PRIFYSGOL ABERYSTWYTH UNIVERSITY

SEMESTER TWO EXAMINATIONS, 2025/26

DEPARTMENT OF LAW AND CRIMINOLOGY

LC21120 TORT

Time allowed: **TWO hours**

Answer ONE question only

This is an 'Open Book' exam. Candidates may bring any materials (notes and books) into the examination, with the exception of library books and any electronic devices. Please DO NOT place any materials on the floor.

You should be aware that the relevance of your answer to the SPECIFIC question asked is something to which the examiners will attach particular importance. Marks will not be awarded for irrelevant material.

Whichever question you choose to answer, you *must* refer to relevant legislation and/or case law, as appropriate, to support your answer.

Please state clearly which question(s) you are answering.

STUDENTS MAY SUBMIT ANSWERS TO THIS PAPER IN EITHER WELSH OR ENGLISH

Once seated, students may complete the front cover of the answer book(s) and the attendance slip ONLY.

DO NOT TURN THE EXAMINATION QUESTION PAPER OVER UNTIL INSTRUCTED TO DO SO.

1. **Is the current legal treatment of rescuers who suffer psychiatric harm - particularly the requirement that they fit within the primary/secondary victim framework - fundamentally fair, or does it unjustifiably restrict compensation for individuals who expose themselves to danger to help others?**

   Critically discuss, with reference to relevant legal authority, the position of rescuers in claims for psychiatric injury. In your response you should:

   - explain the legal framework governing psychiatric harm, including the distinction between primary and secondary victims and how rescuers are categorised within that framework,
   - explain how rescuers have been treated in case law,
   - evaluate the fairness of requiring rescuers to satisfy the same control mechanisms as primary/ secondary victims
   - discuss whether rescuers should form a special category to recognise the unique position of rescuers; and
   - provide a reasoned conclusion on whether the law's current treatment of rescuers is satisfactory or requires reform.

2. **Critically evaluate, with reference to relevant legal authority, the extent to which the modern law of private nuisance provides an effective and principled framework for balancing the competing interests of neighbouring landowners when one party's activities interfere with the other's use and enjoyment of land. Consider whether the current approach is coherent, fair, and adaptable to contemporary land-use conflicts.**

   In your answer, you should:

   - explain the elements of private nuisance and the tests used to assess unreasonable interference,
   - engage with leading cases and explain how they shape the balancing exercise,
   - critically assess the effectiveness of remedies, including the modern approach to injunctions and damages.
   - evaluate whether the law is sufficiently adaptable to modern challenges; and
   - provide a well-reasoned conclusion on whether the current law strikes an appropriate balance or requires reform.

3. Jacob, a widower, has suffered from a painful and debilitating back condition ever since Liam, a local university student, collided with him on the pavement six months ago. Liam had been weaving between pedestrians while looking at his phone when he struck Jacob, knocking him to the ground.

   Because of his mobility problems, Jacob relies heavily on his neighbours, Callum and Ania, for cooking, cleaning, and household support. Jacob has given them both keys to his home and allows them to use his washing machine when needed.

   While Jacob is in hospital receiving treatment for his back injury, Ania enters Jacob's house to make a telephone call to her Mum as she has no mobile signal at home. On her way out, she slips on the crumbling concrete step by the back door and breaks her leg.

   On a later occasion, Callum is in Jacob's kitchen preparing Jacob's dinner when the central heating boiler suddenly explodes, injuring him. The boiler had recently been serviced by Jenny, who carried out boiler servicing work for Gas-Is-Us Appliances (GIUA). Jacob found GIUA on the official Gas Safe Register website but did not ask Jenny to show her Gas Safe ID card when she arrived to carry out the work.

   In the days following the service, Jacob noticed that the boiler's pressure relief valve had begun making a strange hissing sound, but he assumed this was normal after maintenance and did not contact Jenny or GIUA. Following the explosion, an engineer report states that there was a valve defect and that Jenny failed to tighten a key coupling when she serviced the boiler. It is inconclusive as to which defect caused the explosion, or whether it was both defects acting together.

   Jenny's contract describes her as a self-employed subcontractor, but she wears a GIUA-branded uniform, drives a GIUA-branded van, works exclusively for GIUA, and is scheduled for appointments by GIUA's central office. GIUA now claims that Jenny is *not* their employee. Jenny insists she followed GIUA's procedures and that GIUA trained her, equipped her, and supervised all her work.

   Advise Jacob, Ania and Callum as to their potential claims in negligence and against whom. Consider the possible application of common law negligence,

occupier's liability and vicarious liability as appropriate, as well as any relevant defences.

In your answer, you should:

- Identify the duties potentially owed to each party and the legal basis for them.
- Apply the relevant legal principles to the facts, drawing on appropriate case law.
- Consider causation, remoteness of damage and possible defences.
- Provide reasoned conclusions on the claims of each party.

END OF PAPER