

LEGAL STUDIES

FOR VCE

ACCESS & JUSTICE

14TH EDITION

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Units 1 & 2 Access & Justice 14E***
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CHAPTER 7

CIVIL LIABILITY

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QuizletLive

Compete in teams to test your knowledge of legal definitions

Check your Teacher obook assess for these resources and more:

QuizletLive

Launch a quiz for your students on legal definitions

Source 1 Civil law is an area of the law that governs disputes between individuals, groups and organisations. 'Civil liabilities' is a term used to describe the legal responsibilities of a party (i.e. a person or group) for any loss or harm caused to another party because of a breach of civil law. The Black Saturday bushfire class action settlement was one of the most significant cases in Australia's civil law history. In this chapter, you will learn about the purposes and types of civil law and be introduced to the different parties involved in civil disputes.

OUTCOME

By the end of **Unit 1 – Area of Study 3** (i.e. Chapters 7, 8 and 9), you should be able to explain the purposes and key concepts of civil law, and apply legal reasoning to argue the liability of a party in civil law based on actual and/or hypothetical scenarios.

KEY KNOWLEDGE

In the chapter, you will learn about:

- the purposes and types of civil law
- key concepts of civil law, including breach, causation, loss, limitation of actions, the burden of proof and the standard of proof
- possible plaintiffs and defendants to a civil dispute.

KEY SKILLS

By the end of this chapter, you should be able to:

- define and use legal terminology
- research and analyse relevant information about civil law
- explain the purposes and key concepts of civil law
- classify civil law according to its type.

KEY LEGAL TERMS

accessorial liability the way in which a person can be responsible or liable for the loss or harm suffered by another person because they were directly or indirectly involved in causing the loss or harm (for example, they encourage another person to cause the harm)

balance of probabilities the standard of proof in civil disputes; this requires the plaintiff to establish that it is more probable (i.e. likely) than not that their side of the story is right

causation the direct relationship between one event (i.e. Event 1) and another event (i.e. Event 2), where Event 1 was the reason Event 2 happened, and Event 2 would not have happened by itself, without Event 1

civil law an area of law that defines the rights and responsibilities of individuals, groups and organisations in society and regulates private disputes (as opposed to criminal law)

contract law an area of civil law governing the validity and enforceability of agreements made between two or more parties

counterclaim a separate claim made by the defendant in response to the plaintiff's claim (and heard at the same time by the court)

damages the most common remedy in a civil claim; an amount of money that the court (or tribunal) orders one party to pay to another party

defamation a type of tort that involves the action of damaging a person's personal or professional reputation in

the community through the communication of false and untrue statements or information

defendant (in civil disputes) a party who is alleged to have breached a civil law and who is being sued by a plaintiff

group member a member of a group of people who are part of a representative proceeding (i.e. a class action)

insurers a person or company that is contracted to compensate another person in the event of damage or loss

limitation of actions the restriction on bringing a civil law claim after the allowed time

loss a type of harm or damage suffered by a person, and can involve both economic and non-economic loss

negligence a type of tort that involves a breach of a duty of care, causing loss or harm

nuisance a type of tort that involves interference with a person's right to use and enjoy private and/or public property

plaintiff (in civil disputes) the party who makes a legal claim against another party (i.e. the defendant) in court

remedy any order made by a court that is designed to address a civil wrong or a breach; a remedy should provide a legal solution for the plaintiff for a breach of the civil law by the defendant and (as much as possible) restore the plaintiff to the position they were in before they were wronged or their rights were breached

representative proceeding (also called a class action or a group proceeding) a legal proceeding in which a group of people who have a claim based on similar or related facts, bring that claim to court in the name of one person

right of subrogation the right to 'step into the shoes' of an insured person and act on their behalf – this includes taking legal actions in their name

sue to take civil action against another person, claiming that they infringed some legal right of the plaintiff (or did some legal wrong that negatively affected the plaintiff)

tort a term that literally means 'wrong'; any one of a large collection of separate wrongs that interfere with a person's legally protected interests

trespass a type of tort involving the interference or intrusion of a person's body, property or goods without the consent of that person

vicarious liability the legal responsibility of a third party for the wrongful acts of another (e.g. an employer's liability for what their employees do)

KEY LEGAL CASES

A list of the key legal cases discussed in this chapter is provided on pages vi–vii of this student book.

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PURPOSES AND TYPES OF CIVIL LAW

Overview of civil law

Some of the laws made by parliament and the courts are known as **civil law**. Civil law regulates disputes between individuals, groups and organisations. Civil law enables people to enforce their rights where harm has occurred.

Civil liabilities is a term used to describe the legal responsibilities of a party (i.e. an individual, group or organisation) for any loss or harm caused to another party because of a breach of civil law. In this topic, you will explore the purposes and types of civil law.



Source 1 Under Victorian law, at childcare centres, there must be one adult teacher for every four children aged 0 to 35 months. A failure to follow this law may put children at risk, which could give rise to a civil dispute.

Purposes of civil law

Civil law has several specific purposes. Civil law aims to:

- **achieve social cohesion** – Civil law provides guidelines for acceptable behaviour, so that people can live together in harmony. If these guidelines did not exist, some individuals might exploit or abuse the rights of others. For example, if there was no law regulating the standard and quality of toys, some toy manufacturers might make toys using the cheapest materials without concern for the safety of the children playing with them. Similarly, there are laws requiring schools and businesses that provide childcare to make sure they maintain processes and procedures to protect the children within their care.
- **protect the rights of individuals** – Key rights are enshrined in civil law, including the right to be protected from false statements that might damage your reputation, the right to a promise made under a contract, and a right not to be harmed.
- **provide an avenue for people to seek compensation where a breach of civil law has occurred** – Individuals can seek compensation for a breach of civil law through the courts, tribunals, complaints bodies and ombudsmen (you will explore these dispute resolution bodies in Unit 2). If there were no dispute resolution bodies, there would be no specialised bodies available to help people resolve their disputes, so disagreement would fester in the community. This would impact on social cohesion.

- **provide a means to seek compensation** – When a person's rights have been infringed, civil law provides a way to return the harmed person, as far as possible, to the position they were in before the harm occurred. This is achieved through the awarding of civil **remedies**. The most common civil remedy is an amount of money paid as compensation (i.e. **damages**) to the **plaintiff** for the loss they suffered.

