

Answers to revision questions for NGC1 element 1

Answer 1 Hazard, risk and danger, as applied to health and safety:

Hazard is the potential to cause injury or ill-health (this can include substances or machines, methods of work and other aspects of work organisation).

Risk expresses:

- the likelihood that the harm from a particular hazard will be realised
- the severity of the consequences if realised, for example:
 - » the number of people who might be affected
 - » the nature of the harm they would suffer

... thus, the hazards associated with the leaning wall will translate into a high risk if no steps are taken to fence it off, and into a low risk if appropriate protective barriers and signs are employed. Demolishing or re-building the wall would of course present new hazards and those responsible for the work would have to undertake a risk assessment before the work commenced.

It follows that both of the factors hazard and risk should be taken into account when undertaking either a qualitative or a quantitative risk assessment.

Danger is a state or condition in which personal injury is reasonably foreseeable. Danger can, for example, be associated with situations such as:

- an employee trapped by a fork lift truck in a narrow gangway where there are no restrictions on access or safe systems of work in force
- an organisation's financial well-being placed at risk because of deficiencies in management systems

Answer 2 Classifying hazards

Short term, ie hazards which represent an immediate danger:

- *physical*: being struck by a fork lift truck
- *chemical*: burning from contact with concentrated cleaning fluid
- *biological*: contagious disease from birds in an aviary
- *psychological*: traumatic reaction to an accident (this could of course also manifest itself in a longer term)

Hazards which could manifest themselves in the long term are:

- *physical*: repetitive strain injuries from typing several hours a day for many months or years
- *chemical*: long term exposure to carbon monoxide by a heavy smoker (CO is also well-known as a short term hazard)
- *biological*: hearing loss due to noise exposure by a police firearms trainer; you might feel that a case could be made for categorising this as a physical hazard in which case you might prefer to use as an example the skin condition which has developed as a result of long term contact with citrus fruit; if you still think this is not a biological hazard because you would prefer to classify this a chemical hazard, how about long term exposure to tuberculosis for those who work with samples in diagnostic laboratories
- *psychological*: morale of worker(s) being worn down by harassment



Answer 3 Identification of workplace hazards

- workplace inspections
- discussions between management and workers
- independent audits
- job safety analysis
- hazard and operability studies
- accident statistics

Answer 4 As we explained in the study material, in determining the distinction between civil and criminal law you need to look at the outcome(s) of the act in question: if the wrongful act is capable of being followed by what are called criminal proceedings - crime. If it is capable of being followed by civil proceedings - civil wrong. If the act is capable of being followed by both, it is both a crime and a civil wrong.

Answer 5 A sentence including the words: guilt, vicarious, transferable, liability ... in criminal law guilt remains with the person responsible for the wrongful act; in civil law, the liability may be transferable to another (person) who will take over the liability for the damages resulting from another's wrongful act. This form of liability is termed vicarious liability.

Answer 6 Criminal law and civil law bricks



Answer 7 Civil law

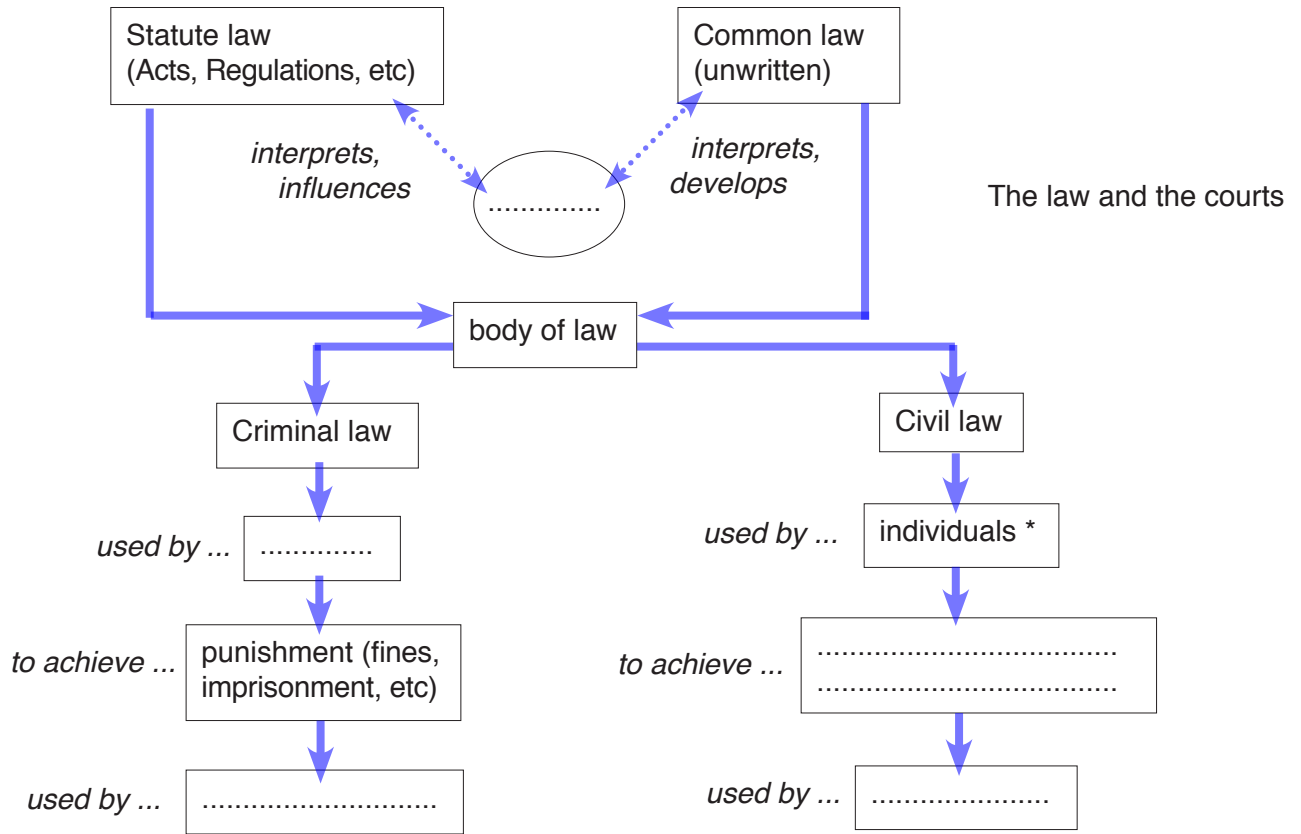
- action brought by an individual
- intended result is compensation for loss suffered
- insurance can / must be obtained to cover liability for damages ('must' because it is a legal requirement for most employers to have employees liability insurance)
- action can be taken only where loss has occurred
- mainly involves common law
- law of contract is concerned with the legal enforcement of 'promises'
- law of tort is concerned with civil wrongs involving nuisance, negligence, defamation, trespass



