



FREE CLASSROOM RESOURCE

Tort Scenario Practice Pack

Three 25-mark “Advise” scenario questions on negligence, occupiers' liability, and nuisance and *Rylands v Fletcher*, in the style of Cambridge International AS & A Level Law (9084) Paper 4 Section A

1

Negligence

Duty • breach • causation • remoteness

2

Occupiers' liability

Occupiers' Liability Acts 1957 and 1984

3

Nuisance and Rylands

Private nuisance • Rylands v Fletcher • remedies

INSIDE

Teacher notes • student guide to answering a 25-mark “Advise” question • a “Key law at a glance” panel for each scenario • three scenarios with plan boxes and lined answer pages • three annotated model answers with AO1/AO2/AO3 tags • indicative content by assessment objective • levels-based marking guidance • a feedback and improve sheet

FOR TEACHERS

Teacher notes

This pack contains three complete scenario questions in the style of Paper 4 Section A. Each is a single 25-mark question with the command “Advise ... of their rights, responsibilities and potential remedies”, marked **AO1 12 + AO2 5 + AO3 8**. Paper 4 gives students no source material, so each scenario comes with a one-page **Key law at a glance** panel of Exam Vista summaries that you can hand out or withhold.

HOW TO USE IT

- **One scenario per lesson** (50–60 minutes): 5 minutes to read and plan, about 30 minutes to write, then feedback with the model answer.
- **Homework or timed mock**: allow 30 minutes, the time a student should spend on one Section A question in the exam (90 minutes for three 25-mark questions).
- **Peer marking**: students mark each AO separately with the levels guide (p. 16), then compare with the model answer and its AO tags.
- **Feedback**: the model answers show where each mark comes from: law with authority (AO1), application (AO2) and weighing the claims (AO3).

DIFFERENTIATION

- **Support**: hand out the Key law panel with the scenario, and let students fill in the plan box together before writing alone.
- **Stretch**: withhold the panel, as in the exam. Students must recall the rules and authorities, then argue the defendant's best case before concluding.

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DESIGN NOTE

Each scenario has several claims: at least one is strong, one could go either way, and one is likely to fail. Do not tell students which is which: weighing them is the AO3 skill.

MARKING

The levels guide and indicative content are Exam Vista guidance, not an official Cambridge mark scheme. Any reasoned conclusion, and any other accurate, relevant authority, is creditworthy.

THE PACK AT A GLANCE

SCENARIO	PARTIES	KEY AUTHORITIES IN THE PANEL
1 • Negligence The drone over the pitch	Rosa • Ali • Kian • SkyFix Ltd	<i>Robinson; Mullin v Richards; Bolam; Bolitho; Barnett; McKew; Smith v Leech Brain</i>
2 • Occupiers' liability The heritage museum	Ayesha • Declan • Lewis • the Trust	<i>Wheat v Lacon; Glasgow Corp v Taylor; Phipps; Roles v Nathan; Tomlinson; Ratcliff; Donoghue v Folkestone</i>
3 • Nuisance and Rylands The wedding barn	Nkechi • Ruth • Bellwether Events Ltd • Arthur	<i>Hunter; Sturges; Christie v Davey; Robinson v Kilvert; Coventry v Lawrence; Transco; Rickards v Lothian</i>

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FOR STUDENTS

How to answer a 25-mark “Advise” question

A Section A scenario asks you to advise the parties: who can sue whom, in which tort, with what defences and what remedies. Almost half the marks (**AO1, 12**) reward accurate law with authority. **AO2 (5)** rewards applying it to the facts, and **AO3 (8)** rewards weighing the strength of each claim and reaching reasoned conclusions on liability and remedy.

TIMING • ABOUT 30 MINUTES

PLAN 5	CLAIM 1 • ABOUT 8 MIN	CLAIM 2 • ABOUT 8 MIN	CLAIM 3 • ABOUT 7 MIN	CHECK 2
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THE FIVE-STEP METHOD

- 1 Identify every claim**
List each claimant, each defendant and the tort. Look for a second defendant (an employer, a landlord, a contractor) and for a claimant who might also be sued. One heading per claim.
- 2 State the rule with authority**
Set out each element the claimant must prove, with a case or a statute section. Explain what the case decided: a name alone earns little. This is where most of the AO1 marks are.
- 3 Apply the facts**
Use the specific facts, with names and details, on each element. Compare them with the case: is this like it or unlike it? Spend most time on the element that is in doubt.
- 4 Evaluate: how strong is the claim?**
Give the defendant's best argument and test it. Consider defences (volenti, contributory negligence, act of a stranger), alternative claims and the practical choice of whom to sue.
- 5 Conclude on liability, defences and remedy**
For each claim: likely liable or not, any reduction, and the remedy: special and general damages, an injunction (and in what form), or damages in lieu.

A sentence frame for steps 3 and 4: “The law requires [element] ([authority]). Here, [name] [specific fact], which is like / unlike [case], where [brief facts]. [Defendant] will argue [best point], but [reason], so this claim is likely / unlikely to succeed.”

EARNs MARKS	WASTES TIME
A signposted section for each claim	Retelling the story before you start
Every element stated, with what the case decided	A general essay on the tort that never reaches the facts
Specific facts compared with the cases	Naming cases without saying why they matter
The defendant's best argument, tested and answered	Criticising the law in general or suggesting reforms
A conclusion and a remedy for every claimant	Ending on “it depends” with no view

BEFORE YOU FINISH • SELF-CHECK

☐ every claimant and defendant identified • ☐ each element stated with authority • ☐ specific facts applied and compared with cases • ☐ defences and the defendant's best arguments weighed • ☐ a conclusion on liability for each claim • ☐ the remedy, and any reduction

SCENARIO 1 • NEGLIGENCE

Key law at a glance

Support: use this panel while you plan and write. Stretch and exam practice: put it away. Paper 4 gives you no source material.

KEY LAW • NEGLIGENCE

Negligence: what the claimant must prove

A duty of care owed by the defendant; breach of that duty; damage caused by the breach (factual and legal causation); and damage that is not too remote. The claimant must prove each element on the balance of probabilities.

Duty • **Donoghue v Stevenson [1932]**; **Robinson v Chief Constable of West Yorkshire Police [2018]** • EXAM VISTA

SUMMARY

Lord Atkin's neighbour principle: take reasonable care to avoid acts or omissions you can reasonably foresee would be likely to injure people closely and directly affected. **Robinson**: where a case falls in an established category, such as causing foreseeable physical injury by a positive act, the court applies it. The three-stage *Caparo* approach (foreseeability, proximity, fair, just and reasonable) is for novel situations.

Breach • the objective standard • EXAM VISTA SUMMARY

Blyth v Birmingham Waterworks (1856): the defendant is judged against the reasonable person in their position. Risk factors: probability of harm (*Bolton v Stone [1951]*); seriousness of the harm (*Paris v Stepney BC [1951]*); cost and practicality of precautions (*Latimer v AEC [1953]*).

