

**UNIVERSITY OF SYDNEY, FACULTY OF LAW, TORTS 2003  
GROUPS 5 (ROLPH/STEPHENS) AND 7 (STEPHENS)**

**A BRIEF GUIDE TO LEGAL PROBLEM SOLVING**

**1. Read the question carefully, work out the important facts. What you are being asked to do?**

Read the question slowly and carefully. You will pick up most of the nuances of the question when you read it the first time and you should note these as you are reading (highlight or underline the facts which you think are relevant). But try not to be too critical when you read the question – read for information rather than trying to work out what all the issues are. Do you completely understand the facts? Do any facts appear to be missing or assumed by the question? Do the facts resemble a decided case? Then read the question again and identify the **issues** (step 2, below).

What are you being asked to do? Note exactly what the question asks and do not range beyond it. If the question is expressly limited in some way pay attention to that limitation and do not waste time discussing given legal or factual circumstances (eg if the question says “Does A have a cause in action in negligence?” address only the tort of negligence and not any of the intentional torts).

If you are asked to present an argument for a particular party you will generally not be rewarded for discussing, in detail, possible arguments for the other side. If you are asked to advise one party, address your answer to that party. Hence if you are asked to advise a particular person, express your answer accordingly: “It is advised that Ali has a good claim in negligence”. On the other hand, if you are asked to advise generally ensure that you give a balanced answer.

**2. Identify the issues**

While reading the question take a brief note of all the issues that may be relevant in answering the question. When it comes to writing your answer make it clear to the examiner that you have identified all the relevant issues and state which ones are most important. Use common sense about how much time and space you spend on the various issues. Appreciate that you will get the most credit for good discussion of difficult, controversial issues. You should concentrate on the key issues, where it may not be clear what the law is, or what the law should be, or how the law would apply to the facts.

**3. Plan your answer**

Organisation of your answer is essential. Make sure you adopt a logical and comprehensible structure. Use plenty of headings for different parties and for different issues (eg Duty of Care, Breach of Duty, Causation and Remoteness, Defences, Damages). As a guide you may want to consult recent judgments of the High Court where headings are liberally employed.

**4. Ascertain the law and apply relevant legal principles to the facts**

Apply the law to the facts **throughout** your answer. **Do not expound the law at great length for several pages and only after that exposition apply the law to the facts.** Little credit can be given for lengthy discussions of legal doctrine. Pick out the *relevant*