

A Level Law Year 13 Summer Independent Learning

This pack contains various tasks to help you prepare for the start of year 13 in September.

Please **complete ALL tasks** ready for your first day back at New College. We recommend completing this task on Microsoft Word or other electronic means. **However, this must be brought in as a printed copy to your first lesson. This is because your teacher will take it in and check it.**

The Summer Independent Learning in this pack will focus on new content and retrieval from year 12 as shown in the below table:

<u>SIL Focus</u>	<u>Task Number</u>	<u>Topic</u>	<u>Checklist</u> (tick when complete)
Retrieval & Exam Skills	Task 1	Legal System and Criminal Law (<i>Practice questions</i>)	
New content	Task 2	Defences and Remedies booklet - preview	
Retrieval and Exam Skills	Task 3	Tort (<i>Paper 2, Section B</i>)	
New content – Pre-reading v& research	Task 4	Human Rights (<i>Paper 3, Part B</i>)	
New Content – pre-reading and scenario	Task 5	Human Rights – Domestic English Laws (<i>Paper 3, Part B</i>) Judicial review	

Task 1 – Legal System and Criminal Law – Practice

Paper 1: Legal System

The legal system

Answer **two** questions (**one** from questions 1-2 and **one** from questions 3-4.)

*Answer **one** question from questions 1-2.*

1. Describe the aims of sentencing and any aggravating and mitigating factors which affect a sentence (8 marks)
2. Describe the role and regulation of solicitors and legal executives. (8 marks)

Pick either Q3 or Q4:

3. Discuss the disadvantages of using juries in criminal cases. (12 marks)
4. Discuss the advantages and disadvantages of the judiciary. (12 marks)

Paper 1: Criminal Law (evaluation)

Essay question on criminal law

5. ***"The law on s.20 and s.18 is in urgent need of reform". Discuss the extent to which you agree with this statement. (20 marks)***

Task 2 - Tort Law Defences Preview

Defences (can be applied to all torts)

Contributory Negligence

This is a part defence to claims of negligence and occupiers' liability. The defendant argues that the claimant partly caused the injuries suffered, and asks the court to reduce the blame and therefore the damages to be paid

(Law Reform (Contributory Negligence) Act 1945)



How it works in practice:

1. Full amount of damages set out -
2. Claimant failed to take appropriate care –
3. Causation applied to claimant –
4. Claimant responsibility % decided -

Sayers v Harlow Council 1958

Facts

Outcome

Volenti (Consent)

Consent, or volenti, is a full defence to a claim of negligence or occupiers' liability, when the defendant shows that the claimant voluntarily accepted a risk of harm or injury. The phrase means that no injury is done to one who consents to the risk. If it is successful, the claimant will receive no damages.



How it works in practice:

D has to show that the claimant:

1. knew of the precise risk involved –
2. exercised free choice –
3. voluntarily accepted the risk -

Smith v Baker 1891

Facts

Outcome

Tort Specific Defences - OLA 57

Warning Notices

If there is a notice warning of a danger, this can be a complete defence for the occupier. A warning can be oral or written. By s 2(4)(a) of the 1957 Act, a warning is effective when:

“in all the circumstances it was enough to enable the visitor to be reasonably safe.”

What is reasonable safe?

- Judge decides
- Obvious dangers do not need a warning

Darby v National Trust 2001

Facts

Outcome

Exclusion Clauses

By s 2(1) of the 1957 Act, an occupier is able:

“to restrict, modify or exclude his duty by agreement or otherwise”

This means that the occupier will be able to limit or exclude completely their liability for any injury caused to the visitor. Whether an exclusion clause would work against a child visitor may depend on the child’s age and ability to understand the effect of the exclusion.



Tort Specific Defences – OLA 84

Warning Notices

Section 1(5) provides that the occupier can discharge his duty to the trespasser by giving a warning of the danger. Whether a warning will be a sufficient defence against a child trespasser may depend on the child’s age and understanding.