Children • Mullin v Richards [1998]: two 15-year-old schoolgirls were fencing with plastic rulers when one snapped and a fragment injured an eye. A child is judged against an ordinarily prudent and reasonable child of the same age; injury was not foreseeable to girls of that age, so there was no breach.

Skilled defendants • Bolam [1957]; Bolitho [1998]: a person exercising a special skill is judged against the reasonably competent member of that trade or profession, and is not negligent if acting in accordance with a practice accepted as proper by a responsible body of opinion in it, provided that the practice withstands logical analysis.

Vicarious and joint liability (outline) • EXAM VISTA SUMMARY

An employer is liable for a tort committed by an employee where there is a close connection between the job and the wrongdoing (*Mohamud v WM Morrison Supermarkets [2016]*); the employee remains personally liable too. Where two defendants cause the same damage, each is liable in full to the claimant (joint and several liability), and they may claim a contribution from each other under the Civil Liability (Contribution) Act 1978.

Causation • EXAM VISTA SUMMARY

Barnett v Chelsea and Kensington HMC [1969]: the but-for test. A night watchman was sent home without examination and died of arsenic poisoning; he would have died even with proper treatment, so the hospital's breach did not cause his death. **Bonnington Castings v Wardlaw [1956]**: a breach that materially contributes to the harm is a cause. **Intervening acts**: the claimant's own unreasonable conduct can break the chain of causation (*McKew v Holland & Hannen & Cubitts [1969]*: an injured man went down steep stairs without a handrail or help, and his leg gave way); so can a third party's negligent act (*Knightley v Johns [1982]*).

Remoteness • EXAM VISTA SUMMARY

The type of damage must be reasonably foreseeable (*The Wagon Mound (No 1) [1961]*), but not the precise manner in which it happens or its extent (*Hughes v Lord Advocate [1963]*: a boy was burned when a paraffin lamp left by an open manhole exploded). **Thin-skull rule**: the defendant takes the claimant as found (*Smith v Leech Brain [1962]*: a burn from molten metal triggered cancer; liable for the death).

Defences and remedies • EXAM VISTA SUMMARY

Contributory negligence: damages are reduced "to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage" (Law Reform (Contributory Negligence) Act 1945 s1(1)); failure to take reasonable care for one's own safety (*Jones v Livox Quarries [1952]*). **Volenti**: knowing of a risk is not consenting to it (*Smith v Charles Baker & Sons [1891]*); rescuers are not treated as volenti (*Haynes v Harwood [1935]*). **Damages**: special damages (financial loss up to trial, e.g. lost earnings) and general damages (pain, suffering and loss of amenity; future loss).

SCENARIO 1 • NEGLIGENCE

Scenario and question

SCENARIO 1 • THE DRONE OVER THE PITCH

On a Saturday morning in Leeds, **Kian**, aged 15, flies his new camera drone in a public park where a junior football tournament is taking place. The drone's instructions and its app both warn users never to fly over people. Kian wants aerial footage of his younger brother's match, so he hovers the drone about eight metres above the spectators lining the touchline.

A week earlier, the drone was serviced by **SkyFix Ltd.** Dominic, a SkyFix technician, replaced the battery connector with a cheaper type. SkyFix's own service manual says that this type must not be fitted to Kian's model, because vibration can work it loose. Dominic says that several other repair shops fit it routinely and that he has never had a problem.

During the flight the connector works loose. The drone loses power and drops onto **Rosa**, a spectator, cutting her scalp. Rosa has a rare blood-clotting disorder. A cut that would normally need a few stitches causes heavy bleeding: she spends ten days in hospital and is off work as a dental nurse for three months.

The drone then bounces onto the grass beside **Ali**, another parent, and smoke starts to rise from the damaged battery. Kian shouts to everyone to stay back because the battery could catch fire. Ali, wanting to help, picks up the drone and tries to pull the battery out with his bare hands. It bursts into flames and he suffers serious burns to both hands.

1 Advise Rosa and Ali of their rights, responsibilities and potential remedies.

[25]

AO1 12 + AO2 5 + AO3 8 • about 30 minutes in total, including about 5 minutes to plan. Reach a conclusion on liability, defences and remedy for each claim.

ANSWER PLAN

Five minutes. Keywords only.

CLAIM	RULES + AUTHORITY	APPLY • KEY FACTS	EVALUATE • DEFENCES • REMEDY
Claim 1 <i>who v whom • tort</i>			
Claim 2 <i>who v whom • tort</i>			
Claim 3 <i>who v whom • tort</i>			
Other issues <i>second defendant? counterclaim?</i>			

S1

Advise Rosa and Ali of their rights, responsibilities and potential remedies.

[25]

Name:

Date:

Mark: AO1 /12 AO2 /5 AO3 /8

Identify → rule + authority → apply → evaluate → conclude and remedy, claim by claim.

S1 (CONTINUED)

Advise Rosa and Ali of their rights, responsibilities and potential remedies.

[25]

[illegible]

Finish every claim with a conclusion on liability and the remedy.

SCENARIO 2 • OCCUPIERS' LIABILITY

Key law at a glance

Support: use this panel while you plan and write. Stretch and exam practice: put it away. Paper 4 gives you no source material.

KEY LAW • OCCUPIERS' LIABILITY

Occupiers' Liability Act 1957 • lawful visitors

s1(2)–(3): who is an occupier and who is a visitor is decided by the common law. The rules apply to land and buildings and to fixed or movable structures, including any vessel.

s2(1): “An occupier of premises owes the same duty, the ‘common duty of care’, to all his visitors, except in so far as he is free to and does extend, restrict, modify or exclude his duty to any visitor or visitors by agreement or otherwise.”

s2(2): “The common duty of care is a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.”

s2(3): (a) “an occupier must be prepared for children to be less careful than adults”; (b) “an occupier may expect that a person, in the exercise of his calling, will appreciate and guard against any special risks ordinarily incident to it, so far as the occupier leaves him free to do so.”

s2(4)(a): a warning does not discharge the duty unless, in all the circumstances, it was enough to enable the visitor to be reasonably safe. **s2(5):** “The common duty of care does not impose on an occupier any obligation to a visitor in respect of risks willingly accepted as his by the visitor.”

Occupiers and visitors • EXAM VISTA SUMMARY

Wheat v E Lacon & Co [1966]: an occupier is anyone with a sufficient degree of control over the premises; there can be more than one. A visitor who goes beyond the area or purpose of his permission becomes a trespasser there (*The Calgarth* [1927]).

