Question 1 Written communication counselling skills exercise
Instructions
Read the record of meeting and client statement below, research the legal provisions indicated and compose all of the following: (allocations of marks are shown in brackets below)

a) A client care letter, (5%)
b) A client advice letter, (30%)
c) A letter to The Premnay House Luxury Hotel and Spa Ltd (35%)
d) A reflective statement of 600 words explaining what you believe to be the essential elements of an effective client advice letter and how you have reached your conclusions. (30%)

(There is no word limit set for the letters but they should not normally be more than 1-1.5 pages of A 4 long. See the style letters, the lecture on reflective learning and guidance on writing reflective statements on the BS2309 Moodle page)

Record of Meeting
Client: Flora Poste (FP) Action taken by: You
Date 13/2/2014 Start time 11.00 End Time: 11.42
Time spent: 42 minutes (7units)
Action taken: Interview

I welcomed the client FP and introduced myself. I advised her of the details of the clinic, the retainer, and client information including the complaints procedure.

FP was injured in a fall down some stairs at the Premnay House Luxury Hotel and Spa (PHLH&S) on Thursday 17th November 2016. She was at a function at (PHLH&S) Insch Road, Auchleven Aberdeenshire. At about 9.30pm she went to the ladies toilets which are situated down a flight of quite steep stairs. She was about half way down when she felt something slide under her foot and lost her balance and fell down to the bottom of the steps. She landed heavily on her arm and shoulder. She had not consumed any alcohol that night. She produced a photograph taken that night showing her wearing flat shoes.

She was taken to hospital where she found out she needed surgery for a fractured left arm and shoulder. She is left handed. She was operated on the next morning and now has a metal plate and three pins in her shoulder.

She was off work for three weeks. She has not been able to drive for 3 months and has only just started again. She is still undergoing physiotherapy.

She has a 10 day tennis holiday booked in Spain during the last two weeks March 2017. She cannot play sport at present and wishes to cancel the holiday. However her insurers refuse to pay out for cancellation, because they say she is fit to travel. She will lose £1895 if she cancels. When the accident happened, the hotel duty manager was reported to have told her "that’s what happens if you girls insist on wearing killer
heels and take a drink”.

She would like to know if she can seek compensation from the hotel. When the accident happened they tried to blame it on 3F ( Fancy Footwork Flooring) at Echt. FP reports that management at Premnay House told her that since 3F had laid the carpet the day before, it was their fault. She says she believes that PHLH&S are simply trying to get her to go away. She was particularly upset and angered by the comments about her footwear.
If she can make a claim against the hotel, she would like us to write to them to get as good as settlement for her as possible.
The client was advised that we would contact her within 7 days of today’s meeting to advise her if she has a remedy and of the next steps to be taken.

Client Statement
Name; Flora Poste
Address: 26 Castle Circle, Kingswells Aberdeen AB15 3VG
NI number: HW 22 87 56 A
Occupation: HR Business Partner
Date of Interview: 13 February 2014
1. My name is Flora Poste and I am 31 years old.
2. I am an HR Business Partner at the University of Bridge of Dee, I worked in hospitality until 2012 and retrained. I earn £33,500 per annum.
3. On Thursday November 17th 2016. I was at a function in connection with work. The University had taken a table at the Hoorays Awards (As in Human Resources Awards) Dinner at Premnay House Luxury Hotel and Spa at Auchleven.
4. At about 9.30pm I went outside for some fresh air. I checked my phone, replied to a few texts and emails and had a chat with some folk I knew who had gone outside for a smoke.
5. Before going back into the function suite, I went to the ladies toilets which are down a flight of quite steep stairs.
6. I was about half way down when I felt something slide under my foot, and suddenly I lost my balance and fell down to the bottom of the steps.
7. I landed heavily on my left shoulder. It was the most painful thing I had experienced in my life to date. It was worse than root canal treatment.
8. I had not consumed any alcohol that night as I had taken my car and was intending to drive home. I was not wearing high heels for the same reason and I have produced a photograph taken while I was outside just before the accident which shows that I was wearing flat shoes. I was particularly upset and angry by the comment made by the duty manager when he was alerted to the accident. He said to me “well that’s what happens when you girls insist on wearing killer heels and take a drink”. He said it in front of everyone as I was being taken out of the hotel by the paramedics. I felt humiliated at being accused of being drunk and incapable in public.
9. I was taken to hospital where I found out I had fractured my shoulder.
and left arm and needed surgery. I had the operation the next day and I now have a metal plate and three pins in my shoulder. I am left handed and so it meant that I was heavily reliant on others to help me get dressed, cook and clean.

10. I was off work for three weeks. I have not been able to drive for 3 months and had to take taxis to work at a cost of £15 each day. I only started driving again this week. I tried taking the bus but it was too painful with my arm in a sling. I am still having physiotherapy. I did not lose any pay whilst signed off.

11. The thing that really upset me though is that I was due to go on a tennis and other sporting activities holiday in Spain with some friends in late March and because I can’t play tennis or do any activity that might disrupt the physio on my shoulder, it is not worth my going just to hang out on my own.

12. However my insurance won’t pay out for a cancellation, because they say I am fit to travel. I will lose £1895 if I cancel.

13. I would like to know if I can seek compensation from the hotel for my injury, the cost of travelling to work and of cancelling the holiday and the upset and humiliation they caused.

14. The hotel tried to blame the accident on Fancy Footwork Flooring at Echt. I was told that since they had laid the carpet the day before the accident they must have done it incorrectly and so it was their fault. I think they are trying to get me to go away. They have not even apologised for the behaviour of Mr Fawly, the duty manager.

15. If I can make a claim against the hotel, I would like you to try and get as good as settlement for me as possible.

17. I believe that the facts stated here are true.

Signed Flora Poste
Dated 13/2/17

Legal sources to help you to advise the client
Occupiers’ Liability (Scotland) Act 1960
Porter v Strathclyde Regional Council 1991 SLT 446
Beggs v Motherwell Bridge Fabricators ltd 1998 SLT 1215
Kerr v East Ayrshire Council 2005 SLT (Sh Ct) 67
Porter v Scottish Borders Council 2008 CSOH 163
Wheat v E Lacon & Co Ltd [1966] AC 552 McGlone v British Railways Board 1966 SC (HL) 1
Devlin v Strathclyde Regional Council 1993 SLT 699
Dawson v Page 2012 CSOH 33 – deals with what is a danger which is not such a common issue as what is reasonable care
McManus and others, Delict
Question 2
Dispute Resolution Exercise

Write an essay explaining the various methods of dispute resolution which are available, and which of those might be resorted to in Flora Poste’s case, assessing the advantages and disadvantages of each and explaining why you reached your conclusions. (1000 words)