to pay compensation in similar circumstances to Mr. Surtees.
- The circumstances when a party may be prevented from pursuing a claim.
- Some basic information on the how the courts view visitors and trespassers when injured on another's land.

I would like you to prepare a report using the **Research Report Template**.

Below are some links to various legal materials which will help you to complete your report:

- Limitation Act 1980
- Occupiers Liability Act 1957
- Jolley v Sutton [2000]
- Wheat v E Lacon & Co Ltd [1966]
- Construction News Article

Task Instructions

This task requires you to produce a **report using the research report template**.

The template contains 11 questions which you should read carefully. Only answer the questions after reviewing all the materials provided, which are included with the memorandum.

Instructions to candidates: - USE ONLY THE MEMORANDUM AND SUPPLEMENTARY MATERIALS PROVIDED WHEN PREPARING YOUR REPORT.

RESEARCH REPORT TEMPLATE

INTRODUCTION

[Question 1 - Answer]

A) CIRCUMSTANCES WHEN A VISITOR CAN CLAIM COMPENSATION

In carrying out my research into when a lawful visitor can claim compensation, I found the following:

[Question 2 - Answer]

It is important to consider whether the status of the individual making the claim will have an effect on the duty owed and the subsequent breach. The following will affect the circumstances in which a duty is owed:

[Question 3 - Answer]

Note that the normal rules of negligence will apply:

[Question 4 – Answer]

B) PREVENTING A CLAIM FROM BEING BROUGHT TO COURT

In the case of a personal injury claim, the date of knowledge is based on when an individual first had knowledge that:

[Question 5 - Answer]

There are circumstances where the period of time can be extended:

[Question 6 - Answer]

C) LIABILITY FOR INJURIES SUSTAINED

In respect of who is liable for the breach of duty and subsequent injury:

[Question 7 - Answer]

D) THE TREATMENT OF VISITORS AND TRESPASSERS

To gain a better understanding of the way in which the courts treat lawful visitors and trespassers who have been injured, the following points are useful:

[Question 8 - Answer]

E) CONCLUSIONS

Applying the research I have undertaken, I would consider the following:

i) CLAIM COMPENSATION

[Question 9 - Answer]

ii) LIMITATION

[Question 10 - Answer]

iii) LIABILITY OF OTHERS WITH INTEREST IN LAND

[Question 11 - Answer]

Individual Questions & Answers

Question 1 – Introduction

2 Marks

Choose the most appropriate introduction to insert into the Research Report.

- a) We are looking at assisting a client who has a personal injury problem. There are a number of key areas relating to personal injury which I will research and report back on: -
- Injury to a lawful visitor;
 - Stopping potential claims;
 - Liability of third parties who have an interest in the land;
 - Information about people injured on another's land.
- b) **I have been instructed to carry out some background research before you meet with the client. The purpose of this report is to research and summarise the law relating to: -**
- **The circumstances whereby a lawful visitor can make a personal injury claim;**
 - **The circumstances when a party may be prevented from pursuing a claim;**
 - **The liability of those who have an interest in land to pay compensation to those who have been injured;**
 - **How the courts view those who have been injured on another's land.**
- c) To advise a new client, I have carried out some research. The purpose of this report is research and summarise the law relating to: -
- A lawful visitor, can he sue?
 - Can a claim be stopped?
 - Can we make someone else responsible?
 - What happens if you are injured on another's land?
- d) The client requires research to be undertaken so they can make a decision as to how the matter will proceed. The purpose of this report is to research and summarise the following key areas of the law:-
- Liability for injury to a lawful visitor;
 - Circumstances where an individual may be prevented from pursuing a claim;
 - The liability of others who have an interest in the land;
 - Occupiers Liability Acts 1957 and 1984;
 - Jolley v Sutton [2000];
 - Wheat v E Lacon & Co Ltd [1966];
 - Information concerning the treatment of visitors and trespassers injured on another's land.

Question 2 – CIRCUMSTANCES WHEN A VISITOR CAN CLAIM COMPENSATION

1 Mark

Which one of the following statements best summarises the position in respect of the common duty of care owed by an occupier to a visitor?