Children and people exercising a calling • EXAM VISTA SUMMARY

Glasgow Corporation v Taylor [1922]: a child died after eating poisonous berries from a bush in public gardens; the berries were an allurement and the occupier was liable. **Jolley v Sutton LBC [2000]:** only the general type of harm to a child need be foreseeable. **Phipps v Rochester Corporation [1955]:** a five-year-old fell into a trench on open land; an occupier may expect parents to supervise very young children. **Gough v Thorne [1966]:** a young child is rarely found contributorily negligent.

Roles v Nathan [1963]: two chimney sweeps died from carbon monoxide after being warned of the danger. The occupier was not liable: the risk was incident to their calling and the warning was adequate.

Excluding liability

s2(1) allows exclusion, but under the Unfair Contract Terms Act 1977 s2(1) a business cannot exclude liability for death or personal injury caused by negligence, which includes breach of the common duty of care. Liability to people given access for recreational or educational purposes is not a business liability unless granting that access falls within the occupier's business purposes (UCTA s1(3)). For a trader's consumer notice, Consumer Rights Act 2015 s65 applies instead, to the same effect.

Occupiers' Liability Act 1984 • trespassers

s1(3): a duty is owed to a non-visitor only if the occupier (a) “is aware of the danger or has reasonable grounds to believe that it exists”; (b) “knows or has reasonable grounds to believe that the other is in the vicinity of the danger concerned or that he may come into the vicinity of the danger”; and (c) “the risk is one against which, in all the circumstances of the case, he may reasonably be expected to offer the other some protection.” **s1(4):** reasonable care to see that he is not injured by the danger. **s1(5):** the duty may be discharged by reasonable steps to warn of the danger or discourage people from incurring the risk. **s1(6):** no duty for risks willingly accepted. **s1(8):** no liability for loss of or damage to property.

Trespasser cases • EXAM VISTA SUMMARY

Tomlinson v Congleton BC [2003]: a young man dived into a shallow lake where swimming was banned; no liability for an obvious risk freely chosen. **Ratcliff v McConnell [1999]:** a student who climbed into a locked college pool at night and dived knew the risk; no liability. **Donoghue v Folkestone Properties [2003]:** s1(3)(b) is judged at the time of the incident; no reason to expect anyone to dive from a slipway at midnight in midwinter. **Exclusion:** whether a 1984 Act duty can be excluded is unsettled. One view: a notice can exclude it. The other: a minimum duty of “common humanity” cannot be excluded.

SCENARIO 2 • OCCUPIERS' LIABILITY

Scenario and question

SCENARIO 2 • THE HERITAGE MUSEUM

The Corran Heritage Trust, a charity, runs the Docklands Heritage Museum in Hull. Visitors pay £9 to enter. A sign at the entrance reads: "The Trust accepts no liability for any injury or loss suffered on these premises, however caused." The museum's star exhibit is the *Ellen May*, a restored steam tug in a dry dock. Visitors may walk on its open deck, where a working ship's bell and wheel are popular with children.

One afternoon a member of staff removes the cover of a hatch leading down to the hold, so that fresh paint below can dry, and ties a single rope across it at adult waist height. **Ayesha**, aged 7, is visiting with her father, Bilal, who is sitting at a quayside café table 20 metres away, from where he can see the deck. Ayesha runs to ring the bell, ducks under the rope to look into the hold, and falls two metres, breaking her arm.

The Trust has hired **Declan**, a self-employed electrician, to replace old wiring in the tug's cabin. The manager tells him: "I think I've switched off the cabin circuit, but the labels on the board are old, so test it before you start." She has switched off the wrong circuit. Declan does not test the cable before cutting into it, although electricians are trained always to do so, and he receives a severe electric shock.

Below deck, the engine room is closed to the public. Its door carries a sign reading "Staff only", but it is not locked, and staff have twice found visitors inside in recent months. **Lewis**, aged 24, wants photographs of the old engine. He goes through the door and steps onto a section of floor that the Trust knows is rotten. It gives way: he breaks his ankle and his £1,200 camera is smashed.

2 Advise Ayesha, Declan and Lewis of their rights, responsibilities and potential remedies.

[25]

AO1 12 + AO2 5 + AO3 8 • about 30 minutes in total, including about 5 minutes to plan. Reach a conclusion on liability, defences and remedy for each claim.

ANSWER PLAN

Five minutes. Keywords only.

CLAIM	RULES + AUTHORITY	APPLY • KEY FACTS	EVALUATE • DEFENCES • REMEDY
Claim 1 <i>who v whom • tort</i>			
Claim 2 <i>who v whom • tort</i>			
Claim 3 <i>who v whom • tort</i>			
Other issues <i>second defendant? counterclaim?</i>			

S2

Advise Ayesha, Declan and Lewis of their rights, responsibilities and potential remedies.

[25]

Name:

Date:

Mark: AO1 /12 AO2 /5 AO3 /8

Identify → rule + authority → apply → evaluate → conclude and remedy, claim by claim.

S2 (CONTINUED)**Advise Ayesha, Declan and Lewis of their rights, responsibilities and potential remedies.****[25]***Finish every claim with a conclusion on liability and the remedy.*

SCENARIO 3 • NUISANCE AND RYLANDS

Key law at a glance

Support: use this panel while you plan and write. Stretch and exam practice: put it away. Paper 4 gives you no source material.

KEY LAW • NUISANCE AND RYLANDS

Private nuisance: the tort and the parties • EXAM VISTA SUMMARY

An unlawful interference with a person's use or enjoyment of land, or of some right over or in connection with it. **Hunter v Canary Wharf [1997]**: only a person with a proprietary interest in the land (for example an owner or a tenant) can sue. **Who can be sued**: the creator of the nuisance; an occupier who adopts or continues it (*Sedleigh-Denfield v O'Callaghan* [1940]); a landlord who authorised it.

Unreasonable interference: the factors • EXAM VISTA SUMMARY

The court balances the competing uses of land ("give and take").

Locality • Sturges v Bridgman (1879): what is a nuisance in one area may not be in another. Locality is irrelevant where there is physical damage to property (*St Helens Smelting v Tipping* (1865)).

Duration and timing: night-time interference weighs heavily (*De Keyser's Royal Hotel v Spicer Bros* (1914): pile-driving at night).

Sensitivity • Robinson v Kilvert (1889): heat from the defendant's cellar damaged the claimant's unusually sensitive paper, but would not have harmed ordinary paper: no nuisance. The question is now treated as one of reasonableness and foreseeability (*Network Rail v Morris* [2004]).

Malice • Christie v Davey [1893]: noise made deliberately to annoy a neighbour was a nuisance. *Hollywood Silver Fox Farm v Emmett* [1936]: guns fired on purpose near the boundary to stop a neighbour's foxes breeding was a nuisance.

Defences and non-defences • EXAM VISTA SUMMARY

Prescription: 20 years of actionable nuisance. **Statutory authority** (*Allen v Gulf Oil* [1981]). **Not defences**: coming to the nuisance; planning permission; public benefit, which goes to remedy (*Coventry v Lawrence* [2014]).