Certain types of civil law also have specific purposes. For example:

- **contract law** aims to ensure that people who make promises under a contract (i.e. an agreement) stick to those promises, or else compensate the other party to the contract if they fail to comply with it
- laws relating to **negligence** aim to ensure that people who owe reasonable duties of care to each other do not breach those duties; if they do, they are responsible for any loss suffered as a result
- laws relating to **wills** aim to provide a consistent set of rules about the way a person's will (i.e. their instructions about how to deal with their property after they die) must be carried out; if a deceased person did not leave a will, statute law sets out the way this must be done to provide a fair and equitable distribution of assets
- laws relating to **nuisance** recognise that people should have a right to enjoy and use their land, or public land, free from interferences or annoyance; the purpose of nuisance laws is to ensure that people can enjoy this right, by establishing guidelines on what counts as an interference or annoyance
- laws relating to **defamation** aim to ensure that a person's reputation is not harmed because of false statements that are made about that person.

The following scenario is an example of a civil law dispute involving asbestos.

Compensation for 42-year-old man after exposure to asbestos dust

Werfel v Amaca v The State of South Australia [2019] SAET 159

A terminally ill South Australian man, Matthew Werfel, was awarded \$3 million after he was exposed to asbestos dust. Asbestos is a deadly chemical that can cause mesothelioma, which is a rare type of cancer that usually affects the lungs.



Source 2 James Hardie's asbestos products

The judge at the South Australian Employment Tribunal (SAET) found that Werfel was not warned of the risks posed by James

Matthew Werfel was exposed to asbestos while working for a fencing contractor as a teenager, and later on in life while he was renovating his home. He was unaware that his home was constructed from asbestos cement

ACTUAL

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damages

the most common remedy in a civil claim; an amount of money that the court (or tribunal) orders one party to pay to another party

plaintiff

(in civil disputes) the party who makes a legal claim against another party (i.e. the defendant) in court

contract law

an area of civil law governing the validity and enforceability of agreements made between two or more parties

negligence

a type of tort that involves a breach of a duty of care, causing loss or harm

will

a document that specifies how a person would like their assets to be distributed after they die, and who they would like to carry out their wishes

nuisance

a type of tort that involves interference with a person's right to use and enjoy private and/or public property

defamation

a type of tort that involves the action of damaging a person's personal or professional reputation in the community through the communication of false and untrue statements or information

civil law

an area of law that defines the rights and responsibilities of individuals, groups and organisations in society and regulates private disputes (as opposed to criminal law)

remedy

any order made by a court that is designed to address a civil wrong or breach; a remedy should provide a legal solution for the plaintiff for a breach of the civil law by the defendant and (as much as possible) restore the plaintiff to the position they were in before they were wronged or their rights were breached

Hardie's asbestos products and awarded him compensation for pain and suffering, future economic loss, and medical expenses. The case is one of many cases in Australia where victims have been awarded compensation after being exposed to asbestos dust.

Types of civil law

There are several types of civil law. These include:

- **negligence** – this occurs when someone owes a duty of care to another person and breaches that duty, causing harm or loss to the other person (e.g. a doctor is careless during a medical procedure and something goes wrong, causing physical injury and pain to the patient)
- **trespass** – this occurs when someone interferes with another person, their land or their goods, and that interference causes damage (e.g. destroying another person's car may give rise to a claim for trespass to goods)
- **defamation** – this relates to the publication of material that causes damage to another person's reputation; for example, the publication of a statement about another person – in a newspaper article or on social media platforms such as Facebook and Twitter – that is false and harmful to that person's reputation may lead to a defamation claim by the other person
- **nuisance laws** – these laws deal with an individual's right to use and enjoy both public and private property; a nuisance claim may be made by a person who is unable to enjoy their own home because of some sort of interference (e.g. a significant odour coming from a factory nearby)
- **wills and inheritance laws** – these laws regulate wills, including when they are valid; these laws give guidelines about the decisions made by a will-maker and how a person's estate is distributed if there is no will
- **contract law** – this covers the validity of contracts (i.e. legal agreements) and the rights available to a person if a valid contract has been breached; a claim for breach of contract may involve a contracting party who has failed to do something, or has done something contrary to what they agreed to do as part of a contract; many statutes regulate issues that may arise in contracts, such as unfair terms and guarantees (given by a seller when they sell goods)
- **family law** – this deals with disputes between family members that are of a family nature, such as disputes over the division of property between divorced parties and the parenting of children, as illustrated in the scenario below

trespass

a type of tort involving the interference or intrusion of a person's body, property or goods without the consent of that person

Study tip

Gather newspaper articles and social media references to the different types of civil law. Make note of the different legal terms used for each type of civil law. For example, in negligence claims, you will see the words 'duty of care', whereas in will disputes, you will see the words 'executor' and 'estate'. Learn these legal terms and definitions and use them correctly to improve your performance in assessment tasks.

HYPOTHETICAL

SCENARIO

Sam and Alice

Sam and Alice's parents separated in July 2020. A month later, their mother commenced proceedings in the Family Court of Australia seeking orders from the court in relation to custody of Sam and Alice. The Family Court made orders in December 2020 that the children should live with their mother but that the children were to spend time with their father every second weekend, and each alternate week during the school holidays.

- **employment laws** – these laws deal with disputes between employers and employees; disputes often arise in the workplace in relation to pay, conditions, harassment, discrimination and termination of employment

- **equal opportunity and discrimination laws** – these laws aim to protect individuals from bias, prejudice or vilification based on a personal attribute such as their sex, marital status, race or religion.

As part of this Area of Study, you will examine two areas of civil law. Some of the areas of law covered briefly above are explored further in Chapters 7 and 8.

The following scenario provides an example of a defamation payout to be paid by the state of Victoria to compensate the plaintiff for the conduct of Victoria Police officers.

Inflation nightclub manager Martha Tsamis to get \$90k defamation payout from Victoria Police

Karen Percy and Emilia Terzon, *ABC News*, 19 December 2017

Victoria Police has been ordered to pay \$90 000 to a nightclub manager who won a defamation case over allegations that she was running a 'honeypot' for drug dealers.

Martha Tsamis sued the police over comments made to the media in 2014 by then-superintendent Brett Guerin, who said Ms Tsamis was running the Inflation nightclub in 'a manner that was conducive to drug trafficking, drunkenness and violence'.

The Supreme Court also found Mr Guerin conveyed to the *Herald Sun* newspaper and radio station 3AW that she had allowed minors into the venue and jeopardised the health of patrons.