- a) All visitors are owed the same duty of care by the occupier of the premises they are visiting, being a duty to ensure that a visitor is safe in respect of the purposes for which they are invited or permitted to be there.
- b) The occupier of premises is under a duty to take reasonable care to ensure that visitors will be reasonably safe in using the premises for the purposes for which they are allowed to be there.**
- c) Regardless of the purposes for which the visitor is allowed to be on the premises, the occupier of premises owes a duty to that visitor to ensure that they are reasonably safe.
- d) Occupiers of premises owe a common duty of care to all visitors to ensure that they are reasonably safe for the purposes for which they have a licence to be on the premises.

Question 3 – CIRCUMSTANCES WHEN A VISITOR CAN CLAIM COMPENSATION

1 Mark

Identify from the following list three situations which may affect the way in which the common duty of care is exercised:

- a) Where suitable warnings are provided to visitors in respect of personal injury claims
- b) Where the visitor is a child**
- c) Where the visitor is disabled
- d) Where the risks are willingly accepted by the visitor**
- e) Where there is faulty execution of work by an independent contractor**
- f) Where a person enters premises in the exercise of a right conferred by law

Question 4 – CIRCUMSTANCES WHEN A VISITOR CAN CLAIM COMPENSATION

1 Mark

Which one of the following statements correctly identifies the ‘modifiers’ which will need to be considered in the context of reasonable foreseeability:

a) The concept of reasonable foreseeability requires that, where a duty of care is owed and that duty is breached, the type of harm caused is subject to both time and space, as well as the extent of the relationship between the parties

b) The concept of reasonable foreseeability requires the defendant to have considered any specific legal disability of the claimant and the cost implications of preventing a breach from occurring

c) The concept of reasonable foreseeability requires the defendant to consider both the nature of the breach and the cost of preventing such a breach, taking into account any disability the claimant may be under

d) The concept of reasonable foreseeability requires consideration of the way in which the injury occurred and that the extent of the injury sustained be a reasonably foreseeable consequence of the defendant’s negligence

Question 5 – PREVENTING A CLAIM FROM BEING BROUGHT TO COURT

1 Mark

Identify four circumstances when an individual will be considered to first have knowledge in a personal injury claim:

- a) The alleged act or omission was that of someone other than the defendant and the identity of that person and the additional facts support the bringing of an action against the defendant
- b) Where the facts would lead a reasonable person who had suffered such damage to consider it sufficiently serious to justify the individual instituting proceedings
- c) The injury was attributable in whole or in part to the act or omission which is alleged to constitute negligence
- d) The individual's knowledge of the facts is ascertained with the help of medical or other appropriate expert advice
- e) The damage is attributable to the facts and circumstances alleged
- f) The individual is aware of the identity of the defendant
- g) The individual is aware that the injury in question was significant
- h) The individual's knowledge was acquired from facts observable or ascertainable by the individual

Question 6 – PREVENTING A CLAIM FROM BEING BROUGHT TO COURT

1 Mark

Identify the effect on the limitation period if a claimant was under a disability at the time of the accident:

- a) The action may be brought at any time before the expiration of six years from the date when the person ceased to be under a disability
- b) The action may be brought at any time before the expiration of one year from the date on which the person ceased to be under a disability
- c) **The action may be brought at any time before the expiration of three years from the date when the person ceased to be under a disability**
- d) The action may be brought at any time before the expiration of two years from the date when the person ceased to be under a disability

QUESTION 7 - LIABILITY FOR INJURIES SUSTAINED

1 Mark

Identify the correct ratio decidendi in respect of occupiers from the case of *Wheat v E Lacon & Co Ltd* [1966]:

a) "In dealing with dangerous premises it is necessary to distinguish between the responsibilities of the owner and those of the occupier or possessor. Generally speaking, liability in such cases is based on occupancy or control, not on ownership..."

b) "... wherever a person has a sufficient degree of control over premises that he ought to realise that any failure on his part to use care may result in injury to a person coming lawfully there is his 'visitor': and the 'occupier' is under a duty to his 'visitor' to take reasonable care."

c) "While it is clearly right that, generally speaking, liability for dangerous premises is based on occupancy or control, not on ownership, it does not necessarily follow that the person in actual occupation of the premises is responsible for their condition."

e) "... where a landlord let premises by demise to a tenant, he was regarded as parting with all control over them. He did not retain any degree of control, even though he had undertaken to repair the structure. Accordingly, he was held to be under no duty to any person coming lawfully on to the premises, save only to the tenant under the agreement to repair."