Westwood v The Post Office 1973

Facts

Outcome



Tort Specific Defences – Private Nuisance

Prescription

If a nuisance has been carried on for at least **20 years**, and there has been no complaint between the parties in that time, then the defendant has a prescriptive right to continue.



Coventry v Lawrence (2015)

Facts

Outcome and SC judgement

-
-
-

Statutory Authority & Planning Permission

As many of the activities that can amount to a nuisance are now regulated or licensed by environmental or other laws, statutory authority is one of the most effective defences. Local authority planning permission can sometimes be lawful justification for a nuisance. However, if the planning permission does not change the character of the neighbourhood, it will not be a defence.

What will not be a defence for private nuisance?

1. Moving to the Nuisance

The defendant may argue that the claimant is only suffering the nuisance as they have moved closer to the alleged problem (as in *Sturges v Bridgman*), or moved into the area (*Miller v Jackson*) and that there was no issue previously. **This does not amount to a defence.**

2. Usefulness of D's activity

A claim in nuisance will not be stopped simply because it is useful to the public. However, it may be a factor when looking at the **appropriate remedy** to the nuisance (*Fearn v Tate gallery 2023*)

Bellew v Cement Co (1948)

Facts

Outcome

Tort Specific Defences – Rylands v Fletcher

Act of God

this defence may succeed where there are extreme weather conditions that 'no human foresight can provide against'. It is only likely to succeed if there are unforeseeable weather conditions.



Nichols v Marsland 1876

Facts

Outcome

Act of a Stranger

if a stranger over whom the defendant has no control has been the cause of the escape causing the damage, then the defendant may not be liable.

Perry v Kendricks Transport [1956]

Facts

Outcome

Wrongful act of a third party

The defendant may have a defence if the reason for the escape was due to a wrongful act of a third party, and not because of them themselves. LMS International

LMS v Styrene (2005)

Facts

Outcome

Statutory authority

if the terms of an Act of Parliament authorise the defendant's action, this may amount to a defence.

Remedies Introduction

When the claimant has won their case, the judge will decide an appropriate remedy to solve the problem at hand.

Compensatory Damages

In a tort claim, the most common remedy is compensation for the injuries 'C' has suffered or for damage to C's property.

The **aim of damages** in tort law is to:



The courts award damages in two ways:

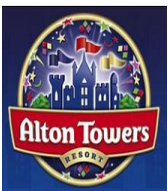
1. **Pecuniary Loss** – A loss that can be easily calculated in **money** terms for example:
 -
 -
 -

For pecuniary loss the courts will award **special damages** these are amounts which can be calculated specifically up to the date of the trial or settlement.

2. **Non-Pecuniary Loss** – A loss that is **not wholly money** based for example:
 -
 -
 -

For non-pecuniary loss the courts will award **general damages** these are amounts which cannot be calculated specifically and are looking forwards from the trial or settlement date. These are an estimate and will take account of medical opinions and other evidence.

Leah Washington (2015)



Pecuniary Damages:

Non Pecuniary Damages:

Loss of future earnings is calculated as:

$$\boxed{} \times \boxed{} = \boxed{}$$

Pickett v British Rail (1980)



How damages are awarded:

1. **Lump Sum Settlements** – Courts award the damages to be given as a one off payment (in full.) Where the award is for pain and suffering it must always be awarded as a lump sum.



Q: Why may lump sum settlements be unfair?

2. **Structured Settlement** – Parties can agree for the damages to be given over a period of time (monthly or annually) or can be for life. This is under the Damages Act 1996. Damages can be reassessed at intervals. Payments are arranged by the 'D' to pay the 'C' through a financial company.



