

## Torts Answer Structure/ Template

### NEGLIGENCE

(Sullivan v Moody) Liability does not result from negligence unless we demonstrate that the Defendant owed the Plaintiff a Duty of Care which starts with characterising the harm caused to the P to determine if the D owed the P a duty to take care.

The existence of a duty of care is a question of law.

1. Identify the issue of the problem
  - I. State concisely what the issue is.  
Was it **REASONABLY FORESEEABLE** that this could occur?
2. Establish the duty of care
  - I. Class of Plaintiff  
(Does class A owe a duty to class B)
  - II. State the scope of the duty.  
**RTA v Dederer**  
**Jones v Bartlett**  
**Modbury Triangle c Anzil**  
**Koehler v Cerbos (quote)**  
For example, the scope of duty would extend to taking steps to protect visitors to the park from foreseeable risks.
  - III. Is it an **established category**? (Cite authority when establishing duty of care)
    - a. **Public Authorities** (**Sutherland v Heyman**)
    - b. **Bailees of Goods** (**Hobbs v Petersham Transport Co**)
    - c. **Hospitals** (**Ellis v Wallsend District Hospital**)
    - d. **Occupier of Premises** (**section 20 CLA**) (**Safeway Stores v Zaluzana**) (**Strong v Woolworths**)
      - Neglected Land (**Goldman v Hargrave**)
      - Proprietors of licensed premises (**CAL No 14 Pty Ltd v Motor Accidents Insurance Board**) Owe a duty to those present on the premise to ensure that the premise are physically safe. They do not owe a general duty of care at common law to customers to monitor and minimise the service of alcohol, or to protect customers from the consequences of choosing to consume alcohol.
    - e. **Employers** (**Smith v Charles Baker**)
      - Safe System of work (**Hamilton v Nuroof**) (**Neil v NSW Fresh foods**)
      - Selection of Skilled persons (**Butler v Fife**)
      - Maintenance of Plant and Equipment (**Wilson & Clyde**)
    - f. **Road Users**
      - (**Edwards v Noble**) – motorcycle side of road

# Good Structure Torts Answer

**James Barr Ames, Jeremiah Smith**

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