Question 8 – THE TREATMENT OF VISITORS AND TRESPASSERS

2 Marks

From the list below, identify three key points from the Construction News article.

- a) It is sufficient to warn adult trespassers of obvious dangers
- b) That where civil proceedings are instigated by a claimant who has trespassed, then criminal proceedings will follow
- c) Where a hazard is easily accessible to children then the defendant is likely to be found negligent where injury occurs
- d) Greater levels of awareness need to be considered in the context of community areas
- e) The longer a danger is left, the more likely liability will arise
- f) An owner or occupier of land must carry out a cost benefit analysis to assess the cost of preventing injury to others

Question 9 – CLAIM COMPENSATION (Conclusion)

2 Marks

In respect of the claim being made by Terry Notts, which of the following best describes the likely outcome:

- a) The claim is likely to succeed as there has been a breach of the common duty of care owed by the occupier of the land, and it was reasonably foreseeable that the accident would occur.
- b) The claim is unlikely to be successful, as the claimant acted in a way which could not reasonably be expected in the circumstances, even though there has been a breach of the common duty of care.
- c) **The claim is likely to be successful. The common duty of care owed to visitors has been breached and the harm to the claimant was reasonably foreseeable.**
- d) The claim is unlikely to be successful. The common duty of care has not been breached, even though clearly the type of harm which the claimant has suffered is reasonably foreseeable.
- e) The claim may be successful. As the claimant was a child when the incident occurred, the courts are likely to consider it reasonable for the occupier to be held liable.

Question 10 – LIMITATION (Conclusion)

2 Marks

Applying the law in respect of limitation, identify the best answer which applies to Terry Notts circumstances:

- a) As Terry Notts was a child at the time of the accident, he will be treated as being under a disability. In such circumstances, the limitation period will not start to run until after Terry Nott's eighteenth birthday. The limitation period for a personal injury claim is six years and he will therefore have until he is twenty-four to bring a claim.
- b) Even though Terry Notts was a child at the time of the accident, the courts are required under the common law to treat him as an adult. Legislation has to some extent alleviated this problem by providing that he should be treated as having knowledge from the date of his eighteenth birthday. The limitation period for a personal injury claim is six years and he will therefore have until he is twenty-one to bring a claim.
- c) **As at the time of the accident Terry Notts was a child, he will be treated as being under a disability. The effect of this is that the limitation period of three years for a personal injury claim does not start to run until Terry Notts ceases to be under a disability, which will be when he reaches the age of eighteen. He will therefore be able to bring a claim up until his twenty-first birthday.**
- d) Terry Notts was a child at the time of the accident. This is important in ascertaining the limitation period, as the older the child the more responsibility they will have for the injuries they have sustained. As Terry Notts was a teenager when he was injured, the court will normally allow for the limitation to run from his eighteenth birthday, but for a reduced period of four years instead of the usual six years for a personal injury claim. He will therefore have until he is twenty-two to bring a claim.
- e) It makes no difference that Terry Notts was a child at the time of the accident, in respect of the limitation period, as a child is not treated as being under a disability. The period of time in which a claim can be brought is three years for a personal injury claim, which means that if he was injured when he was fourteen, he would have had to have brought a claim by his seventeenth birthday.

Question 11 – LIABILITY OF OTHERS WITH AN INTEREST IN LAND (Conclusion)

2 Marks

Which one of the following statements correctly describes the potential liability of Pricemount Estate Ltd:

- a) As Robert Surtees has control over the premises and is the occupier, he will have sole responsibility for the injuries sustained by Terry Notts. Pricemount Estate Ltd will have no legal requirement to pay compensation to Terry Notts.
- b) As Robert Surtees and Pricemount Estate Ltd have a leasehold arrangement, control of the premises is shared between the two parties. This in effect means that both Robert Surtees and Pricemount Estate Ltd will be liable, jointly and severally, to pay compensation to Terry Notts.
- c) Although Robert Surtees is the occupier of the premises, Pricemount Estate Ltd is the owner of the land and is therefore in control of the premises. In such circumstances Pricemount Estates Ltd, as the legal owner of the land, is liable to pay compensation to Terry Notts.
- d) The occupier has legal control over the premises, and even though Robert Surtees is a tenant and uses the premises, in law the occupier is always deemed to be the legal owner of the land, in this case Pricemount Estate Ltd. Therefore, Pricemount Estate Ltd will be required to pay compensation to Terry Notts.
- e) The courts have a wide discretion to apportion responsibility in such cases. Control is a factor, but not an overriding factor in apportioning responsibility. In the present case, the courts are likely to decide that Robert Surtees (as tenant of the premises) and Pricemount Estate Ltd (as legal owner of the land) are both responsible to pay compensation to Terry Notts, apportioned as to one-half each.