Victoria Police was pushing to limit the CBD club's trading hours because of concerns about activities at the venue.

It had cited 59 incidents at the club in an application to the liquor regulation commission.

Ms Tsamis was also accused of improperly approaching witnesses who were taking part in commission hearings.

Ms Tsamis argued there were eight instances of defamation by police as part of a campaign to inflict 'maximum hurt' on her position before the commission.

In August, a jury found in her favour on four of those, but found the claims about drug activity use to be 'substantially true'.

Justice John Dixon acknowledged the personal hurt to Ms Tsamis and the damage to her reputation, in particular her integrity.

...



Source 3 Nightclub manager Martha Tsamis was awarded \$90 000 in a defamation case against Victoria Police.

ACTUAL

SCENARIO

Define and explain

- 1 Describe two purposes of civil law.
 - 2 What is a remedy? What is the main purpose of a remedy?
 - 3 Identify one purpose of the following types of civil law:
 - a negligence laws
 - b defamation laws
 - c laws governing wills
 - d contract law
 - e nuisance laws.
- Synthesise and apply**
- 4 Read the scenario, 'Compensation for 42-year-old man after exposure to asbestos dust', above.
 - a What type of civil law is this case about?
 - b What happened to the plaintiff?
 - c Conduct some research and identify at least three other cases involving asbestos and the damages awarded in each case.
 - 5 Read the scenario, 'Sam and Alice', above.
 - a What type of civil law is this case about?
 - b What was the dispute between the parties?
 - 6 Look at Source 1 on page XX. Identify the type of civil law that the photo depicts and the purpose the law is trying to achieve.
 - 7 Read the scenario, 'Inflation nightclub manager Martha Tsamis to get \$90k defamation payout from Victoria Police', above.
 - a In this case, who was suing who?
 - b Why was the state of Victoria involved in this case?
 - c What type of civil law does this article refer to? What is the aim of this law?
 - d What type of remedy was the plaintiff seeking?
 - e Which dispute resolution body was used to resolve this dispute? Write down as much as you know about this body.
 - 8 Collect two articles that refer to two different civil cases. Write a report about the two cases. Your report should include:
 - a description of the main issues of each case
 - a discussion about how the civil law referred to in each article aims to achieve two or more purposes.
 - c What order did the court make?
 - d Conduct some research on the Family Court. What sort of disputes does the Family Court hear?

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Answers to student book questions
7.1 Check your learning



Video tutorial
Introduction to Chapter 7



Video
Civil justice



Video worksheet
Civil justice

Overview of key concepts

If there has been a breach of civil law, the person whose rights have been infringed is referred to as the aggrieved party, or the wronged party, or the plaintiff (in court). The party alleged to be in the wrong is referred to as the wrongdoer or the **defendant** (in court).

The plaintiff may use a dispute resolution body such as a court or a tribunal to **sue** the defendant to try to obtain a remedy to compensate them for the loss they have suffered.

A number of key concepts of civil law are relevant when a party sues another party. These concepts include breach, causation, loss, limitation of actions, the burden of proof and the standard of proof. Each concept is discussed in detail in this chapter.

Breach

In most types of civil law claims, the plaintiff has to prove that there has been a **breach** by the defendant. This means that the defendant has in some way failed to observe a law or obligation imposed on him or her. As the plaintiff has the responsibility or onus to prove their case, they need to establish that the defendant is in breach. The defendant may argue as a defence that there has been no breach.

The nature of the breach depends on the area of law. For example:

- In **contract law**, the plaintiff may allege that the defendant has breached an agreement that was reached between them. In other words, the defendant has failed to fulfil an obligation or promise that they made to the plaintiff. For example, if a person hires a jumping castle for a birthday party, a contract is formed with the supplier that governs the supply of that castle. One of the terms of the contract may be that the castle is to be set up at the person's house by 11:00 am, in time for the party. If the supplier fails to complete the installation by that time, or if the castle never arrives, the contract has been breached.
- In **negligence**, the plaintiff may allege that the defendant breached their duty of care to the plaintiff. This means that the defendant had an obligation or duty to care for the plaintiff, and that duty was not complied with. For example, in schools, teachers supervise the grounds before, during and after school hours. If a school fails to roster teachers to supervise a particular area of the school before school starts each morning, and a student is injured in that area, it is possible that the school has breached its duty of care to its students.
- In a **sexual harassment claim**, the plaintiff may allege that the defendant breached the relevant laws that prohibit people from sexually harassing another person. For example, if a boss makes sexual comments to their worker in the workplace, the worker could commence a claim against their employer for the loss suffered as a result.
- In a **discrimination claim**, the plaintiff may allege that the defendant breached the relevant laws that prohibit people and organisations from discriminating against a person on the basis of their sex, gender, race, religion or other characteristic. For example, a law in Victoria states that an educational authority (e.g. a school) must not discriminate against a person in deciding who should be admitted as a student. If a school chooses not to enrol students because of their race or religion, it is likely to be a breach of that law.

The scenario on the next page provides another example of a breach of contract law.

defendant

(in civil disputes) a party who is alleged to have breached a civil law and who is being sued by a plaintiff

sue

to take civil action against another person, claiming that they infringed some legal right of the plaintiff (or did some legal wrong that negatively affected the plaintiff)

breach

breaking or failing to fulfil a duty or obligation

Study tip

You will examine breach, causation, loss, and limitation of actions more closely when you investigate two areas of civil law in Chapters 8 and 9. For now, you should at least understand the meanings of these key concepts and be able to list a few examples of each concept.

Source 4 Civil law achieves social cohesion in our cities and towns.

HYPOTHETICAL

SCENARIO

Contract to provide editing services

Rakesh runs his own editing business from home. Two months ago, he was contracted by a small accounting firm to edit various reports that they were preparing for their clients. Rakesh and the accounting firm agreed that he would be paid a flat fee of \$2000 per report, and that he would review six reports in total. Rakesh completed the job on time and issued an invoice for \$12000. The accounting firm has only paid \$6000 of the invoice, and now says that the agreed rate was \$1000 per report.

causation
the direct relationship between one event (i.e. Event 1) and another event (i.e. Event 2), where Event 1 was the reason Event 2 happened, and Event 2 would not have happened by itself, without Event 1

Causation

In civil law cases, another key element that a plaintiff normally needs to prove is **causation**. The plaintiff needs to prove that the defendant's actions caused or resulted in the harm suffered by the plaintiff, and that the harm would not have occurred if the defendant had not acted in the way they did. That is, there needs to be a causal link between the actions (or inactions) of the defendant, and the harm that the plaintiff suffered.

