

MODULE SPECIFICATION

Code: UJXU57-20-3 **Title:** Equity and Trusts **Version:** 2
Level: 3 **UWE credit rating:** 20 **ECTS credit rating:** 10

Subject type: Non MAR subject (but standard module equivalent)

Owning Faculty: Business and Law

Faculty Committee approval: QSC **Date:** 01/10/2008

Valid from: September 2009 (revised 2012)

Pre-requisites: None

Co-requisites: all other Foundation subjects, the other (8th) area of legal study (Independent Research Project) and English Legal System

Excluded combinations: None

Learning outcomes:

By the end of the subject, students will be able to demonstrate:

Knowledge and understanding

1. an appreciation of the development, role and scope of the law of equity
2. a sound knowledge and understanding of the concept of a trust
3. a sound knowledge and understanding of equitable rights and remedies
4. an understanding of the principal uses of the trust in modern society
5. an understanding of the obligations placed on trustees and on other fiduciaries

Intellectual skills

1. an ability to apply, highlighting areas of uncertainty, legal concepts and principles to a range of practical scenarios
2. skills of analysis and synthesis
3. an ability critically to evaluate existing law
4. an ability to make reasoned proposals for reform of this area of law or to justify the retention of the current law

The above learning outcomes are developed by means of lectures, seminar discussion, workshop activities and by the student's individual study of the subject. They are assessed by any coursework which is part of the assessment schedule in any given academic year, and in the examination.

Subject specific skills

1. the ability to present reasoned legal argument, both orally and in writing
2. the ability to conduct effective library-based legal research
3. the ability to use electronic sources for legal research
4. problem solving skills in the context of equity and trusts
5. the ability critically to analyse and evaluate primary and secondary legal materials

These skills are developed through preparation for, and activities at, weekly seminars and workshops and also form part of the independent research needed to complete any coursework which is part of any assessment schedule in any given academic year.

Transferable skills

1. oral and written communication skills
2. study management skills.
3. use of information technology
4. team working
5. the ability to learn and research independently
6. communicative and persuasive skills

The teaching methods adopted are designed to develop transferable skills as set out above. The preparation that is expected before classes involves the student in managing his/her own workload, and in conducting research independently. The demands of any coursework preparation and presentation (in relevant years) also have to be met, so successful completion of the course requires a student to have achieved significant workload management skills. The use of IT in preparation for classes should lead to IT awareness and skill development, and coursework is expected to be produced in a word processed format. Seminar participation involves communication and persuasive skill development. Workshop activity requires both individual and team work in small group analysis, discussion and feedback to the whole group. Communicative and persuasive skills are enhanced by this experience. Any coursework tasks and the examination lead to the exercise and development of the transferable skills as well as the subject specific skills.

Syllabus outline:

1. INTRODUCTION: outline of the historical development of equity; the meaning of equity and analysis of the relationship between equity and the common law; the nature of equitable interests; maxims of equity; the doctrine of the bona fide purchaser.
2. THE TRUST CONCEPT: the nature of trusts and equitable rights; analysis of the trust concept and comparison with other concepts; classification of trusts; discretionary and protective trusts.
3. FORMALITIES: capacity and formalities for creation of trusts and dispositions of equitable interests; certainty and the effects of uncertainty.
4. CONSTITUTION OF TRUSTS: completely and incompletely constituted trusts; exceptions to the rule that equity will not assist a volunteer.
5. RESULTING, IMPLIED AND CONSTRUCTIVE TRUSTS: definitions, categories and overlap between such trusts, particularly in the context of the family home; secret trusts and mutual wills.
6. CHARITABLE TRUSTS AND NON CHARITABLE : definition and nature of public trusts; comparison with private trusts and benefits of charitable status; cy-pres doctrine; the role of Charity Commission; definition and comparison of non-charitable purpose trusts with public trusts; examination of limits of present day validity.
7. TRUSTEES - GENERAL PRINCIPLES, POWERS AND DUTIES: duties in relation to the safeguarding of assets, acting impartially, investing, distributing, providing information and accounts ; powers of delegation, maintenance and advancement
8. FIDUCIARY DUTIES OF TRUSTEES AND OTHER FIDUCIARIES: the rationale of the principle that a trustee must not profit from the trust; remuneration, purchase of trust property and the making of incidental profits.
9. VARIATION OF TRUSTS: analysis of the rule in Saunders v Vautier; applications pursuant to the Variation of Trusts Act 1958; other means of effecting variations.
10. BREACH OF TRUST: liability of trustees; personal and proprietary remedies; relief; limitation of actions and laches.
11. EQUITABLE REMEDIES: consideration of general principles; specific performance and injunctions.

