

LAW2TOT: EXAMINATION NOTES

Introduction to Tort / Overview of Negligence: CONTENTS SUMMARY

- Definition of Torts:
 - i. What is a tort?
 - ii. What are the objectives of tort law?
 - iii. What are the sources of tort law?
- The Role of Fault:
 - i. Objectives of negligence
 - ii. Role of insurance in tort law
- What is a No-Fault Scheme?
 - i. No-fault compensations in VIC
 - a) Transport Accident Scheme
 - b) Workers' Compensation Scheme
 - c) Criminal Injuries Compensation
 - d) National Disability Insurance Scheme
- Third Party Liability Insurance
- Overview of Negligence:
 - i. Flow chart
 - ii. *Harrington v Stephens* – “damage is the gist of a negligence action”
 - iii. Provisions for negligence
 - iv. Elements of negligence:
 - a) Duty of care
 - b) Breach
 - c) Causation
 - d) No defences
 - v. The role of negligence
- Legislative Changes:
 - i. Civil Liability Act 2002 (NSW)
 - ii. Wrongs Act 1958 (VIC)
 - iii. Ipp Panel's *Review of the Law of Negligence*

POLICY ESSAY – STRUCTURING A RESPONSE:

What is a Policy Essay?

- Persuasive piece of writing
- The goal of a policy essay is to convince the reader of the correctness of your argument
- A policy essay addresses a contentious legal issue and asks you to express your opinion about it – what you think the correct approach may be

- There is no right answer.

Structure: The Thesis Statement

- Usually a single sentence somewhere in the first paragraph which presents your argument to the reader
- The rest of the essay gathers / organises evidence that will persuade the reader of the logic and correctness of your thesis statement
- For example: "I will argue that...because..."

Structure: Argument

- The remainder of the essay is spent supporting your thesis statement with argument / evidence
- Your argument explains why you think what you think (based in legal reasoning / and understanding of how the law operates in practice)
- It identifies counter arguments and why they are not convincing
- CRITICAL ANALYSIS
- Opening sentence examples:
 - "The law in this area is inadequate because it fails to..."
 - "The law has achieved an appropriate balance between the rights of the P and D by..."
- Demonstrating here why you think your thesis statement is correct

Structure: Conclusion

- Your policy essay should include a brief summary of your argument (no more than one paragraph)
- Reiterate your thesis statement and why it is supported by your argument – why have you made the conclusion that you have made; what evidence have you drawn on to support your initial thesis statement.

General

- The policy essay should be no more than 2-3 pages
- If you follow the structure, you should have a good guide to what it is that you need to achieve.

MODEL POLICY QUESTION ANSWER