Legal Profession Admission Board

Examiner's Comments

03 Torts Examination – March 2025

The exam comprised of two questions.
Candidates were required to answer two questions.
All questions were of equal value (50 marks each).

Question 1

The first question tested students' understanding of medical negligence. In particular, it tested students' understanding of failure to warn and negligent medical treatment; the standard of care to be expected of professional persons; and issues of causation and scope of liability in circumstances where there were successive tortfeasors. The first question also tested students' understanding of battery.

Question 2

The second question tested students' understanding of trespass to land and private nuisance.

Characteristics of poor or average responses

Poor or average responses often failed to identify all the relevant issues or identified non-issues. For instance, poor or average responses to the first question often failed to identify a possible claim in battery. Poor or average responses to the second question often dealt at length with claims for battery, assault or false imprisonment.

Poor or average responses demonstrated difficulty identifying relevant sources of law. There were some responses which did not cite a single statutory provision or case as authority for a legal proposition.

Poor or average responses tended not to reason to conclusions well, or in some instances, at all. Many responses identified the issue, identified the relevant law, then asserted a conclusion.

There was also a tendency for students to write in point form, rather than in complete sentences. A problem question tests a student's ability to analyse a problem and to reason logically towards a conclusion. If the answer to the question does not clearly set out the reasoning, it is difficult to assess the student's ability to undertake this core requirement.

Characteristics of very good or excellent responses

There were few excellent responses but there were some very good responses. The characteristics of the very good responses were: identification of all relevant issues; identification of relevant sources of law; and clear, logical analysis of the legal issues raised by the facts.

Common mistakes

There were still some students who did poorly due to time management. Failing to answer a whole question or devoting insufficient time to the second question when it is of equal weight to the first one, is a certain way for a student to ensure that they fail themselves. If there is insufficient material before the examiner in relation to one of the questions, it will be difficult for the student to pass the course.

Areas for improvement

The issue of causation and scope of liability in the first question was an area in particular need of attention.