Rylands v Fletcher (1868) • Transco plc v Stockport MBC [2003]; Cambridge Water v Eastern Counties Leather [1994] •

EXAM VISTA SUMMARY

Strict liability where the defendant (1) brought onto its land and accumulated something for its own purposes, (2) likely to do mischief if it escapes (an exceptionally high risk of danger), (3) in circumstances amounting to an extraordinary or unusual use of land; (4) the thing escaped to other land (*Read v J Lyons* [1947]); and (5) caused damage of a foreseeable type (*Cambridge Water*). In *Transco*, a water pipe supplying a block of flats was an ordinary use of land. The claimant needs an interest in land; personal injury is not recoverable. It is a form of nuisance for isolated escapes; negligence is the fault-based alternative.

Defences: act of a stranger (*Rickards v Lothian* [1913]: an unknown person blocked a wash-basin overflow and flooded the floor below; the occupier was not liable); Act of God (*Nichols v Marsland* (1876)); consent; statutory authority; default of the claimant.

Remedies • EXAM VISTA SUMMARY

Injunction (discretionary): prohibitory, mandatory or interim; it can be tailored (*Kennaway v Thompson* [1981]: powerboat racing restricted, not banned). **Damages in lieu**: *Coventry v Lawrence* [2014] gives a flexible discretion: the *Shelfer* criteria are not applied mechanically; the public interest may be relevant (compare *Miller v Jackson* [1977]). **Damages** for loss of amenity and property damage; the claimant must mitigate (*British Westinghouse* [1912]).

SCENARIO 3 • NUISANCE AND RYLANDS

Scenario and question

SCENARIO 3 • THE WEDDING BARN

Arthur owns Whitmoor Farm, in a quiet rural hamlet in Herefordshire. Two years ago he granted **Bellwether Events Ltd** a 15-year lease of a converted barn and the field around it, “for use as a wedding and party venue”. Bellwether obtained planning permission and now holds weddings every Friday and Saturday from May to September. Amplified music plays in the barn until 1 am, and most weddings end with a five-minute firework display at midnight.

Nkechi owns Rose Cottage, 150 metres from the barn. On wedding nights the bass from the music keeps her awake until after 1 am, and the fireworks wake her if she has fallen asleep. She has complained to Bellwether many times without result. This summer, after another sleepless night, she began running a petrol leaf blower beside her boundary hedge, next to Bellwether's ceremony lawn, whenever a wedding ceremony is taking place. Two couples have since asked Bellwether for partial refunds.

Ruth rents a smallholding next to the farm on a ten-year lease, where she breeds show spaniels. Her dogs panic at the fireworks, and two litters have been born early, which she blames on the stress. No one else on the lane keeps animals that are affected.

Bellwether had a large ornamental lake dug beside the barn as a backdrop for wedding photographs and filled it with about two million litres of water pumped from a borehole. The lake drains through an overflow sluice. At a wedding in July, guests jam a wooden pallet into the sluice as a prank. The same thing happened at a wedding in May, but Bellwether did nothing to protect the sluice. Overnight the lake overflows and floods Ruth's kennel block, destroying bedding, food stores and heating equipment worth £14,000.

3 Advise Nkechi, Ruth and Bellwether Events Ltd of their rights, responsibilities and potential remedies.

[25]

AO1 12 + AO2 5 + AO3 8 • about 30 minutes in total, including about 5 minutes to plan. Reach a conclusion on liability, defences and remedy for each claim.

ANSWER PLAN

Five minutes. Keywords only.

CLAIM	RULES + AUTHORITY	APPLY • KEY FACTS	EVALUATE • DEFENCES • REMEDY
Claim 1 <i>who v whom • tort</i>			
Claim 2 <i>who v whom • tort</i>			
Claim 3 <i>who v whom • tort</i>			
Other issues <i>second defendant? counterclaim?</i>			

S3

Advise Nkechi, Ruth and Bellwether Events Ltd of their rights, responsibilities and potential remedies.

[25]

Name:

Date:

Mark: AO1 /12 AO2 /5 AO3 /8

Identify → rule + authority → apply → evaluate → conclude and remedy, claim by claim.

S3 (CONTINUED)

Advise Nkechi, Ruth and Bellwether Events Ltd of their rights, responsibilities and potential remedies.

[25]

Finish every claim with a conclusion on liability and the remedy.

FOR TEACHERS

Marking guidance

Use this Exam Vista levels guide for each 25-mark answer. Mark AO1, AO2 and AO3 separately, then add them. Decide the level first, by the overall quality of the answer for that objective, then the mark within the level. **This is Exam Vista guidance in our own words, not an official Cambridge mark scheme.**

LEVEL	AO1 • KNOWLEDGE AND UNDERSTANDING [12]	AO2 • ANALYSIS AND APPLICATION [5]	AO3 • EVALUATION [8]
Level 4	10–12. Accurate and detailed explanation of the most relevant rules for every claim, each supported by well-chosen cases or statutory provisions whose principles are explained. Precise legal terms.	—	—
Level 3	7–9. Mostly accurate, with good use of authority, but some detail missing or one issue thinly covered.	4–5. Reasoned application to the facts throughout, issue by issue, using specific facts and comparing them with authority.	6–8. Reasoned evaluation of all the relevant claims: the defendant's best arguments, defences and alternatives weighed, leading to clear and supported conclusions on liability and remedy.
Level 2	4–6. Some accurate law, but lacking detail; cases named rather than explained; some issues missed.	2–3. Some application, but uneven or partly asserted; facts sometimes restated rather than used.	3–5. Some evaluation of some claims; conclusions reached but not always supported, or remedies missing.
Level 1	1–3. Limited, often inaccurate knowledge; little or no authority.	1. Limited application; largely retells the scenario.	1–2. Limited evaluation of one issue; little or no conclusion.
0	Nothing creditworthy.		

AO1 has four levels; AO2 and AO3 have three, so their top band sits at Level 3.

MARKING NOTES

- **AO1 is the biggest objective.** An answer that applies the facts well but cites little law cannot reach the top. Credit what a case decided, not just its name.
- **AO3 in a scenario** means weighing the parties' positions: how strong each claim is, the defendant's best argument, defences, alternative claims and the likely remedy. General criticism of the law earns little here.
- **Any reasoned conclusion is creditworthy.** Where the model answer says a claim is arguable, either conclusion can reach the top level if it is supported and follows from the analysis.
- **Any other relevant authority is creditworthy**, including cases not in the Key law panel. Cambridge does not prescribe cases.
- **If the Key law panel was used**, credit AO1 for explaining and selecting the law, not for copying the panel.
- An answer that never reaches a conclusion or a remedy should not normally go above Level 2 for AO3.

