

Unit 9



Title:	Civil Litigation
Level:	3
Credit Value:	7

Learning outcomes	Assessment criteria	Knowledge, understanding and skills
The learner will:	The learner can:	
1 Understand the context of civil litigation within the English and Welsh legal system	<p>1.1 Distinguish between the civil and criminal jurisdiction</p> <p>1.2 Explain the scope of civil litigation</p>	<p>1.1 The purpose of the case (ie: the purpose of any civil litigation case is to put individuals in the position they would have been in had there not been a breach of a right or a failure of duty), who starts the case (ie: the individual whose rights have been affected starts a civil litigation case), legal terminology (eg: the claimant), procedure of the case, the standard of proof ('the balance of probabilities', the requirement of the claimant to satisfy the burden of evidence), the outcome of the case, court powers; the civil courts of trial: High Court, County Court.</p> <p>1.2 The branches of civil litigation; an outline of its main applications, with examples, in the areas of contract law and the law of tort; a brief outline of its applications in other areas, such as family law, the law of succession, company law, employment law and land law; a brief outline of its specialist applications (eg: marine law, patents etc); an outline of basic negligence and contract rules and principles.</p>

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	<p>1.3 Describe the key features of the Civil Procedure Rules (CPR)</p> <p>1.4 Explain the uses of the four types of ADR</p> <p>1.5 Apply an understanding of the English and Welsh system of civil litigation to a given situation</p>	<p>1.3 An overview of: the main objectives of reform, the overriding objective of the CPR (rules 1.1, 1.2); case management (rule 1.4); pre-action protocols; Alternative Dispute Resolution (ADR) (Rule 1.4(2)(e)); strict timetables; advantages and disadvantages of the current system.</p> <p>1.4 The use of: arbitration (judicial and contractual), negotiation, mediation and conciliation; advantages and disadvantages.</p> <p>1.5 Application to a scenario.</p>
2 Understand how civil actions are funded	<p>2.1 Explain the different funding models available</p> <p>2.2 Describe how costs are incurred in the litigation process</p> <p>2.3 Apply an understanding of funding to a given situation</p>	<p>2.1 Funding and its application to client circumstances; private and public funding (legal help and representation), conditional fees, before the event and after the event insurance, trades unions.</p> <p>2.2 Costs by lawyers, counsel, courts and disbursements.</p> <p>2.3 Application to a scenario.</p>
3 Understand how to commence and defend actions in civil proceedings	<p>3.1 Describe the civil action process from beginning to end, placing each action in context</p> <p>3.2 Explain the correct procedure in initiating proceedings</p>	<p>3.1 Ability to set out a 'map' of the procedures to give learners an overall contextual perspective of the process, eg: Stage 1 ADR, Stage 2 Pre-Action Protocols, Stage 3 Issue/Defence, Stage 4 Allocation & Directions, Stage 5, pre-Trial Review, Stage 6 Trial, Stage 7 Costs, Stage 8, Enforcement.</p> <p>3.2 Pre-action matters including pre-action investigations in debt recovery and personal</p>

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	<p>3.3 Explain how to admit, partially admit, defend and counterclaim</p> <p>3.4 Explain the distinction between a 'set off' and a 'counterclaim'</p> <p>3.5 Apply an understanding of the rules to a given situation</p>	<p>injury (PI personal injury pre-action protocol only); their impact on process; N1 Claim Form and subsequent procedure in issuing and service on defendant; time limits; understand the purpose of drafting the claim; statement of truth; limitations; parties to an action; legal personalities; MIB and s152 RTA notices; Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents and Practice Direction 8B</p> <p>3.3 Requirements of the response pack and Acknowledgment of Service within Form N9A/B/C/D; penalties in default, drafting of defence (debt claims only).</p> <p>3.4 Difference between a 'set-off' being part of the defence and a 'counterclaim' which is a separate cause of action.</p> <p>3.5 Application to a scenario; completing forms N1, N9 and drafting a simple defence in debt matters only.</p>
<p>4 Understand the way in which actions are processed by the court system</p>	<p>4.1 Explain the criteria used by the Court to decide an appropriate track for an action</p> <p>4.2 Explain what is meant by Directions</p>	<p>4.1 Small Claims, Fast Track and Multi-Track; High Court (in outline only); criteria determining the correct track and reasons considered by the court; the allocation questionnaires and agreeing directions.</p> <p>4.2 Directions and example contents; standard directions and those produced after a Case Management Conference; contents to include, for example, appointment of experts (where applicable) and subsequent report, disclosure of documents and subsequent exchange, preparation of witness statement, exchange and stay proceedings for settlement.</p>