For example, imagine if a plaintiff alleges that the defendant has been playing loud music all night long for several months. The plaintiff may be able to bring a nuisance claim against the defendant, alleging that the defendant has disturbed their enjoyment of their property. If the plaintiff alleges that they no longer sleep at night, are suffering from anxiety, and have lost their job, the plaintiff needs to establish that the defendant's actions caused all of those things, and those things were not caused by something else. For example, is the plaintiff not sleeping for another reason like a health condition? Or did the plaintiff lose their job not because they can't sleep and concentrate because of the defendant's actions, but because they are not very good in performing their duties at work? If it can be shown that the harm was too remote from the actions of the defendant, then the plaintiff is unlikely to be able to prove causation.

There can be an intervening event or a break in the chain of causation. This happens when something occurs after the defendant's actions, which may be considered to have actually caused the injury or loss, rather than the defendant's actions. In negligence cases, the plaintiff claims that the defendant breached a duty of care towards the plaintiff. For example, if Bill injures Babak in a fight, Babak might have a civil law claim against Bill. But what happens if Babak had surgery for his injuries, and the surgeon made the loss suffered by Babak worse? Did Bill cause the loss, or did the surgeon? It could be argued that the surgeon's actions broke the link between Bill's actions and Babak's loss or injury.

The scenario below is another example of a situation where there was a break in the chain of causation.

Break in the chain of causation

State Rail Authority of New South Wales v Chu [2008] NSWCA 14
(6 March 2008)

Ms Chu fell down the stairs at a railway station early in the morning after it had been raining. The trial judge found that the accident was caused by the Rail Authority's negligence, because staff members of the Rail Authority had applied paint to the edges of the steps that became dangerously slippery when wet.

Ms Chu suffered physical injuries as a result of the fall, including a fractured left ankle and injury to her lower back. She also suffered psychological injuries (i.e. depression). The situation relating to her claim for psychological injury was complicated by the fact that some

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weeks after the accident, she was sexually assaulted by a man who had been assisting her by helping her to get around and by speaking English with her.

Ms Chu argued that the sexual assault was a direct and foreseeable result of her fall at the station. The trial judge agreed and found that her reduced mobility made her more vulnerable, and that this was foreseeable by the Rail Authority. Ms Chu was awarded damages of \$239 405, which included damages for her psychological injury.

On **appeal**, the New South Wales Court of Appeal found that the sexual assault was an act that broke the chain of causation, and that the conduct of her assailant was a free, deliberate and informed act. Therefore, the court found that there was a clear break in the causal link between the injuries suffered as a result of the fall and the injuries suffered as a result of the sexual assault some weeks later. The court, after considering the grounds of appeal by both Ms Chu and the appellant, reduced damages slightly to \$217 324.

appeal
an application to have a higher court review a ruling (i.e. a decision) made by a lower court

Loss

As a general rule, a plaintiff can only obtain a legal remedy, such as damages, if it can be proved that they have suffered **loss** or harm. 'Loss' in a civil law claim can include:

- **economic or financial loss** – for example, loss of wages, loss of earning capacity, or loss of profits if a contract has been breached; for personal injury claims, loss may also include money spent on medical expenses.
- **property damage** – for example, a car may have been damaged, or there might be damage to a house, to clothing or to goods
- **personal injury** – for example, the plaintiff might have suffered cuts, bruises, broken bones or loss of a limb
- **pain and suffering** – for example, mental anguish, anxiety or depression
- **loss of amenity** – for example, loss of enjoyment of life, loss of job satisfaction, loss of family life or loss of enjoyment of hobbies.

loss
a type of harm or damage suffered by a person, and can involve both economic and non-economic loss



Source 2 'Loss' in a civil law claim can include property damage, personal injury or pain and suffering.

The scenario below provides an example of a civil law claim for damages by former rugby player, Israel Folau, for loss of income suffered.

ACTUAL
SCENARIO

Israel Folau lodges claim seeking \$10m damages and reinstatement by Rugby Australia

Australian Associated Press, 1 August 2019

Israel Folau has begun legal action against his former employers Rugby Australia (RA) and the NSW Waratahs for unfair dismissal. The decision comes after the former Wallaby and RA failed to reach an agreement at a mediation hearing at the Fair Work Commission on 28 June 2019.

RA terminated Folau’s multimillion dollar contract over a social media post in which he paraphrased a Bible passage, saying ‘drunks, homosexuals, adulterers, liars, fornicators, thieves, atheists and idolaters’ would go to hell unless they repented.

The committed Christian argues he was unfairly dismissed on religious grounds. The 30-year-old is seeking \$10m in damages from RA and wants his contract reinstated.

More than 20000 people have donated about \$2.2 million to help fund Folau’s legal battle via a campaign page set up by the Australian Christian Lobby (ACL). The ACL effort replaced an earlier campaign on GoFundMe, which was taken down by the platform for breaching its service guidelines.

Note: In December 2019, Israel Folau and Rugby Australia reached an out-of-court settlement. The settlement remains confidential.



Source 1 Israel Folau was involved in a dispute with Rugby Australia (RA) about RA’s decision to terminate his contract.

Limitation of actions

For almost all civil law claims, there is a time period within which a wronged party can sue the wrongdoer. This is known as the **limitation of actions**. Once that time period has passed, then the defendant can use the defence that the plaintiff is too late to obtain any remedy.

One of the reasons for imposing a time period within which a person can initiate a civil law claim is because a delay in issuing a claim can risk the reliability of the evidence (e.g. the evidence of people who saw what happened), including physical evidence.

Each state in Australia has its own statute that sets out the time period within which a civil law action can be commenced. In Victoria, this statute is the *Limitation of Actions Act 1958* (Vic). Source 6 below lists the time periods within which an action for certain types of civil law claims can be commenced in Victoria.

TYPE OF CLAIM	TIME PERIOD
Breach of contract	Six years
Under tort law	Six years
Under tort law where there is personal injury consisting of a disease or a disorder	Three years
Defamation	One year
An action to recover arrears of rent	Six years

Source 6 The time periods within which a civil law action can be initiated for certain types of civil law claims

In some circumstances, the time period can be extended, depending on the nature of the case. For example, a person claiming to have a defamation claim may apply to a court for an order extending the limitation period (which is one year). If the court is satisfied that it is not reasonable for the plaintiff to commence an action within one year from the date of the publication of the defamatory material, then the court may extend the time period by up to three years.