QUICK PEER-MARKING CHECK

☐ Every claim identified • ☐ elements stated with authority • ☐ specific facts used • ☐ cases compared, not just named • ☐ defences and best arguments weighed • ☐ conclusion and remedy for each claim

FOR TEACHERS AND STUDENTS

Model answers and indicative content

Each model answer would sit at the top of every level. Margin tags show what each paragraph is doing: **AO1** explains the law with authority; **AO2** applies it to the facts; **AO3** weighs the claims and reaches conclusions. The answers run to about 1,100 words, more than most students write in 30 minutes, so that the reasoning is fully visible. Indicative content follows each answer.

SCENARIO 1 • NEGLIGENCE • THE DRONE OVER THE PITCH

Advise Rosa and Ali of their rights, responsibilities and potential remedies. [25]

ROSA: STRONG

KIAN'S BREACH: ARGUABLE

ALI: WEAK

Rosa and Ali may each claim in negligence. Each must prove that the defendant owed a duty of care, breached it, and caused damage that is not too remote. There are two possible defendants: Kian, who flew the drone, and SkyFix Ltd, which is vicariously liable for its employee Dominic if he was negligent in doing his job, because there is a close connection between the job and the wrong (*Mohamud v WM Morrison Supermarkets* [2016]).

AO1

Duty. Since *Robinson v Chief Constable of West Yorkshire Police* [2018], the three-stage *Caparo* test is needed only in novel situations. Causing foreseeable physical injury by a positive act is an established category, rooted in Lord Atkin's neighbour principle in *Donoghue v Stevenson* [1932].

AO1

Flying a drone over a crowd, and repairing a drone that will be flown in public, are both positive acts. Spectators on a touchline are obviously people who may be hurt if it falls, so Kian and Dominic each owed a duty to Rosa and Ali. No *Caparo* analysis is needed.

AO2

Breach by Dominic. The standard is objective: the reasonable person in the defendant's position (*Blyth v Birmingham Waterworks*). A person exercising a special skill is judged against the reasonably competent member of that trade and is not negligent if he follows a practice accepted as proper by a responsible body of opinion in it (*Bolam* [1957]), provided that the practice withstands logical analysis (*Bolitho* [1998]).

AO1

As a technician he is judged against a reasonably competent drone repairer, not a member of the public; whether *Bolam* fully extends to a repair trade is debatable, but the result is the same. Dominic will rely on *Bolam*, pointing to other shops that fit this connector. But his own employer's manual says it must not be fitted to this model because vibration can loosen it, and a drone is flown at height over people, where a power failure is dangerous. The harm risked is serious (*Paris v Stepney*) and the precaution, fitting the correct part, costs little (*Latimer v AEC*). A practice of fitting a part known to work loose, to save money, is unlikely to survive *Bolitho*. Dominic is probably in breach, and SkyFix is vicariously liable, since he was doing the very job he was employed to do.

AO2

Breach by Kian. A child is judged against an ordinarily prudent and reasonable child of the same age, not an adult. In *Mullin v Richards* [1998] two 15-year-olds fencing with plastic rulers were not liable when one snapped and injured an eye, because the injury was not foreseeable to girls of that age.

AO1

Kian is also 15, but his position is different from *Mullin*. He was not playing a game with hidden risks: the instructions and the app told him plainly never to fly over people, and he chose to hover eight metres above a crowd to get better footage. A reasonable 15-year-old who had read that warning would foresee that a drone might fall on a spectator, and avoiding the risk cost nothing, since he could have filmed from the side of the pitch.

AO2

Kian could argue that a 15-year-old would trust a newly serviced drone not to fail, so the risk seemed remote (compare *Bolton v Stone*). That argument is weak, because the warning exists precisely because drones can fail. On balance, Kian is likely to be in breach, although this is the most open point in the scenario.

AO3

Causation and remoteness. The claimant must show that, but for the breach, the harm would not have occurred (*Barnett* [1969]); a breach that materially contributes to the harm is enough (*Bonnington Castings v Wardlaw* [1956]). The type of damage must be reasonably foreseeable (*The Wagon Mound (No 1)*), though not its precise manner (*Hughes v Lord Advocate*), and the defendant takes the claimant as found (*Smith v Leech Brain*). The claimant's own unreasonable act may break the chain of causation (*McKew v Holland & Hannen & Cubitts* [1969]).

AO1

Rosa. Both breaches were but-for causes: without the loose connector the drone would not have fallen, and if Kian had not flown over the crowd it would have fallen onto empty grass. Personal injury from a falling drone is plainly foreseeable. Rosa's clotting disorder made a minor cut far more serious, but under the thin-skull rule the defendants are liable for its full extent, including ten days in hospital and three months off work.

AO2

Rosa's claim is strong, and neither defendant has a realistic defence: standing on a touchline is not careless, so there is no contributory negligence, and she agreed to no risk. Kian and SkyFix are jointly and severally liable for one injury, so she can recover all her damages from either. In practice she should sue SkyFix, which is likely to be insured; a 15-year-old is unlikely to be able to pay. SkyFix may then seek a contribution from Kian under the Civil Liability (Contribution) Act 1978, but a court would probably place most of the responsibility on SkyFix, whose technician ignored a written warning about exactly this failure.

AO3

Ali. The fall created the situation in which Ali was hurt, and burns from a damaged battery are a foreseeable type of harm from a crashed drone, even if the exact way it happened was not (*Hughes*). But the immediate cause of his burns was his own decision to pull apart a smoking battery with bare hands, moments after Kian had warned everyone to stay back because it could catch fire.

AO2

This is close to *McKew*, where the claimant knowingly took a risk with his injured leg and his unreasonable act broke the chain. Ali knew of the danger, and nobody was in danger who needed rescuing, so he gains little from the generous approach to rescuers (*Haynes v Harwood*). The defendants' strongest argument is that his act was a *novus actus interveniens*. Ali will reply that he acted on instinct, in the moment, to stop a fire near children. Even if the chain is not broken, his damages would be heavily reduced under the Law Reform (Contributory Negligence) Act 1945 s1(1) for failing to take reasonable care for his own safety (*Jones v Livox Quarries*); a reduction of half or more is arguable. Volenti will fail: knowing of a risk is not agreeing to accept it (*Smith v Charles Baker & Sons*).

AO3

Conclusion and remedies. SkyFix, vicariously, and probably Kian are liable to Rosa in full. She should recover special damages for three months' lost earnings and any expenses up to trial, and general damages for pain, suffering and loss of amenity, assessed on her as she was. Ali's claim is weak: the most likely outcome is that his own unreasonable act broke the chain of causation, so he recovers nothing; if it did not, he recovers damages for his burns and lost earnings, substantially reduced for contributory negligence.

