

Examiner's comments  
CILA C3 Liability - October 2015

**Overview**

This overview focuses on Part 2 Liability where candidates had to answer 2 of the 3 available questions.

From a review of the examination scripts the examiner recommends that candidates:

- Ensure you have a good understanding of what enquiries are likely to be necessary on an initial site investigation.
- Ensure the questions are clearly read and there is a clear understanding of what is being asked.
- Confine answers to the questions raised and don't try and demonstrate knowledge that is not relevant to the question
- Understand the basics of the Civil Procedure rules and the relevant Protocols.

**Comments on specific questions.**

The comments below give an indication of the approach and topics that should be included in an answer. They are not however presented as complete or model answers.

Q L1a)	<p>This question sought to allow candidates to set out what they would cover in a site investigation and to explain why you would make these enquiries. It included the need to set out an Action Plan post visit to demonstrate that the candidate could assess what is the best way forward following completion of the initial investigation.</p> <p>Good answers ensured the basics were covered in the initial investigation: Circumstances, N&amp;E of injuries and potential liability issues along with Documents likely to be needed/available and relevant details about the Claimant(s).</p> <p>The Action Plan would be written differently dependant on the candidate's initial views on liability. Most candidates drew a conclusion that a liability would exist and therefore stated they would write to the Claimant's representatives and admit and seek medical evidence. If a denial was to be made stated they would gather any missing information and then deny. Mention of CRU registration also gained a point.</p> <p>This question was well answered however some candidates spent time detailing enquiries that would be made outside the initial site visit. These were not relevant except in that they might be mentioned as necessary in the Action Plan</p>
Q L1b)	<p>This question was intended to allow a candidate to demonstrate that they understood how to use a statement to capture evidence that might not be available in other documents. A good answer simply listed the points that could be covered in relation to Policy Liability, Legal liability and Quantum.</p> <p>Some candidates misunderstood the question and thought the statement was to be taken from the claimant. This is an unlikely scenario and suggested the candidates were not familiar with normal site investigations.</p>
Q L1c)	<p>Candidates were simply required to demonstrate knowledge of how information relating to payroll and turnover were important to Underwriters in assessing the correct premium and why the description of business needed to be accurate. Good answers explained which facts were used for EL and which for PL premium calculations.</p>

Q L2a)	Candidates who answered this question well simply listed why the Pre Action Protocols had been brought in with a key focus on shortening the life of a claim and providing a framework for both parties to adhere to. If candidates did not know the basic requirements of the Protocols then they struggled with this question
Q L2b)	This was probably the easiest and quickest route to 10 marks in the entire exam. Anyone handling injury claims will be familiar with the lengthy lists provided by Solicitors for disclosure. These are also set out in the CPR. They are documents that every adjuster should know to ask for during a site visit. A simple list of 10 such documents would gain maximum marks.
Q L2c)	Recent changes to the CPR and the introduction of the Portal are key developments within liability claims. It is important for candidates to demonstrate that they understand the changes that have been introduced and why this has happened. The changes and the logic for them are clearly evidenced by the change from the requirements of the LOC to the more simplistic CNF
Q L2d)	This was intended as a straightforward question allowing candidates to demonstrate what is required on a Discharge Form. The key factors appear to be well known and this question was well answered. All candidates got the main points (Amount of Settlement in “full and final” and signature). Some candidates failed to insert the location and occasionally the date of the accident.
Q L3a)	An understanding of the Rehabilitation Code was required to answer this question. As it is an annex to the Pre Action Protocol it should be broadly understood by those studying the material. The good answers showed an understanding of what the Code was trying to achieve and included the appropriate timeframes detailed within the Code.
Q L3b)	This should have been familiar ground for those handling liability claims. The key points being the fact that a P36 can be made by either side during the life of the claim and that it provides protection against Costs. Those getting maximum marks clearly demonstrated how it would be used and exactly how it provided protection.
Q L3c)	<p>This was a well answered question which required the candidate to go back to their initial studies of the English legal system. Legal precedent being a key principal of Common Law. The better answers also explained how it applied in the hierarchy of the English Courts (i.e. binding on Courts of equal standing and below but not on higher Courts.</p> <p>The importance of “obiter dictum” was also well understood and the role it plays when included in a Judge’s decision was well explained.</p>