There are some civil law claims for which there is no limitation period. For example, for people who have a civil claim that is related to physical or sexual abuse that they suffered as a minor, or psychological abuse that arose out of that abuse, there is no time period within which that claim might be issued. Victoria was one of the first states to amend its limitation periods for children who had suffered sexual abuse. Other states have since followed, including Western Australia, which has seen a flood of compensation claims since its statute of limitations was lifted in 2018.

Child sexual abuse compensation claims flood in after WA’s statute of limitations lifted

Jacob Kagl, ABC News, 10 September 2019

It has been decades since Todd Jefferis first raised the alarm about the sexual abuse atrocities carried out at Katanning’s St Andrew’s Hostel.

But his fight for justice might finally be nearing an end. ‘A lot of us have been going through a terrible time. This has been going on for me for 30 years’, Mr Jefferis said.

Mr Jefferis was one of the victims of warden Dennis McKenna at the state-run boarding hostel.

McKenna sexually abused dozens of boarders at the facility between 1977 and 1985, but the extent of his wrongdoing was not fully comprehended until an inquiry released in 2012.

That report made it plain that those victims had been badly failed by the state, with warnings ignored and cries for help left unanswered.

But even once those horrific details were laid out plainly by former Supreme Court justice Peter Blaxell, Mr Jefferis still struggled for closure.

He and other Katanning victims wanted to sue the state for damages, hoping for a financial payout that would go some way towards reflecting the ways authorities failed them.

But a time limit, restricting when they could launch legal action, stood as a seemingly insurmountable roadblock preventing them from doing so.

Study tip
There are some useful online resources that provide summaries of the limitation periods for different types of civil law actions. Links to these websites are provided on your gbook assess.

ACTUAL
SCENARIO

Claims flood in after time limit removed

After years of campaigning by victims and campaigners, the WA Parliament last year removed the statute of limitations – allowing victims of historic child sex abuse cases to launch civil action.

WA Attorney-General John Quigley ushered that legislation through parliament, describing it as one of his proudest moments in the job.

But it was a decision that could prove expensive, with Mr Quigley estimating the WA Government would end up paying out between \$500 million and \$700 million in compensation.

There has been a flood of claims in the 14 months since the time limit was removed, with 369 cases launched against the WA Government and 40 of those already settled.

But Mr Quigley said the government had a duty to act.

...

The burden of proof

burden of proof
the obligation (i.e. responsibility) of a party to prove a case; the burden of proof usually rests with the party who initiates the action (i.e. the plaintiff in a civil dispute and the prosecution in a criminal case)

counterclaim
a separate claim made by the defendant in response to the plaintiff's claim (and heard at the same time by the court)

The **burden of proof** is the responsibility of proving the facts of a case. This is sometimes called the 'onus of proof'. In every court case, one party has this responsibility. In a civil law case, the burden of proof lies with the plaintiff. This means that the plaintiff must present evidence to establish that the defendant is in the wrong (or liable for the harm that has been inflicted on the plaintiff). Placing the burden of proof on the plaintiff follows the idea or principle that it is only fair and just that if someone alleges that another person is liable for the loss or damage suffered by them, then they should prove those allegations.

It is not the defendant's responsibility to prove they are not liable. However, there are some situations where a defendant may need to prove an allegation. This includes where a defendant raises a **counterclaim**. This is a claim made by the defendant against the plaintiff in response to the plaintiff's claims in the same case.



Source 3 The burden of proof rests with the party who initiated the legal action.

The standard of proof

standard of proof
the degree or extent to which a case must be proven in court

balance of probabilities
the standard of proof in civil disputes; this requires the plaintiff to establish that it is more probable (i.e. likely) than not that their side of the story is right

The **standard of proof** is the degree or extent to which a case must be proven in court. In civil law cases, the plaintiff must prove the case on the **balance of probabilities**. This means that the plaintiff must prove that they are most likely to be in the right, and the defendant is more likely to be in the wrong.



Source 4 A plaintiff can obtain a legal remedy for economic or financial loss.

7.2

CHECK YOUR LEARNING

Define and explain

- 1 What is a counterclaim? How is a counterclaim relevant to the burden of proof?
- 2 Define the following terms:
 - a breach
 - b causation
 - c balance of probabilities
 - d intervening event
 - e property damage.Now use each term in a sentence about a civil dispute (be as inventive as you like).
- 3 What is the justification for imposing a time period within which a civil claim can be initiated?
- 4 Identify and describe two types of loss. Provide an example of each type of loss.

Synthesise and apply

- 5 Read the scenario, 'Contract to provide editing services', above. What is the main issue in dispute in this case?
- 6 Read the scenario, 'Israel Folau lodges claim seeking \$10m damages and reinstatement by Rugby Australia', above.
 - a What type of law is alleged to have been breached in this case?
 - b Who is the plaintiff? Who are the defendants?
 - c What loss is alleged to have been suffered?
 - d Conduct some research. Find out more about the comments that Folau made. Engage in a class discussion about whether the termination of Folau's contract was appropriate in light of his conduct.
- 7 Read the scenario, 'Break in the chain of causation', above.
 - a What law did Ms Chu allege the defendant breached?
 - b Why was it the Rail Authority's responsibility to ensure the stairs were safe?
 - c What loss did Ms Chu suffer?
- 8 For each of the following civil law claims, identify the time period within which the plaintiff must initiate their claim.
 - a Nalini is a landlord who is owed rent.
 - b On a website, Raja is described as a 'vampire who is out to get people's blood because he is so mean and awful'. The website has been viewed over 40 000 times.
 - c Xander and Yilong entered into a contract for the provision of services relating to Xander's business. Xander claims that Yilong has breached the contract by providing the services too late.
 - d Georgos is suing his former employer because he contracted a breathing disease as a result of his work conditions.
- 9 Read the scenario, 'Child sexual abuse compensation claims flood in after WA's statute of limitations lifted', above.
 - a For what types of cases has the time limit been removed?
 - b Provide two arguments for and two arguments against removing the limitation period for these types of claims.
 - c Why would the WA Government be paying compensation? If you need to, conduct some research to find the answer.
- 10 'Limitation periods inhibit justice from being achieved. If a civil dispute arose years ago, a plaintiff should be able to pursue it.' Do you agree? Give reasons.

