

## Unit Title

**LA44                      Personal Injury Legal Advice and Casework**

## Summary

This Unit is designed for you if you specialise in the provision of personal injury advice in a broad range of contexts. This includes advising clients on more complex areas of law. You will also know how to prepare and present cases in formal or informal hearings.

This is a new Knowledge Unit that has been developed for the independent Legal Advice sector. This Knowledge Unit supports the generic National Occupational Standards for Legal Advice.



**To meet the National Standard, you must be able to:**

- a) Define relevant legislation and case law relating to personal injury and explain how to access and evaluate it in relation to individual client circumstances
- b) Explain the legislation, rules and procedures relating to civil evidence and how they are applied
- c) Explain the legislation, rules and procedures relating to claims against uninsured and untraced drivers and the eligibility, limitations and time limits relating to motor insurance claims
- d) Describe how European Community legislation and guidance, including the European Convention on Human Rights, can impact on claims for personal injury
- e) Define the legislation relating to the award of damages including the law on funding and the law on limitations
- f) Define the legislation and case law relating to compensatory calculation, the rules and procedures relating to periodic payments and describe how to assess compensation awards
- g) Describe how to assess damages/compensation and calculate interest
- h) Describe compensation schemes and explain the limitations relating to criminal injuries including time limits
- i) Explain the legislation relating to occupational disease including any pre-action protocols and procedures
- j) Explain how payment of personal injury compensation can affect clients' social security benefits and why it is important to explain this to the client
- k) Describe and explain the legislation, associated rules, regulations and procedures relating to the recovery of state benefits
- l) Explain the role of medical defence bodies
- m) Explain the professional rules of the medical professions
- n) Describe what to look for in a client's medical records and why their review is important to the case
- o) Describe the different funding regimes that clients can access to support the progression of the case
- p) Explain the key ethical issues and problems that may be associated with personal injury claims
- q) Explain when it may be appropriate to make use of expert witnesses and the protocols and procedures relating to their use
- r) Describe the protocols and procedures for managing a legal team involved in multi-party cases and why the management process is important to the progress of the case

## Knowledge and Understanding

You must show that you know and understand:

1. The legislation and case law relating to personal injury in terms of:
  - Road traffic
  - Accidents at work
  - Occupational disease/injury claims
  - Special considerations in catastrophic injury cases
2. The legislation and case law relating to:
  - Occupiers' liability
  - Contributory negligence
  - Vicarious liability
  - Employers' liability
  - Health and safety at work
  - Consumer protection
  - Fatal accidents
  - Miscellaneous provisions
3. The legislation, rules and procedures relating to civil evidence
4. The rules relevant to civil procedures, including challenges and appeals
5. The legislation, rules, regulations and procedures relating to claims against uninsured and untraced drivers
6. Relevant European Community legislation, including the European Convention on Human Rights
7. The legislation relating to damages, including the law on limitations and the law on funding including:
  - The preparation and presentation of cases where high-value compensation claims apply
  - The preparation of cases where the client is suffering continuing loss
  - The rules relating to interim payments and schedule of loss
8. The legislation and case law relating to compensatory calculation and the rules and procedures relating to periodical payments
9. How to assess compensation
10. The compensation schemes and relevant limitations relating to criminal injuries
11. The legislation relating to occupational diseases, including pre-action protocols and procedures
12. The role of medical defence bodies
13. Professional rules of the medical professions

14. Review of medical records, including:
  - Are they complete?
  - If any missing, how to obtain relevant records
  - How to check records against patients' accounts
  - The implications of medical reports on the case and how to assess their objectivity
15. How to assess the legal relevance of the medical information
16. The inter-relationship between personal injury work and social security benefits and how compensation may affect the client's benefits
17. The legislation, associated rules, regulations and procedures relating to the recovery of state benefits
18. Entitlement to and eligibility for welfare benefits
19. Eligibility, limitations and time limits relating to motor insurance claims
20. Relevant funding regimes, including:
  - Legal expenses insurance
  - Conditional fee agreements
  - Trade union funding
  - Personal payments
21. The ethical issues and problems associated with:
  - Use of expert witnesses
  - Disclosure of medical reports
  - Conflict of interest
22. How to assess damages and calculate interest
23. How to select and use expert witnesses, including:
  - Identifying an appropriately qualified and experienced expert
  - Instructing the expert witness using court rules on expert witnesses
  - Establishing the timescales for the case
  - The factors to be considered when analysing reports from expert witnesses
  - When to obtain a second opinion
24. How to lead a team in multi-part cases