Answer 8 In the case of criminal law, certain types of wrongdoing are characterised as being offences against the state.

Answer 9 The body of law is made up of statute law (written law in the form of Acts and Regulations etc) and common law (decisions made and principles adopted in previous cases and contained in case-law).

As a further question, see if can you fill in the five gaps in the figure (check your answer in the study material).



Answer 10 Completing two sentences:

- the requirement in criminal cases is that the defendant is found guilty beyond reasonable doubt
- in civil law it is enough that the defendant is found liable for the loss on the balance of probabilities

Answer 11 The main points that you should have encompassed in your answer include the fact that the unwritten law was administered by itinerant justices who recorded important decisions in order to help themselves and other justices the next time a similar case arose.

Answer 12 The Wilsons and Clyde Coal v English identified four main elements an employer owes his employees under the duty of care:

- provision and maintenance of a safe place of work
- provision and maintenance of a safe system of work
- provision and maintenance of safe plant and appliances
- provision of competent fellow employees

Answer 13 Boundaries of duty of care; flexible, extending 'further' to:

- disabled workers
- workers with a handicap such as colour-blindness or hearing loss
- inexperienced and young workers
- women who are, or might become, pregnant
- workers experiencing stress

Answer 14 To be successful in an action under the tort of negligence, the following three points have to be satisfied that:

- the defendant owed the plaintiff a duty of care
- the duty of care was breached through negligence
- loss resulted from the breach of the duty of care

Did you remember to check the five requirements that have to be established for a successful action under the tort of breach of statutory duty?

Answer 15 Contributory negligence is sometimes regarded as a 'partial defence' because it involves shifting some of the liability onto the claimant (make sure you know who the claimant [formerly 'plaintiff'] is) in order to reduce the level of damages involved.

Answer 16 Section 15 of HASAWA (the enabling device of HASAWA) has led to HASAWA acting as the mid-wife for much subsequent legislation. In order to illustrate your answer you should have mentioned some of the Regulations which have been enabled by HASAWA, none more worthy of a mention than the 1977 Safety Representatives Regulations which were in fact the first Regulations to be enabled by HASAWA - *can you remember why?* You should also have mentioned that 'enabling' means that Regulations can be brought into force without going through the laborious legal process that would be needed if every piece of legislation had to start from scratch.

Answer 17 Key points you should have mentioned when discussing ACOPs include:

- examples of good practice
- approved by the HSC under HASAWA powers
- accompany Regulations (provide examples)
- not law but onus of proof in a legal case would be to prove that the practice undertaken is at least as effective as that provided by the ACOP

Answer 18 Guidance notes:

- interpret Acts and Regulations
- help people to achieve compliance with legal requirements
- offer sound technical advice

Answer 19 The five key parties are as follows:

- the client
- the designer
- the planning supervisor
- the principal contractor
- contractors and the self-employed



Answer 20 The health and safety plan provides the health and safety focus for the construction phase of a project; it comprises a pre-tender health and safety plan (the responsibility of the planning supervisor). The health and safety plan for the construction phase is developed by the principal contractor and is the foundation on which health and safety management of construction work is based.

The health and safety file is a record of information for the client/end user, which tells those who might be responsible for the structure in future of the risks that have to be managed during maintenance, repair or renovation.