Analyse and evaluate

Check your [ebook](#) [assess](#) for these additional resources and more:



Answers to student book questions
7.2 Check your learning



Legal case
Rogers v Julius (Residential Tenancies) [2017] VCAT 55 [11 January 2017]



Weblink
Summaries of the limitation periods for different types of civil law actions

POSSIBLE PARTIES TO A CIVIL DISPUTE

Did you know?

Children aged under 18 years can be plaintiffs. Children can sue via a 'next friend' or 'litigation guardian' who can commence proceedings on their behalf.

Overview of parties to a civil dispute

In civil disputes, there can be more than one plaintiff and more than one defendant. When looking at a possible civil claim, the parties may need to consider:

- who the plaintiff might be
- who the defendants might be.

Plaintiffs and defendants can be human beings, companies (that are separate legal entities from the directors and managers who run them), or other bodies such as government agencies.

Possible plaintiffs

The possible plaintiffs in a civil dispute include:

- the aggrieved party (i.e. the person who has suffered the loss)
- other victims (i.e. victims other than the aggrieved party)
- insurers.

Aggrieved party

The aggrieved party is the person whose rights have been infringed and who has suffered loss. For example, in a contract claim, the plaintiff is likely to be one of the parties to the contract who suffered loss because of a breach of contract. In a negligence claim, the plaintiff is likely to be the person to whom the defendant owed a duty of care, and who has suffered injuries as a direct result of the defendant breaching that duty.

It is possible for a civil action to include more than one aggrieved person. For example, in a nuisance claim, there might be two people whose use and enjoyment of their property might be infringed (as explained below).

HYPOTHETICAL

SCENARIO

Property owners sue for trespass to land

Polly and Heather are joint owners of a property in Werribee. They built a fence around their property and created a sanctuary for a large number of animals. Barry, the next-door neighbour, takes his five dogs for a walk every Saturday morning. During his walk, Barry and his dogs cut across Polly and Heather's land and the dogs chase and scare the animals. Polly and Heather have told Barry several times that he does not have their consent to go onto their land, but Barry continues to do so. They have now commenced a civil claim against him.

representative proceeding

(also called a class action or a group proceeding) a legal proceeding in which a group of people who have a claim based on similar or related facts, bring that claim to court in the name of one person

A **representative proceeding** – also known as a 'class action' or 'group proceeding' – is a particular type of civil proceeding, where seven or more people have claims against the same party, and those claims are in respect of, or arise out of, the same type of circumstances. The people who have the claims join together to form a 'class' and issue a proceeding against the party against whom they have a claim. One of the members of the class, known as the **lead plaintiff**, represents the group in the proceeding, and the people who are part of that group are the **group members**.

There have been a number of class actions in Australia and in Victoria, including class actions related to the Black Saturday bushfires that occurred in Victoria in 2009, and a class action in relation to losses

suffered by taxi drivers in relation to the introduction of Uber in Australia (for a further discussion of the Uber class action, see Chapter 14 of this student book).

Other victims

A plaintiff can be a person who has indirectly suffered loss or damage as a result of the actions of another party. For example:

- a person may suffer loss and damage as a result of the death of a family member, and may sue another person who they allege has caused that person's death
- a person who was close to an event who suffered loss and damage as a result; for example, a person who has seen people badly burnt by an electric explosion caused by another person, and has suffered **nervous shock** as a result, may be entitled to seek damages for loss and damage.



Source 1 In 2017, a class action was commenced in the Supreme Court of Victoria against the organisers of the Falls Festival. The class action related to an incident that took place in 2016 at the festival in which a 'stampede' left 19 people in hospital and dozens more injured.

Insurers

Insurers are individuals or companies that enter into an insurance policy with a person (who is known as 'the insured'). Under the insurance policy, the insurer agrees to provide insurance (i.e. protection from financial loss) in certain circumstances.

Usually, an insurance policy provides the insurer with the **right of subrogation**, which is the right to 'step into the shoes' of the insured. That means that if the insured has suffered loss or damage caused by another, and the insurer has made a payment to the insured under the insurance policy, then the insurer may be entitled to recover what it has paid against the person who caused the loss.

Possible defendants

The possible defendants in a civil dispute include:

- the wrongdoer (i.e. the person or company that caused the loss or damage to the plaintiff)
- employers
- persons involved in the wrongdoing
- insurers.

Wrongdoer

It is often the case that a plaintiff will sue the person or company that has directly caused them loss or damage. In a claim for unpaid wages, this is likely to be the employer. In a nuisance claim, this is likely to be the person who is causing the interference (e.g. noise, odour or sight) that has resulted in the plaintiff losing the use or enjoyment of their own property or of public property.

Sometimes there may be two wrongdoers, and both of them may be liable for the loss or damage suffered by the plaintiff. For example, in the scenario below, two health services and triple-0 operators were sued.

lead plaintiff

the person named as the plaintiff on behalf of the group members in a representative proceeding (i.e. class action)

group member

a member of a group of people who are part of a representative proceeding (i.e. a class action)

nervous shock

a psychological reaction; psychiatric harm that is more serious than ordinary grief or stress

insurers

a person or company that is contracted to compensate another person in the event of damage or loss

right of subrogation

the right to 'step into the shoes' of an insured person and act on their behalf – this includes taking legal actions in their name

Study tip

The best way to be able to identify the possible plaintiffs and defendants in a civil dispute is to read as many actual and hypothetical civil dispute scenarios as you can and to practice identifying the parties. You can write your own hypothetical scenarios, read articles about civil disputes, or work with a friend to develop and exchange scenarios.

ACTUAL

SCENARIO

Nurse's family sues state for failing to save their 'beautiful girl'

Miki Perkins, *The Age*, 3 February 2020

The family of a young nurse who died after setting herself on fire are suing Victoria claiming the state's health services failed to provide adequate mental healthcare despite numerous warnings and eight crisis presentations to emergency departments in the two years before she died.

Marlene Sako's mother, Tereza Sako, and her five sisters and brothers are suing the Northern Hospital in Epping, NorthWestern Mental Health and the operators of the triple-zero emergency phone line over Marlene's death in 2015. She was 25.

In their claim, filed in the Supreme Court of Victoria, Ms Sako's family say these bodies repeatedly failed to recognise Marlene had a serious mood disorder and did not provide her with appropriate mental healthcare.

