General Comment

119 out of 128 students enrolled in the subject sat for the exam. Overall, the performance was higher than average. The highest mark was 89%. 2 students failed obtaining 46 and 47 respectively. 21 obtained pass grades, 44 passed with merit and 52 passed with distinction.

Question 1

This question has two parts. Students were required to answer either Part A or Part B. Two students answered both part A and B. The knowledge elements required in both questions are similar: assault, battery, and trespass to land, trespass to goods, self defence (including the defence of another person) and vicarious liability. Most students, (90%) chose to answer part A.

Overall, the answers were above average. Most students however devoted their answer to a discussion of vicarious liability in both questions without discussing the torts, if any, that had been committed. On the issue of vicarious liability in Question 1, most of answers failed to note that Moses who ‘jumped out of car and came into the lobby and struck Simon several times’ in defence of Adam had no relationship with the pizza company Magnum. This is an issue with important implications for Magnum’s liability. Students needed to discuss whether Magnum could be vicariously liable for the conduct of a ‘stranger’ Moses who had accompanied Adam against the company’s instructions.

Part B on Airbnb was well answered by those who attempted it.

Question 2

The knowledge elements required in this question were: negligence, the liability of public authorities, mental harm and contributory negligence. The question required students to discuss the liability of the Council (a public authority) to exercise a power and the implication of budgetary constraints on its ability to exercise its functions. Students demonstrated good knowledge and understanding of the relevant sections of the CLA and cited appropriate cases to support their interpretation of the CLA. An important issue in the question was that even though the Council claimed that it had budgetary problems, it had expended money on sending a delegation to China. Most students did not mention or discuss this issue and the importance of CLA s42(b) regarding the general allocation of resources by a public authority.

The question also required students to discuss the scope of claims for mental harm. Most students correctly explained that Celine is a potential claimant even though she was not present at the scene of the accident, because she is close relative.
Question 3
The knowledge elements in this question are: trespass to land, trespass to the person and negligence. This question was well answered by students. Most of the issues were well identified and discussed. A central issue in the question was whether Dr Sadir has standing to sue, since the property belongs to her mother who now lives in Jordan. To sue, Dr Sadir needs to show that she has exclusive possession. Overall, students identified this issue and demonstrated a very good understanding of the principles required. Another issue was whether Dr Sadir could sue in assault for threats made to her regarding her daughter. While students discussed the threat made to Dr Sadir on the phone by the CEO of the Altona Constructions, the specific issue of whether she could sue for threats to harm her daughter rather than herself were not discussed by most students.

On the facts in the question, two workers from the construction site followed Samina purporting to give her flowers, as it was Valentine’s Day. She tripped and fell; suffering a severe fracture to her left arm, as she tried to run away from the men. This raises the issue of whether the men flowing her, and their attempt to give her the flowers caused her injury. Students generally did not discuss this issue.