Date	Amount	Balance
20 Jul 2009	1000.00	1000.00
20 Jul 2010	1000.00	2000.00
20 Jul 2011	1000.00	3000.00
20 Jul 2012	1000.00	4000.00
20 Jul 2013	1000.00	5000.00
20 Jul 2014	1000.00	6000.00
20 Jul 2015	1000.00	7000.00
20 Jul 2016	1000.00	8000.00
20 Jul 2017	1000.00	9000.00
20 Jul 2018	1000.00	10000.00
20 Jul 2019	1000.00	11000.00
20 Jul 2020	1000.00	12000.00
20 Jul 2021	1000.00	13000.00
20 Jul 2022	1000.00	14000.00
20 Jul 2023	1000.00	15000.00
20 Jul 2024	1000.00	16000.00
20 Jul 2025	1000.00	17000.00
20 Jul 2026	1000.00	18000.00
20 Jul 2027	1000.00	19000.00
20 Jul 2028	1000.00	20000.00
20 Jul 2029	1000.00	21000.00
20 Jul 2030	1000.00	22000.00

Q: Why may structures settlements be better for 'C' and 'D'?

Remember: Damages can be reduced up to 100% under contributory negligence.



Sayers (1958)



Nettleship v Weston (1971)

Mitigation of Loss

The 'C' is entitled to be compensated for losses but is also under a duty to keep the loss to a **reasonable level**. This applies to personal and property damage.

E.G:



Injunctions

Most common remedy after damages. An injunction is: _____

Two types of injunction:

1. **Prohibitory injunction** – a final order **restricting** 'D's actions. Most common form of injunction. E.g:
2. **Mandatory Injunction** – a final order **forcing** 'D' to carry out a certain action. Least common form of injunction. E.g:

Injunctions can also be given **during a case** for example to disclose documents or not to continue an action until a trial has taken place. If the 'D' fails to follow the terms of the injunction he will be in **contempt of court** which is a criminal offence punishable by 2 years imprisonment and a maximum fine of £2,500.



Laws (1981)

Task 3 – Law of Tort – Practice Paper

Complete the following practice exam paper without notes. Ensure you answer all questions on the paper. Time yourself and write your total time at the bottom of the paper. *This paper should take you 1 hour maximum.*

SECTION B

Tort Law

Answer the **three** questions below

*The first two questions are based on the scenarios below. The scenarios are **not** related.*

Carly has bought a shop. The shop is in a bad state of repair, especially in the storeroom where there is a rotten floorboard. Carly fixed a warning notice to the door saying 'Keep out – floor unsafe'. The electrical wiring needed to be replaced, so she called in Andy the Electrician, who was recommended by the local council. Andy replaced the wiring and told Carly that it was all completed. Andy then packed up his tools to leave but found he was missing a set of pliers. He went into the storeroom to see if he left it there and the rotten floorboard collapsed. Andy fell part-way through the hole in the floor, breaking his leg. An ambulance was called, and Meg the paramedic came into the shop to help Andy. She switched on the light and received an electric shock due to faulty wiring. Meg suffered severe burns.

Ahmed has just passed his driving test and purchased a new car. He offers to take his neighbour Beena to the supermarket. Beena usually gets the bus and is not used to travelling by car. She refuses to wear her seat belt as she says she feels trapped when wearing it. When leaving the supermarket, Ahmed puts the car in reverse gear by mistake. Consequently, he smashes the car into the wall behind him. Beena suffers a 'whiplash' neck injury and has to take six weeks off work. She is also left suffering from an anxiety disorder and is now afraid to go outdoors. She wishes to sue Ahmed for negligence.

1. Advise whether Carly will be liable to Andy and Meg under Occupiers Liability, including any relevant defences. **[20]**
2. Advise Beena whether Ahmed is liable to her in negligence and, if so, what remedies she might expect. **[20]**
3. 'The law on **breach of duty** in negligence is unfair on defendants'. Discuss the extent to which this statement is true' **[20 marks]**

Task 4 – Human Rights – Human Rights Act 1998

Use the link/QR code and your own independent research to answer the following questions:

[https://www.lawteacher.net/free-law-essays/constitutional-law/human-rights-act-impact-on-](https://www.lawteacher.net/free-law-essays/constitutional-law/human-rights-act-impact-on-english-law-constitutional-law-essay.php)



[english-law-constitutional-law-essay.php](https://www.lawteacher.net/free-law-essays/constitutional-law/human-rights-act-impact-on-english-law-constitutional-law-essay.php)

1. What are human rights?

2. What is the impact of the HRA on UK citizens?

3. Before the introduction of the HRA, what challenges were faced by UK citizens when trying to defend their human rights?