The claim says Marlene's family members have suffered significantly, including developing major depression, post-traumatic stress disorder and anxiety after witnessing her death.

The family say they are haunted by her anguished final months and their repeated, failed attempts to get help for the young woman as her mental health disintegrated.

Over a two-year period, Marlene went to a hospital emergency department – often by ambulance and with police intervention – at least eight times while expressing suicidal thoughts and showing signs of significant alcohol abuse, the claim says.

On four other occasions, Marlene or a family member urgently sought help from one of the services.

...

The legal claim alleges the hospital should have recognised the relationship between Marlene's alcohol abuse, her mental state and the increased risk of self-harm. Marlene should have been admitted and referred for a psychiatric assessment, says the claim. Instead, she was discharged.

More emergency admissions followed, related to intoxication, seizures, suicidal behaviour, threats of self-harm and increasing aggression. The statement of claim lists a number of occasions where Marlene's family allege the hospital failed in its duty of care.

During one emergency admission, her sister asked to be notified when Marlene was discharged but was not told. Marlene walked 14 kilometres home. She arrived hours later, her feet cut and bloodied.

On 30 November 2015, Marlene's sister called triple-0 twice, saying Marlene was drunk and threatening to kill herself.

On both occasions, the operator should have designated the incident as a 'priority 1' and promptly dispatched police, the claim alleges – a category intended to treat serious, life-threatening cases. Instead, she was listed as 'priority 2', for an acute but non-time critical response. No police unit was dispatched.

...



Source 2 Over a two-year period, Marlene Sako went to a hospital emergency department at least eight times.

Employers

An employer of an employee who is the wrongdoer may become a defendant because of the principle of **vicarious liability**. Vicarious liability is when somebody becomes responsible for the actions of another. The reasoning behind the employer being liable instead of the employee, is that the employer has a right, ability and duty to control the activities of the wrongdoer. Therefore, the employer should be responsible if the wrongdoer, in undertaking those activities, has caused harm. Vicarious liability generally arises in negligence claims.

For an employer to be liable, the plaintiff needs to establish that the employee was acting in the course of their employment when the wrong occurred. This means that there must be a connection between the act and the employment. If the employee was acting in an unauthorised way, then the employer may not be found liable.

The following scenario further explores vicarious liability in a case involving a teacher.

Vic teacher sues after soccer ball in face

Amber Wilson, *The Canberra Times*, 26 August 2019

A former Melbourne teacher believes she may never work again after being struck in the face at school with a soccer ball, triggering brain and spinal cord conditions.

Jodie-Anne Gardam, 41, is suing the state of Victoria for economic damages and pain and suffering caused from the fallout of the 2014 schoolyard incident.

...

Ms Gardam now suffers chronic pain, 'massive' headaches, motor dysfunction, constant nausea, some memory loss, anxiety, depression and muscle twitches, the Supreme Court of Victoria heard on Monday.

While Ms Gardam had a pre-existing condition, a trauma – such as being hit in the side of the head – caused damage to her spinal cord, which triggered the conditions.

She married her partner the same year, but 'because of the symptoms, she is still waiting for her honeymoon'.

'When she left school in 2014 with high hopes of returning, it was the last time she taught, and she's been incapacitated in that time', her lawyer said.

Ms Gardam paid for surgery herself in 2017, financed with the help of fundraising, to prevent the condition from further deteriorating.

She is now being treated with ketamine infusions for chronic pain, but is unable to resume work and has a 'very poor' prognosis for ever being able to do so.

On Tuesday, the jury of six will visit the schoolyard to view where Ms Gardam was struck in the face before returning to court to hear her evidence.

ACTUAL

SCENARIO



Source 3 Jodie-Anne Gardam (right) is suing the State of Victoria for economic damages and pain and suffering caused by an incident at her workplace.

accessorial liability
the way in which a person can be responsible or liable for the loss or harm suffered by another person because they were directly or indirectly involved in causing the loss or harm (for example, they encourage another person to cause the harm)

Persons involved in wrongdoing

A person who is involved in the wrongdoing of another may also be sued. A person may be involved in wrongdoing if they:

- aided, abetted (i.e. encouraged) or procured (i.e. organised) the wrongdoing
- induced, or encouraged, the wrongdoing
- were in any way, directly or indirectly, a party to the wrongdoing
- conspired with others to cause the wrongdoing.

Being involved in wrongdoing is known as **accessorial liability**. A plaintiff may sue a person involved in wrongdoing. For example, if a person was injured during an armed robbery, which was organised by someone who was not present at the robbery, then this other person may be considered to be involved in the wrongdoing and can be sued by the person injured during the robbery.

The following scenario further explores accessorial liability.

HYPOTHETICAL

SCENARIO

Friend who ‘egged on’ a mate is sued

Vernon and his mate Harry went out on Saturday night. After a few drinks, they both started talking about how it would be really funny if they started tripping people up as they walked past them. They agreed that they would take turns to trip someone.

The boys started walking down Domain Road in South Yarra. Harry tripped the first person, who fell over, and both the boys ran away laughing. They then approached 30-year-old Gina, who had a sore leg after playing soccer that day. As the boys walked past her, Harry nudged Vernon and said, ‘your turn’. Vernon tripped Gina, who stumbled, fell over and broke her ankle. Gina is suing both Harry and Vernon.



Source 4 The Victorian WorkCover Authority provides insurance to many employers in Victoria.

Insurers

In some instances, it may be possible for a plaintiff to sue the insurer of the person who has caused loss or damage. For example, many employers obtain insurance through the Victorian WorkCover Authority (i.e. WorkSafe Victoria). If an employee has been injured at work – and has made a proper claim for compensation for a serious injury, but that claim has been rejected – they may be able to commence proceedings against WorkSafe to seek compensation for the injury suffered at work. WorkSafe is often a defendant in civil proceedings involving claims for workplace injuries.

7.3

CHECK YOUR LEARNING

Define and explain

- 1 Generally, who is likely to be the plaintiff in a civil dispute? Who is likely to be the defendant?
- 2 Define the terms ‘vicarious liability’ and ‘accessorial liability’. Provide one example of each type of liability.
- 3 Why is it possible for an insurer to be a plaintiff in a civil dispute even though it’s not the insurer that directly experiences the harm or loss?