AO3

INDICATIVE CONTENT • CREDITWORTHY POINTS

AO1 [12] • KNOWLEDGE AND UNDERSTANDING

- Elements of negligence; duty in an established category (*Robinson*; *Donoghue v Stevenson*), *Caparo* only for novel situations.
- Breach: objective standard (*Blyth*); risk factors (*Bolton v Stone*, *Paris*, *Latimer*); child standard (*Mullin v Richards*); skilled defendant (*Bolam*, *Bolitho*).
- Vicarious liability in outline (close connection: *Mohamud*); joint and several liability; Civil Liability (Contribution) Act 1978.
- Causation: but-for (*Barnett*), material contribution (*Bonnington*), intervening acts (*McKew*; *Knightley v Johns*); remoteness (*Wagon Mound (No 1)*; *Hughes*); thin skull (*Smith v Leech Brain*).
- Contributory negligence (1945 Act s1(1); *Jones v Livox*); volenti (*Smith v Baker*); rescuers (*Haynes v Harwood*); special and general damages.

AO2 [5] • ANALYSIS AND APPLICATION

- Flying over a crowd and repairing a drone are positive acts causing foreseeable physical injury: duty owed.
- Dominic ignored his employer's manual; the 'other shops' practice is unlikely to be logically defensible; SkyFix vicariously liable.
- Kian is judged as a reasonable 15-year-old, but he ignored an explicit warning; distinguish *Mullin*.
- Both breaches were but-for causes of Rosa's injury; thin-skull rule covers the bleeding.
- Ali's burns: foreseeable type, but caused by his deliberate act after a clear warning.

AO3 [8] • EVALUATION

- Rosa's claim is strong; practical choice to sue SkyFix (insured); contribution from Kian, most responsibility on SkyFix.
- Kian's breach is arguable both ways; credit either view if reasoned.
- Ali: chain broken (*McKew*) versus instinctive act to help; if not broken, a substantial reduction; volenti fails.
- Clear conclusions on liability and remedy for each claimant. Credit any reasoned percentage reduction.

SCENARIO 2 • OCCUPIERS' LIABILITY • THE HERITAGE MUSEUM

Advise Ayesha, Declan and Lewis of their rights, responsibilities and potential remedies. [25]

AYESHA: STRONG

LEWIS: ARGUABLE

DECLAN: WEAK

The Corran Heritage Trust controls the museum and the tug, so it is the occupier (*Wheat v Lacon* [1966]: a sufficient degree of control). The tug is premises, since the 1957 Act extends to vessels (s1(3)(a)). Each claimant's position depends on whether they were a visitor, owed the common duty of care under the Occupiers' Liability Act 1957, or a non-visitor, whose claim lies only under the Occupiers' Liability Act 1984.

AO1

Ayesha. Under s2(2) the Trust must take such care as in all the circumstances is reasonable to see that the visitor will be reasonably safe in using the premises for the permitted purposes. Under s2(3)(a), "an occupier must be prepared for children to be less careful than adults." Occupiers must guard against allurements (*Glasgow Corporation v Taylor* [1922]) and need foresee only the general type of harm (*Jolley v Sutton LBC* [2000]), but may expect parents to supervise very young children (*Phipps v Rochester Corporation* [1955]).

AO1

Ayesha paid to enter with her father, so she is a visitor, and the danger, an open hatch above a two-metre drop, was created by the Trust's own staff. The bell and wheel are attractions designed to draw children onto the deck, so this is an allurements case like *Glasgow Corporation v Taylor*, and a fall into an open hold is exactly the kind of harm a reasonable occupier would foresee for a child. A single rope at adult waist height may stop an adult, but it invites a 7-year-old to duck underneath, so it did not make her reasonably safe.

AO2

The Trust will rely on *Phipps*, arguing that Bilal should have been supervising. The argument is weak. *Phipps* concerned a five-year-old on open land with no adult present; Ayesha is older, her father could see the deck, and a museum that invites families to explore a tug cannot expect parents to anticipate that staff will open a hold. A 7-year-old is unlikely to be found contributorily negligent for ducking under a rope (*Gough v Thorne*).

AO3

The entrance notice. s2(1) lets an occupier exclude its duty, but under the Unfair Contract Terms Act 1977 s2(1) a business cannot exclude liability for death or personal injury caused by negligence, which includes breach of the common duty of care. Liability to people given recreational or educational access is not a business liability unless granting that access is within the occupier's business purposes (s1(3)). Where a trader's notice is aimed at consumers, the Consumer Rights Act 2015 s65 applies instead, with the same effect.

AO1

The Trust may argue that, as a charity offering educational access, it falls outside UCTA. But admitting paying visitors is the very activity the museum carries on, so granting access is within its business purposes. Families paying to visit are consumers, so the sign is probably a consumer notice caught by CRA 2015 s65; either way, it is likely to be ineffective against a personal injury claim. The Trust is very likely to be liable to Ayesha in full.

AO3

Declan. Invited to work on the tug, he is a visitor. Under s2(3)(b), "an occupier may expect that a person, in the exercise of his calling, will appreciate and guard against any special risks ordinarily incident to it, so far as the occupier leaves him free to do so." In *Roles v Nathan* [1963] the occupier was not liable when two warned chimney sweeps died from carbon monoxide, a risk of their calling. A warning discharges the duty if it enables the visitor to be reasonably safe (s2(4)(a)).

AO1

A live cable is the classic special risk of an electrician's calling, and testing before cutting is the routine precaution every electrician is trained to take. Far from stopping him, the manager told Declan that the labels were unreliable and that he should test the circuit first. Like the sweeps in *Roles v Nathan*, he was warned and left free to protect himself.

AO2

Declan will argue that the manager's statement that she had switched the circuit off lulled him into a false sense of security. But she said only that she "thought" so and told him to test it, so a court is likely to find that the warning made him reasonably safe. Even if the Trust were liable, his damages would be heavily reduced under the Law Reform (Contributory Negligence) Act 1945 s1(1), because he ignored the most basic safety step of his own trade. Volenti is unlikely, since he did not know the cable was live (*Smith v Charles Baker & Sons*). The likely outcome is that the Trust is not liable to Declan.

AO3

Lewis. A visitor who goes beyond the area he is permitted to enter becomes a trespasser there (*The Calgarth*), so Lewis's claim lies under the 1984 Act. A duty arises only if the three conditions in s1(3) are met: the occupier knows of the danger or has reasonable grounds to believe it exists; it knows or has reasonable grounds to believe that the trespasser is, or may come, in its vicinity; and the risk is one against which it may reasonably be expected to offer some protection. The duty may be discharged by reasonable warnings or discouragement (s1(5)); no duty is owed for risks willingly accepted (s1(6)); and property damage is excluded (s1(8)).

