

MODULE SPECIFICATION

1. Title of the module

Law of Equity and Trusts

2. School or partner institution which will be responsible for management of the module

Pearson Business School

3. The level of the module (e.g. Level 4, Level 5, Level 6 or Level 7)

Level 6

4. The number of credits and the ECTS value which the module represents

15 (7.5 ECTS)

5. Which term(s) the module is to be taught in (or other teaching pattern)

The module will always be taught in the first term of a student's studies at level 6(H) (whether or not they start in September or January)

6. Prerequisite and co-requisite modules

Pre-requisites: None

Co-requisites: None

7. The programmes of study to which the module contributes

Certificate of Higher Education

Diploma of Higher Education

LLB (Honours)

LLB Law with Accounting

LLB Law with Business

MLaw (Integrated Masters) Professional Legal Practice

8. The intended subject specific learning outcomes.

On successfully completing the module students will be able to demonstrate:

A systematic understanding of key aspects of the Law of Equity and Trusts, including a coherent and detailed knowledge of: equitable remedies; trusts (express and implied); trustees duties and fiduciary duties; tracing and the liability of strangers.

1. An ability to apply the methods and techniques that they have learned, with a degree of originality, to review, consolidate, extend and apply their knowledge and understanding of this area to complex practical legal problems; and to recognise and devise potential alternative outcomes and solutions to them in the context of reasoned analysis.

2. An ability to devise and sustain arguments based on critical evaluation of data, assumptions and reasoning, utilising ideas and techniques, some of which are at the forefront of the law of equity and trusts.

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3. An ability to use complex legal terminology in this area correctly and utilise accepted methods of referencing and citation.
4. An ability to critically evaluate the efficacy of current legal arrangements within the law of equity and trusts, notably with regard to the issue of rights to the family home, in the light of the social, economic, political, historical, philosophical, ethical, and cultural context in which the law operates.

9. The intended generic learning outcomes

On successfully completing the module students will be able to

1. An ability to use the English language accurately and reliably.
2. An ability to communicate the results of their study accurately and effectively, with structured and coherent arguments, to specialist and non-specialist audiences.
3. An ability to evaluate complex mathematical data with a view to deriving appropriate conclusions e.g. in relation to the remedies available.

10. A synopsis of the curriculum

The aim of this module is to give students a practical introduction to the law of Equity and Trusts as it operates in a commercial context. The module will give students an understanding of how the law of trusts is relevant to businesses, how it may affect them as business people (whether as customers or suppliers), and what they need to do in order to operate effectively in the commercial world. This will involve an appreciation of when trust considerations typically arise; the rights and duties attached to them, the consequences of breach and the types of claim which may be made and against whom. By looking at a variety of business scenarios students will be able to apply this knowledge to enable them to anticipate, deal effectively with or even avoid potential legal problems.

The module will also give students an appreciation of the contribution made by equity to the remedies available in a legal claim and the likelihood of a particular remedy being granted in a given scenario. By the end of the module, learners should have a solid grounding in the essential principles of trusts law and equitable remedies, and a clear appreciation of how to apply these to practical business situations.

In the course of studying this module, students will cover the following key areas:

Outline Syllabus

1. Introduction to Equity and Trusts – introducing the origins and nature of equity, the role of equitable remedies and the concept of the Trust, and how these can arise in a commercial context.
2. Express trusts - looking in particular at the requirements for creating express trusts, including the three certainties, the related formalities, and all within the context of where express trusts may be relevant in a commercial context.

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3. Implied trusts – looking at the concept of implied trusts and how they can arise as resulting or constructive trusts, including the concept of the Quistclose Trust.
4. Purpose Trusts – introducing the concept of a trust for a purpose, including charities.
5. Trustees’ duties and fiduciary duties – covering the specific duties owed by those who are deemed to be in a position of trust, and the overarching fiduciary duties owed by trustees to beneficiaries and company directors to shareholders; as well as the special rules on remuneration which apply to directors who are trustees.
6. The rights of beneficiaries and the beneficiary principle: including the nature of proprietary rights of the beneficiary; Saunders and Vautier; and the distinction between purpose trusts and people trusts.
7. Equitable Remedies – including the nature of an equitable remedy as opposed to common law claims for damages; the tests to be satisfied in a claim for specific performance and an interim mandatory injunction (plus associated defences); as well as the wider range of potential injunctions (such as search orders or freezing orders) and tracing.

Breach of trust and fiduciary duty – covering the extent and measure of personal liability of those who breach duty for their own acts and acts of their co-trustees; plus relief from liability and defences.

11. Reading List (Indicative list, current at time of publication. Reading lists will be published annually)

All textbooks and practitioner materials will be updated annually. Textbooks will be held in the latest edition and older editions will be withdrawn.

	<ul style="list-style-type: none"> • Title, author, publisher
Core Text	<ul style="list-style-type: none"> • Essentials of Equity & Trusts Law, Duddington, J, Pearson
Recommended Reading	<ul style="list-style-type: none"> • Hayton & Mitchell: Text, Cases and Materials on the Law of Trusts and Equitable Remedies, McFarlane, B & Mitchell, C, Sweet & Maxwell • Understanding Equity & Trusts, Hudson, A, Routledge

12. Learning and Teaching methods

This module *will be taught by means of a 1 hour lecture and 2 hour seminar for ten weeks.*

The lecture is designed to: provide an overall context and explanation of the particular topic within contract law, drawing out links to past and future areas of study; explain how the law developed and evolved to its present state, highlighting where relevant any social, economic and philosophical issues which have influenced its development; and set out critiques of the relevant area of law’s efficacy in accomplishing the goals it is supposed to further, where appropriate.