Synthesise and apply

- 4 Create a civil dispute in which there are two possible plaintiffs, and two possible defendants. Exchange your scenario with a member of your class and identify the parties to the dispute in your class member’s scenario. Give reasons for your answer.
- 5 Write a newspaper article about a recent civil case in which a plaintiff has sued a defendant. In your newspaper article, provide a description of:
 - a the type of civil law the dispute involves
 - b the claim the plaintiff is making
 - c the type of loss the plaintiff alleges to have suffered
 - d who the plaintiff is suing and why
 - e whether there are any other possible plaintiffs or defendants.

Swap newspaper articles with another class member. Assess whether the class member has correctly identified all of the points listed above.

- 6 Conduct some research on the internet and find:
 - a One representative proceeding (i.e. a class action) that has been resolved and has resulted in a payment to the group members.
 - b One representative proceeding that is currently before a court.
 - c One representative proceeding that is about to start. Choose one of these representative proceedings and write a brief summary about the case.
- 7 Read the scenario, ‘Nurse’s family sues state for failing to save their “beautiful girl”’, above.
 - a Who are the parties in this proceeding?
 - b What allegations are the plaintiffs making?
 - c What loss have the plaintiffs suffered?
 - d Conduct some research. Have there been any developments in this case?
- 8 Read the scenario, ‘Vic teacher sues after soccer ball in face’, above.
 - a What type of civil law did this case involve? Identify the terminology in the article that indicates the type of civil law involved in the case.
 - b What loss did the plaintiff suffer?
 - c How does this case involve vicarious liability?
 - d Change the scenario so that it is not a case involving vicarious liability.

Analyse and evaluate

- 9 Do you think that representative proceedings (i.e. class actions) provide greater access to justice? If so, how?

Check your [ebook](#) [access](#) for these additional resources and more:



Answers to student book questions
7.3 Check your learning



Weblink
Class actions
Weblink
Right of subrogation (insurers)



Worksheet
Parties to a civil dispute



Going further
Criminal acts of employees

TOP TIPS FROM CHAPTER 7

- 1 The study design doesn't require you to know what the limitation period is for each type of civil claim. What you *do* need to understand is the concept of limitation of actions, what impact it could have on the parties, and why it is an important feature of civil law.
- 2 Start incorporating civil law terminology into your responses so you can become familiar with what all the terms mean. To help with this, keep your own glossary of key terms.
- 3 Read as widely as possible! The more you expose yourself to actual civil law scenarios, the better you will understand the terminology and concepts in this and other chapters. Aim for reading and highlighting one article about civil law per day. You can find these articles online and in newspapers.

REVISION QUESTIONS

The following questions have been arranged in order of difficulty, from low to high. It is important to practise a range of questions, as assessments are composed of a variety of questions. A great way to identify the difficulty of the question is to look at how many marks the question is worth. Work through these questions to revise what you have learnt in this chapter.

Difficulty: low

- 1 For each of the following scenarios, **identify** the likely plaintiff, the likely defendant, the area of civil law involved, and the loss suffered by the plaintiff.
 - a Naimi was a passenger in a car travelling on a road in the centre of Melbourne. Without warning, a tram came off the tram tracks and rammed the car, killing the driver (who was Naimi's best friend) and injuring Naimi.
 - b Mariana is employed in a local warehouse. For many months, Mariana was bullied and abused by a fellow employee. Despite her complaints, her boss has done nothing about the bullying. Mariana has been off work for 12 weeks suffering anxiety and depression.
 - c Gordana's neighbour has been burning rubbish in his yard late at night for some time now. The fumes enter Gordana's home, causing her and her whole family to suffer significant respiratory issues. Gordana has recently found out that both her neighbour and her neighbour's best friend were involved in burning the rubbish.

(12 marks)

Difficulty: medium

- 2 **Justify** the imposition of a time period within which a plaintiff can bring a civil claim.

(4 marks)

Difficulty: high

- 3 In your view, should an employer be responsible for their employee's actions? In your answer, **provide one argument for and one argument against** the principle of vicarious liability.

(8 marks)

Check your obook assess for these additional resources and more:



Student book questions
Ch 15 Review



Revision notes
Ch 15

assess quiz

Ch 7
Test your knowledge with an auto-correcting multiple-choice quiz

PRACTICE ASSESSMENT TASK

Before attempting this practice assessment task, students should re-read the information at the beginning of this chapter about the learning outcome, key knowledge, and key skills.

Use the stimulus material, where provided, to answer the questions in this section. It is not intended that this stimulus material will provide you with all the information you need to answer the questions.

Read the following two case studies and then answer the questions below.

Case study 1 – Luca's Facebook post

Luca has been in a fight with his former girlfriend, Steph, for months. Steph has blocked him on Facebook and ignores his regular attempts to contact her via social media. To get back at her, Luca wrote a public Facebook post that suggested that Steph had faked her results to get her current job, and that she had cheated her way through school to get good grades. To validate the post, Luca's friend

Bernie responded to the post saying, 'Finally this is out in the open. That girl's been conning people for years.' Steph's colleagues and friends have seen the post. Ever since the post was written, she has been ignored by people at work. She has also been told by her boss that she will not get the promotion that she had previously been promised. Steph has been suffering from anxiety as a result.

Case study 2 – Andrew's courier run

Andrew worked for a large courier business that had important clients for whom it delivered goods. One afternoon, Andrew's boss told him that there was an urgent delivery for a very important client, and that the goods needed to be delivered no later than 3:30 pm. Andrew's boss told him that he needed to do 'whatever it takes' to get there by that time, even if it meant speeding and breaking the law.

Andrew left and sped all the way to the client. On the way, he lost control of his car and ran into a house, causing significant damage to the front of the house and three of its rooms. The house is now uninhabitable and the house owners have to live elsewhere. The house owners are insured and have sought compensation from their insurer.

Practice assessment task questions

Write a report that addresses the following for each of the case studies (marks allocated are per case study). You must give a justification for each of your answers:

- | | | | |
|---|-----------|--|-----------|
| • the area of law that the dispute involves | (3 marks) | • whether causation is likely to be established | (4 marks) |
| • the nature of the claim | (4 marks) | • the type of loss that is alleged to have been suffered. | (4 marks) |
| • the possible plaintiff(s) | (3 marks) | Your report may be in writing or be delivered orally. Your report may be completed with the use of technology. | |
| • the possible defendant(s) | (3 marks) | Total: 25 marks | |
| • the type of breach involved | (4 marks) | | |