AO1

Lewis paid to visit the museum but had no permission to enter the engine room, so by passing a "Staff only" door he became a trespasser. All three conditions are likely to be met. The Trust knew the floor was rotten. Staff had twice found visitors behind the unlocked door, so it had reasonable grounds to believe someone might come near the danger, unlike *Donoghue v Folkestone Properties*, where nobody could be expected to dive at midnight in midwinter. And a hidden rotten floor risking a serious fall is a danger against which protection is reasonably expected, especially as locking the door would cost almost nothing.

AO2

The Trust's best arguments are s1(5) and s1(6). But "Staff only" tells visitors who may enter, not that the floor is dangerous, so it is a weak warning of "the danger concerned". Unlike the claimants in *Ratcliff v McConnell* and *Tomlinson*, who chose obvious risks, Lewis could not see that the floor was rotten, so he did not willingly accept that risk. Whether the entrance notice can exclude a 1984 Act duty is unsettled: UCTA's definition of negligence (s1(1)(c)) covers the common duty of care under the 1957 Act, not the 1984 Act duty, and the 1984 Act is silent. On one view the notice could defeat Lewis's claim; on the other, a minimum duty of common humanity cannot be excluded. A court is unlikely to let a general notice at the entrance defeat a claim about a known, hidden danger behind an unlocked door.

AO3

Conclusion and remedies. The Trust is very likely to be liable to Ayesha in full: general damages for pain, suffering and loss of amenity, and special damages for any expenses. It is probably liable to Lewis for his broken ankle, but his damages are likely to be reduced for contributory negligence, as an adult who deliberately ignored a sign; his camera cannot be recovered under the 1984 Act (s1(8)). Declan's claim is likely to fail under s2(3)(b) and s2(4)(a); if it succeeded, his damages would be heavily reduced.

AO3

INDICATIVE CONTENT • CREDITWORTHY POINTS

AO1 [12] • KNOWLEDGE AND UNDERSTANDING

- Occupier (*Wheat v Lacon*); visitor; vessels as premises (s1(3)(a)); exceeding permission makes a visitor a trespasser (*The Calgarth*).
- 1957 Act s2(1), s2(2); children s2(3)(a) with *Glasgow Corp v Taylor, Jolley, Phipps*; calling s2(3)(b) with *Roles v Nathan*; warnings s2(4)(a); s2(5).
- Exclusion: s2(1); UCTA ss1(3) and 2(1); CRA 2015 s65; the unsettled position under the 1984 Act.
- 1984 Act s1(3)(a)–(c), s1(4), s1(5), s1(6), s1(8); *Tomlinson, Ratcliff, Donoghue v Folkestone*.
- Contributory negligence (1945 Act; *Gough v Thorne* for children); volenti (*Smith v Baker*); damages.

AO2 [5] • ANALYSIS AND APPLICATION

- Ayesha: paying visitor; bell and wheel as allurements; rope at adult height inadequate for a child; danger created by staff.
- Notice ineffective: admitting paying visitors is within the Trust's business purposes (UCTA s1(3)); as a consumer notice, CRA s65.
- Declan: live cable is a special risk of his calling; he was told to test and did not.
- Lewis: trespasser in the engine room; knowledge of the rot, previous intruders, unlocked door; a hidden, serious danger.
- "Staff only" does not warn of the danger; s1(8) excludes the camera.

AO3 [8] • EVALUATION

- Ayesha: *Phipps* argument weak; no reduction for a 7-year-old; strong claim.
- Lewis: weigh s1(5)/s1(6) and both views on exclusion; likely liability with a reduction for his own fault.
- Declan: likely to fail (*Roles v Nathan*); if not, a heavy reduction; volenti unlikely.
- Clear conclusions and remedies for each claimant. Credit any reasoned conclusion, including that Declan succeeds with a large reduction.

SCENARIO 3 • NUISANCE AND RYLANDS • THE WEDDING BARN

Advise Nkechi, Ruth and Bellwether Events Ltd of their rights, responsibilities and potential remedies. [25]

NKECHI: STRONG

BELLWETHER V NKECHI: STRONG

RUTH (FLOOD): ARGUABLE-STRONG

RUTH (FIREWORKS): WEAK

Private nuisance is an unlawful interference with a person's use or enjoyment of land. Only a claimant with a proprietary interest can sue (*Hunter v Canary Wharf* [1997]). The creator of the nuisance can be sued, and so can a landlord who authorised it. Whether an interference is unreasonable depends on give and take between neighbours, weighing locality (*Sturges v Bridgman*), duration and timing (*De Keyser's Royal Hotel v Spicer*), abnormal sensitivity (*Robinson v Kilvert*) and malice (*Christie v Davey*). Planning permission is not a defence (*Coventry v Lawrence* [2014]).

AO1

Nkechi v Bellwether. Nkechi owns Rose Cottage, so she can sue. The hamlet is quiet and rural, and *Sturges* shows that what is tolerable in one area may be a nuisance in another. Amplified bass until 1 am and fireworks at midnight, two nights a week for five months, is a regular, night-time interference with sleep, which, as in *De Keyser's*, weighs heavily. Sleeping is an ordinary use of a home, not a sensitive one. Bellwether runs the events and created the nuisance, so it is the obvious defendant.

AO2

Bellwether will rely on its planning permission and the value of its business to the area. Following *Coventry v Lawrence*, neither is a defence to liability: planning permission does not authorise a nuisance, and public benefit goes only to remedy. One venue is unlikely to change the character of the locality. Nkechi's claim is strong. Arthur is a weaker target: the lease permits a wedding venue, but weddings can be run without loud music until 1 am, so the nuisance is not an inevitable result of the letting and he is unlikely to have authorised it.

AO3

Remedies. A prohibitory injunction is the usual remedy and can be tailored rather than total (*Kennaway v Thompson* [1981], where powerboat racing was restricted, not banned). Under *Coventry v Lawrence* the court has a flexible discretion to award damages in lieu of an injunction, and the public interest may be relevant; the *Shelfer* criteria are no longer applied mechanically.

AO1

Banning weddings altogether would be disproportionate: Bellwether, its staff and couples who have booked would all suffer, and *Miller v Jackson* shows the courts will weigh such interests. But damages alone would in effect let Bellwether pay to keep disturbing Nkechi's sleep every summer weekend. The most likely outcome is a tailored injunction, for example amplified music to stop at 11 pm and no fireworks, together with damages for the loss of amenity she has already suffered.

AO3

Bellwether v Nkechi. Bellwether holds a 15-year lease, a proprietary interest, so it can sue. Running a leaf blower beside the ceremony lawn only during ceremonies serves no genuine purpose: like the noise in *Christie v Davey*, it is done deliberately to disrupt. Malice turns what might otherwise be a short, minor noise into an unreasonable interference, and the refunds show real loss.

AO2

Nkechi's frustration is understandable, but retaliation is no defence: her remedy is to sue. Bellwether is likely to obtain an injunction to stop the leaf blowing and damages for the refunds. The counterclaim weakens Nkechi's bargaining position and is a good reason for both sides to settle on agreed hours.