Lectures may be viewed live or online. Students may ask questions, in real time if attending live or via electronic means if listening and watching online. It is envisaged that students will have completed introductory reading prior to experiencing the lecture.

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The seminar is the forum in which students will typically contextualise their independent reading and study, alongside their learning from the lecture, in the context of realistic problem scenarios requiring the application of relevant law to factual disputes. Tutors will use a variety of techniques and pedagogic approaches in seminar delivery, including: tutor led discussion; group / team work; targeted and open questions; moots; debates; presentations (individual and group).

Activity	Notional Hours of Study
Lectures	12 (10+2 revision lectures)
Independent lecture preparation	20
Seminars	20
Independent seminar preparation	50
Group preparation (including use of online discussion forum)	10
Assessment preparation and completion	38 (35 + 3)
Total	150

13. Assessment methods.

This module will be assessed in two parts comprising:

Part A - objective testing of 1.5 hours duration (50%);

Part B - a more traditional exam of 1.5 hours duration, in which students will be required to answer 2 questions from a choice of 5 (50%).

Since the learning outcomes tested by each part overlap (see further detail below) an overall pass of 40% will be sufficient to pass the assessment.

Rationale

This methodology reflects two key objectives: firstly, and most importantly, to assess that the learning outcomes set out above have been achieved by the students. Secondly, to align our assessment regime with that proposed by the Solicitors Regulation Authority for the new Solicitors Qualifying Exam.

According to the SRA's recent consultation paper, this assessment will use "Objective testing" to assess "Functioning legal knowledge", with the former defined as requiring "... a candidate to choose or provide a response to questions whose correct answer is predetermined. This might include multiple choice questions, matching questions, assertion/ reason questions or single best answer." They further state that "All assessments will be computer-based and will take place in timed conditions at secure assessment centres."¹

It is clear that the SRA does not intend objective testing to be a matter of mere recall, noting that the aim is to assess "candidates' ability to draw on sufficient knowledge to practise effectively" and "the

¹ Consultation, Training for Tomorrow: assessing competence 7 December 2015 at page 58, available at: <http://www.sra.org.uk/sra/consultations/t4t-assessing-competence.page#download>

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application of knowledge and legal processes...Questions will require candidates to identify relevant legal principles and apply them to factual issues to produce a solution which addresses a client's needs."²

The proposed assessment methodology combining objective testing with more traditional long form answers to problems question, we feel will combine an assessment of the outcomes of the SQE test with the broader skills outcomes for the module.

13.2 Reassessment methods

14. *Map of Module Learning Outcomes to Learning and Teaching Methods and methods of Assessment*

Module learning outcome		SS1	SS2	SS3	SS4	SS5	GTS1	GTS2	GTS3
Learning/teaching method	Hours allocated		S	S					
Private Study	108	X			X	X		X	
Group Study	10				X				X
Lecture	12	X				X			
Seminar	20	X	X	X	X	X	X	X	X
Assessment method									
Objective testing		X	X		X	X			X
Examination		X	X	X	X		X	X	X

15. Inclusive module design

The Collaborative Partner recognises and has embedded the expectations of current disability equality legislation, and supports students with a declared disability or special educational need in its teaching. Within this module we will make reasonable adjustments wherever necessary, including additional or substitute materials, teaching modes or assessment methods for students who have declared and discussed their learning support needs. Arrangements for students with declared disabilities will be made on an individual basis, in consultation with the Collaborative Partner's disability/dyslexia student support service, and specialist support will be provided where needed.

² Ibid.

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16. Centre where module will be delivered:

Pearson college London

17. Internationalisation

All the modules on the MLaw/LLB programme incorporate an international dimension wherever and whenever appropriate. This includes specific areas, such as EU statutory provisions in Contract and Employment Law and Human Right issues in Constitutional and Criminal Law, alongside an all pervasive discussion of the affects of international law on English Law as a whole. In addition to the formal incorporation of international jurisprudence within the programme, the students are actively encouraged to participate in the numerous opportunities the College offers involving comparative analysis within the business world including: guest speakers, industry workshops, alumni events, etc. Specifically, the MLaw/LLB programme provides a number of opportunities for all law students to participate in educational visits to various international institutions within the legal environment including the EU (in Strasbourg, Brussels and Luxembourg), the International Court of Justice in the Hague and the Nuremberg Trials Court House. These trips are heavily subsidised by the college to ensure affordability and maximum participation.

18. Partner College/Validated Institution:

Pearson Business School, part of Pearson College

19. University School responsible for the programme:

Kent Law School

FACULTIES SUPPORT OFFICE USE ONLY

Revision record – all revisions must be recorded in the grid and full details of the change retained in the appropriate committee records.

Date approved	Major/minor revision	Start date of the delivery of revised version	Section revised	Impacts PLOs (Q6&7 cover sheet)
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