4. In your own words what does the HRA require of the courts?

5. Give 3 examples of public bodies.

6. What does section 6 make unlawful?

Task 5– Human Rights – Domestic English Laws

Read the AO1 on Judicial review.

Answer the scenario question using the table.

Criteria

In order to be successful in a judicial review case, there has to be a decision made by a **public body**, with a case brought within the **time limit** by a person who has “**locus standi**” for one of the **grounds**:

✓ **Public body?**

Judicial review can only be brought against a public body. These include government ministers, local authorities, health authorities, and the police. It also includes private companies carrying out work normally done by public authorities, such as companies running prisons.

✓ **Time limit?**

Judicial review must be brought within three months of the grounds for the case first arising

✓ **Locus standi?**

The person bringing the judicial review must have “locus standi” (legal standing), meaning that the decision of the public body must affect them personally. This can also include trade unions, where a decision affects its members. For example, in the **Unison** case, the trade union brought a judicial review hearing about employment tribunal fee

✓ **Grounds?**

You can only bring a case in judicial review if there are sufficient grounds, or reasons, to allow the case:

- **Illegality** – where decision-makers act without power, exceed powers given or misapply the law. This is sometimes called substantive ultra vires. For example, in **Attorney-General v Fulham Corporation**, the local authority was given the power to open wash-houses for poor people in the area but charged them. This was acting beyond the power given to them.
- **Proportionality** – for human rights cases, the court will consider whether the restriction on the right was proportional to the aim that the public body was trying to achieve. For example, in **Youssef**, he challenged a decision to include him a list of people who had assets frozen because of links with Al Qaeda. The court had to consider whether the restriction was proportional to the national security aims and Mr Youssef lost his case.
- **Procedural impropriety** – where decision-makers fail to follow correct procedures. This is sometimes called procedural ultra vires. For example, in the **Aylesbury Mushrooms** case, the government minister did not consult with the Mushroom Growers Association when making the decision.
- **Irrationality** – where a public body takes a decision which no reasonable decision-maker in the same position would make. This is sometimes called substantive ultra vires for reasonableness. For example, in **Thompson and Venables**, the home secretary taking into account a public petition about the sentencing of the killers of Jamie Bulger was held to be unreasonable

Remedies

The remedies available are:

Damages – under s8 HRA 1998, the court can award damages if it is “necessary to afford just satisfaction”. This means that in some cases, there can be a breach of the ECHR but the court doesn’t award damages as it feels it isn’t necessary.

Declaration – a statement whether the public body has acted unlawfully

Quashing Order – “quash” (set aside) the decision made by the public body

Prohibition Order – prohibit public bodies acting in a certain way

Mandatory Order – tell a public body they must act in a certain way

Declaration of Incompatibility – under s8 HRA 1998, the court can state that a piece of legislation is incompatible with ECHR. For example, in A v Home Secretary, the court issued a declaration of incompatibility saying the powers to detain alleged terrorists without trial was incompatible with ECHR.

Enforcement - judicial review

Anton is denied leave to appeal. He claims that the trial process was defective and that his conviction is unsafe. He requests that his case be publicised to allow him to seek help from technical expert witnesses who would be able to assist him to defend himself effectively. He argues that denying him access to his data and devices prevented him from properly defending himself. For these reasons, Anton believes that he should have the right to a full appeal against conviction. He wishes to challenge the decisions of the court to deny him an appeal and to hold his trial in secret.

Advise Anton about the procedures involved in a judicial review hearing and what the potential order and outcomes might be in his case. **[20]**

Introduction – Explain what a judicial review is.

	AO1 (Law)	AO2 (Application)
Public body?		
Time limit?		
Locus standi?		
Grounds?		
Remedies?		
Conclusion		