AO3

Ruth: the fireworks. As a tenant under a ten-year lease, Ruth has a proprietary interest. But her complaint rests on the special sensitivity of breeding dogs: no one else on the lane is affected. In *Robinson v Kilvert* a claimant whose unusually sensitive paper was damaged by heat that would not harm ordinary paper had no claim, and *Network Rail v Morris* treats the question as one of reasonable foreseeability.

AO2

Ruth will rely on *Hollywood Silver Fox Farm v Emmett*, where disturbing fox breeding was actionable. The difference is malice: there the defendant fired guns specifically to stop the foxes breeding, whereas Bellwether's five-minute displays are aimed at nobody. Causation is also doubtful, since early births may have other causes. Her nuisance claim is weak, although she would benefit from any ban on fireworks that Nkechi obtains.

AO3

Ruth: the flood. Under *Rylands v Fletcher* (1868), as restated in *Transco plc v Stockport MBC* [2003], a defendant is strictly liable if it brought onto its land and accumulated something for its own purposes, which was likely to do mischief (an exceptionally high risk of danger) if it escaped, in circumstances amounting to an extraordinary or unusual use of land; the thing escaped to other land; and it caused damage of a foreseeable type (*Cambridge Water* [1994]). Personal injury is not recoverable. Act of a stranger is a defence (*Rickards v Lothian* [1913]).

AO1

AO2

Bellwether dug the lake and filled it with two million litres of water for its own business, so there is an accumulation, and the water escaped onto Ruth's land, causing flood damage, an obviously foreseeable type. The difficult element is non-natural use. In *Transco*, piping water to a block of flats was ordinary. Bellwether will say an ornamental lake is a normal feature of a rural estate; Ruth will reply that a large artificial lake built for a commercial venue is much closer to the reservoir in *Rylands* itself, and that two million litres held back by a single overflow carries an exceptionally high risk if it escapes. After *Transco* the threshold is high, and a court may well treat the lake as an ordinary use, so the *Rylands* claim is uncertain.

AO3

Bellwether's main defence is act of a stranger: guests, not Bellwether, blocked the sluice, as an unknown person blocked the overflow in *Rickards v Lothian*. The defence is weak here. The guests were at an event Bellwether organised, and the same prank had happened in May, so the risk was known and could easily have been prevented with a grille or a locked cover. Because non-natural use is uncertain, Ruth should also claim in negligence: a reasonable venue operator, knowing of the earlier incident, would have protected the sluice at little cost (*Latimer v AEC*). Either way, Bellwether is likely to be liable for the flood damage.

AO3

Conclusion. Nkechi has a strong nuisance claim against Bellwether and is likely to obtain a tailored injunction and damages, but she is herself liable to Bellwether for her malicious leaf blowing. Arthur is unlikely to be liable. Ruth's fireworks claim is weak, because her use is abnormally sensitive and there is no malice. Her flood claim is strong in outcome: Bellwether is likely to be liable, most securely in negligence and possibly in *Rylands*, for £14,000 in damages, provided she took reasonable steps to limit her loss (*British Westinghouse*).

INDICATIVE CONTENT • CREDITWORTHY POINTS

AO1 [12] • KNOWLEDGE AND UNDERSTANDING

- Definition of private nuisance; standing (*Hunter*); defendants: creator, adopter (*Sedleigh-Denfield*), landlord who authorised.
- Factors: locality (*Sturges*), timing (*De Keyser's*), sensitivity (*Robinson v Kilvert*; *Network Rail v Morris*), malice (*Christie v Davey*; *Hollywood Silver Fox Farm*).
- Non-defences: planning permission, public benefit (*Coventry v Lawrence*); prescription needs 20 years.
- *Rylands* elements (*Transco*; *Cambridge Water*; *Read v Lyons*); act of a stranger (*Rickards v Lothian*); relationship with nuisance and negligence.
- Injunctions (prohibitory, tailored: *Kennaway*); damages in lieu (*Coventry v Lawrence*; *Shelfer*; *Miller v Jackson*); damages and mitigation.

AO2 [5] • ANALYSIS AND APPLICATION

- Nkechi owns, Ruth and Bellwether are tenants: all have standing.
- Quiet rural hamlet; music to 1 am and midnight fireworks, two nights a week for five months.
- Leaf blower used only during ceremonies: malice (*Christie v Davey*).
- Ruth's breeding dogs: abnormal sensitivity; no malice by Bellwether.
- Lake: accumulation, escape, foreseeable flood damage; non-natural use arguable; the May incident.

AO3 [8] • EVALUATION

- Nkechi: strong; tailored injunction and damages more likely than a total ban or damages alone.
- Arthur probably not liable: the nuisance is not an inevitable result of the letting.
- Bellwether's counterclaim likely to succeed; retaliation no defence.
- Ruth: fireworks weak (distinguish *Hollywood Silver Fox Farm*); flood likely to succeed in negligence, with *Rylands* uncertain after *Transco*; stranger defence weak.
- Credit any reasoned view on non-natural use, the form of injunction or the landlord's liability.

Feedback and improve

SCENARIO	MY MARKS	WHAT I DID WELL	THE POINT I MISSED · MY TARGET
Scenario 1 <i>Negligence</i>	AO1 /12		
	AO2 /5		
	AO3 /8		
	Total /25		
Scenario 2 <i>Occupiers' liability</i>	AO1 /12		
	AO2 /5		
	AO3 /8		
	Total /25		
Scenario 3 <i>Nuisance and Rylands</i>	AO1 /12		
	AO2 /5		
	AO3 /8		
	Total /25		

Choose your weakest claim. Rewrite it: rule with authority → specific facts → the defendant's best argument → conclusion and remedy.

[illegible]

☐ I found every claim, including a second defendant · ☐ I explained what each case decided · ☐ I compared my facts with the case · ☐ I tested the defendant's best argument · ☐ I gave a remedy for every claim

EXAM VISTA

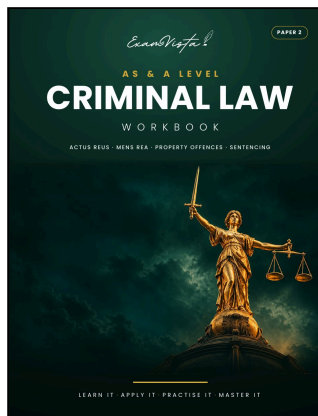
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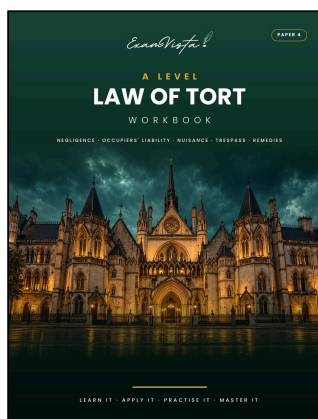
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