COMPLETE REPORT FOR STUDENT REVIEW SEE NEXT PAGE

RESEARCH REPORT

INTRODUCTION

I have been instructed to carry out some background research before you meet with the client. The purpose of this report is to research and summarise the law relating to: -

- The circumstances whereby a lawful visitor can make a personal injury claim;
- The circumstances when a party may be prevented from pursuing a claim;
- The liability of those who have an interest in land to pay compensation to those who have been injured;
- How the courts view those who have been injured on another's land.

(Option b)

A) CIRCUMSTANCES WHEN A VISITOR CAN CLAIM COMPENSATION

In carrying out my research into when a lawful visitor can claim compensation, I found the following:

The occupier of premises is under a duty to take reasonable care to ensure that visitors will be reasonably safe in using the premises for the purposes for which they are allowed to be there.

(Option b)

In the case of a personal injury claim, the date of knowledge is based on when an individual first had knowledge that:

- Where the visitor is a child
- Where the risks are willingly accepted by the visitor
- Where there is faulty execution of work by an independent contractor

(Options b,d,e)

Note that the normal rules of negligence will apply:

The concept of reasonable foreseeability requires consideration of the way in which the injury occurred and that the extent of the injury sustained be a reasonably foreseeable consequence of the defendant's negligence

(Option d)

B) PREVENTING A CLAIM FROM BEING BROUGHT TO COURT

In the case of a claim for personal injury, the three-year time limit begins when the date on which the cause of action accrued or the date of knowledge (if later) of the person injured. The date of knowledge is based on when an individual first had knowledge that:

- The alleged act or omission was that of someone other than the defendant and the identity of that person and the additional facts support the bringing of an action against the defendant
- The injury was attributable in whole or in part to the act or omission which is alleged to constitute negligence
- The individual is aware of the identity of the defendant
- The individual is aware that the injury in question was significant

(options a,c,f,g)

There are circumstances where the period of time can be extended:

The action may be brought at any time before the expiration of three years from the date when the person ceased to be under a disability

(option c)

C) LIABILITY FOR INJURIES SUSTAINED

In respect of who is liable for the breach of duty and subsequent injury:

“... wherever a person has a sufficient degree of control over premises that he ought to realise that any failure on his part to use care may result in injury to a person coming lawfully there is his 'visitor': and the 'occupier' is under a duty to his 'visitor' to take reasonable care.”

(option b)

D) THE TREATMENT OF VISITORS AND TRESPASSERS

To gain a better understanding of the way in which the courts treat lawful visitors and trespassers who have been injured, the following points are useful:

- It is sufficient to warn adult trespassers of obvious dangers
- Where a hazard is easily accessible to children then the defendant is likely to be found negligent where injury occurs
- The longer a danger is left, the more likely liability will arise

(options a,c,e)

CONCLUSIONS

Applying the research I have undertaken, I would consider the following:

i) CLAIM COMPENSATION

The claim is likely to be successful. The common duty of care owed to visitors has been breached and the harm to the claimant was reasonably foreseeable.

(option c)

ii) LIMITATION

As at the time of the accident Terry Notts was a child, he will be treated as being under a disability. The effect of this is that the limitation period of three years for a personal injury claim does not start to run until Terry Notts ceases to be under a disability, which will be when he reaches the age of eighteen. He will therefore be able to bring a claim up until his twenty-first birthday.

(option c)

iii) LIABILITY OF OTHERS WITH INTEREST IN LAND

As Robert Surtees has control over the premises and is the occupier, he will have sole responsibility for the injuries sustained by Terry Notts. Pricemount Estate Ltd will have no legal requirement to pay compensation to Terry Notts.

(option a)