

## CONSOLIDATION ACTIVITY

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### **Psychiatric damage** (allow 1 hour 30 minutes)

The consolidation activity is in two parts. In Part 1 you are given an essay title to answer that will require you to use skills of critical judgement and evaluation. In Part 2 you will be asked to consider a factual scenario in which you will use analysis and synthesis and problem-solving skills to apply the law to the facts. These questions are similar in type to examination questions.

#### **PART 1**

**‘Should not our courts wipe out recovery for pure psychiatric damage? On the basis that no reasonable boundaries for the cause of action can be found and this is an embarrassment to the law.’ (J Stapleton, ‘In Restraint of Tort’ from *The Frontiers of Liability* (1994).)**

**Discuss how far you agree with the above statement, outlining the current rules for dealing with psychiatric damage claims and any proposals for their change.**

When attempting to answer this question, you should consider how the courts have approached the compensation of psychiatric damage and the way this approach has altered over the years. You should also consider the proposals made in the Law Commission Report which you read in the previous activity. Your answer should contain your own views on the question and refer to decided cases to illustrate the points you make.

#### **COMMENT**

It is very difficult to give a definitive answer to an essay question as each answer will be different. We suggest you read the following for assistance:

The Law Commission Report No. 249, Section A, The Present Law, which you have accessed from the internet already, sets out the current law, which would form a good starting point; and ‘Liability for Negligently Inflicted Psychiatric Harm: Justifications and Boundaries’ [1998] CLJ 91 by Teff which is an article that embraces the title of the essay set (use your legal databases to access this).



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