



### Activity Three

This worksheet contains questions based on the third video. There is no guarantee that answers have been provided for these questions, but the ideas are introduced in the videos and particularly in the case of *Nettleship v Weston* available at <http://www.bailii.org/ew/cases/EWCA/Civ/1971/6.html>.

1. When do you think is too late to bring a claim for personal injury like that in *Nettleship v Weston*? 3 years? 6 years? 10 years, never?
2. What comparisons with other activities or professions do you think are most important to how the standard of care expected of the learner driver should be and why?
3. Do you think it would have made a difference to the standard of care expected of the instructor if the instructor had been Mr Weston, Mrs Weston's husband? Would it have made any difference elsewhere in the case?
4. What do you think is the best way to decide who should compensate another for harm caused? Is fault a good place to start everywhere? If the obligation to pay is actually going to be met by an insurance company, should it matter whether the defendant was at fault?
5. Even if you think fault is a good reason to require compensation, or one of the right reasons, is it right in all situations? When should a different reason apply?
6. Once we know about the risks and the certainties of accidents, and we know about compulsory insurance here whereas insurance is not normally compulsory for most daily activities, should we really require fault to be proven? What are the benefits of using fault as our reason to make one person pay another, particularly in road traffic cases?
7. What do you think of an alternative system where compensation for road traffic accidents is based primarily on the risks inherent in motor accidents, not the fault of the defendant driver?
8. Do you think a first party insurance system like the one in New Zealand, where you insure yourself against harm happening to you rather than insurance against you causing harm to another, is a better system of to underpin tort law? It certainly appears to be more efficient, much more of the money in the system goes to victims rather than to pay the costs of running the system. But does it do all of what you think the law should do? If you think it does, why do you think so few countries operate such a system?
9. If the criminal law had found *negligence*, specifically, as a part of a criminal offence, what would you think of a civil court deciding that *on the same facts the tort of negligence* had not been satisfied? Consider carefully, because the answer might be more complex than you might have thought.