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	<p>4.3 Explain the meaning of disclosure</p> <p>4.4 Apply an understanding of the court system to a given situation</p>	<p>4.3 Standard disclosure, privilege, inspection and specific disclosure; ongoing obligation to disclose.</p> <p>4.4 Application to a scenario.</p>
5 Understand the circumstances in which it is possible to conclude an action before trial	<p>5.1 Explain when it is possible to end proceedings before trial</p> <p>5.2 Apply an understanding of these circumstances to a given situation</p>	<p>5.1 Where appropriate, application for default judgement under Part 12 CPR, admission under Part 14 CPR; application for summary judgement under Part 24 and duty of ongoing negotiations to resolve matters; awareness that termination can be as a result of judicial sanctions (outline only); Part 36 offers and the costs implications of acceptance, late acceptance and non-acceptance; The role played by the CRU in the recovery of costs.</p> <p>5.2 Application to a scenario.</p>
6 Understand the reasons for an interim application	<p>6.1 Explain when it is necessary and appropriate to make an interim application to the court</p> <p>6.2 Apply an understanding of interim applications to a given situation</p>	<p>6.1 Reasons why it may be necessary to make an application e.g. only after trying to achieve an amicable solution or in the event of a compelling and urgent reason; this extends to issues relating to non-compliance with directions, request for further information, under Part 18, addition of a party, request for remedies such as a search or freezing order and applications requesting an interim payment; 'Notice' and 'without notice' applications; assessment of the costs involved and who pays them; sanctions available (in outline only); interim payments under Part 25 (in outline only).</p> <p>6.2 Application to a scenario.</p>
7 Understand what is required in preparing	7.1 Explain the purpose of witness statements	7.1 The importance of preparing witness

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<p>for trial</p>	<p>and witness summonses</p> <p>7.2 Describe the role of expert witnesses in Fast Track cases</p> <p>7.3 Explain how expert witness reports are used by the parties and the court</p> <p>7.4 Describe the purpose of the pre-trial review</p> <p>7.5 Explain how the court sets a trial date and any influences brought upon it by the parties</p> <p>7.6 Explain how costs will be applied in Fast Track cases</p> <p>7.7 Apply an understanding of pre-trial process to a given situation</p>	<p>statements and the need for exchange; the principle of witness summonses.</p> <p>7.2 The use of experts and where it is appropriate to request a report.</p> <p>7.3 The criteria used by the court in relation to expert witnesses (outline only), eg: impartial; duty to the court; instructed by the parties.</p> <p>7.4 The pre-trial review form and the factors considered by the court, eg: have the directions been fully complied with, availability of parties for trial and setting of trial date.</p> <p>7.5 Listing a case at pre-trial review; trial window; the contents of the trial bundle and the preparation involved in its compilation by the claimant, eg: numerical document including all the exchanged evidence and summary of action.</p> <p>7.6 Outline only to include: at the end of the trial court will also assess costs summarily unless there is some good reason not to; agreeing costs, assessment basis.</p> <p>7.7 Application to a scenario.</p>
<p>8 Understand the trial and its outcomes</p>	<p>8.1 Explain the procedures involved within a trial</p> <p>8.2 Explain the principle of costs and how they are awarded</p>	<p>8.1 Procedures at the trial and order of events (outline only), including order of witnesses.</p> <p>8.2 Costs usually follow the event and they are added to the judgment debt (claimant) or awarded to the defendant if claim fails; Detailed assessment in multi track cases.</p>

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	<p>8.3 Explain what enforcement remedies are available to the winning party after judgement</p> <p>8.4 Apply an understanding of the trial and its outcomes to a given situation</p>	<p>8.3 In outline only: warrant of execution/Fi Fa, attachment of earnings, third party orders, enquiry of means, charging order, bankruptcy, insolvency, appeal by losing party for stay of execution.</p> <p>8.4 Application to a scenario.</p>
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Additional information about the unit	
Unit aim(s)	The learner will understand key concepts, terms and processes in the area of Civil Litigation
Unit expiry date	31 March 2015
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards; specifically, Unit 44 Personal Injury Legal Advice and Casework
Details of the relationship between the unit and other standards or curricula (if appropriate)	Courses of study leading towards the achievement of the unit may offer the learner the opportunity to satisfy requirements across a number of Level 3 Key Skill areas; most specifically, Communication, Improving own learning and performance, Problem solving and Working with others
Assessment requirements specified by a sector or regulatory body (if appropriate)	N/A
Endorsement of the unit by a sector or other appropriate body (if required)	N/A
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	ILEX (Institute of Legal Executives)
Availability for use	Only available to owning awarding body
Availability for delivery	1 September 2008

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