Teaching and learning methods:

The aims of the subject are to enable the student to appreciate the relationship of equity to law; to understand the conceptual basis of the trust; to acquire knowledge of the main substantive areas of trust law; and to appreciate the nature and scope of equitable remedies.

Students will be encouraged to evaluate the present day relevance of established equitable doctrines, to appreciate the creativity of equity in developing basic equitable principles and extending their areas of application, and to gain an understanding of the principal uses of the trust in modern society. Students will be encouraged to make links with other areas of study where appropriate, particularly property law and contract. Evidential matters will also be considered where appropriate - for example, with regard to formalities, equitable presumptions and secret trusts.

The study of the law of trusts provides a demanding opportunity to develop legal method skills and analytical ability through oral and written discussion.

Class Contact

Full Time CPE

The class contact pattern for Equity and Trusts is as follows:

1 hour per week plenary session in lecture room

1 hour per week seminar discussion (max 18 students per seminar)

2 hours per fortnight workshop sessions - 2) seminar groups combined) for purposes of interactive consideration of practical tasks and discussion of current syllabus topic

In any given academic year, there will normally be

- 11 lectures, including one revision lecture;
- 12 hours of workshops (6 x 2 hours), including a revision workshop; and
- 11 seminars (including one cycle of revision seminars)

Consequently, in any academic year, there will normally be 34 hours of contact time for each student. In addition, students will have been given directed study to complete in the week between the end of TB1 examinations and the start of the TB2 teaching schedule.

Part Time CPE

In any academic year, the class contact for the subject is normally as follows:

At the September Induction tuition session:

- 2 hours plenary session (whole cohort)
- 1 hour 30 mins introductory seminar session (max 12 students)

At each of the following tuition sessions a block of 3 ½ hours comprising:

- 1 ½ hours plenary session (whole cohort)
- 2 hours seminar sessions (max of 12 students per seminar group)

Consequently, in any academic year, there will normally be 21 hours of contact time for each student. In addition, students will have been given directed study to complete during the summer between the end of Year 1 examinations and the start of the Year 2 tuition sessions.

Assessment

Assessment in any given academic year takes the form of either:

(a) Coursework and Examination

- (i) An unseen examination of two and a half hours duration at the end of the Teaching Block. Students will be required to answer no more than three questions from a minimum of six questions. Students are permitted to take their own, unannotated copy of the relevant statute book in the examination. The examination requires students to adapt their knowledge and demonstrate their understanding of the law in relation to novel situations and under time constraint; and
- (ii) a coursework task set on a syllabus topic requiring students to demonstrate their ability to research a topic and to produce an appropriate response to the task set. For example, this may take the form of a critical analysis of the syllabus topic, an evaluative response to proposed reforms of the law in that context; advice to a hypothetical client based on a factual scenario provided by the tutor; the draft of a short scholarly article or conference paper etc.

OR

(b) Examination only

An unseen examination of three and a half hours duration at the end of the Teaching Block. Students will be required to answer four questions from a choice of eight questions. Students are permitted to take their own, unannotated copy of the relevant statute book in the examination. The examination requires students to adapt their knowledge and demonstrate their understanding of the law in relation to novel situations and under time constraint.

Reading strategy:

At the start of the academic year, each student will be provided with some core published materials for the subject, being a text book; a book of cases and materials, and a book of legislation (see below: Indicative Sources).

Any **essential** reading will be indicated clearly to students (normally by a combination of Topic Outlines; workshop / plenary instructions and seminar instructions). Essential reading for a particular topic or class will normally be a combination of parts of the core material provided to students and / or other specific references that students will need to access for themselves (eg case reports, journal articles, Law Commission reports, etc).

If **further reading** is expected, this will be indicated clearly to students (normally by a combination of Topic Outlines; workshop / plenary instructions and seminar instructions).

Students will be encouraged to make full use of the printed and electronic resources available to them through membership of the University (for the purposes of both class contact preparation and research in preparation for coursework and examination assessments). These include (amongst other things) a range of printed case reports, legislation, texts and journals, as well as a range of electronic journals and a wide variety of resources available through web sites and information gateways (including online study and legal research sites provided by the Law Library). The University Library's web pages provide access to subject relevant resources and services, and to the library catalogue. Many resources can be accessed remotely. Students will be presented with opportunities within the curriculum to develop their information retrieval and evaluation skills in order to identify relevant resources effectively.

Indicative sources:

Each year the subject team will determine which texts are to be purchased for the individual use of the students studying this subject. The selection may vary from one year to another but will usually comprise, as a minimum, one student textbook appropriate in style for the intensive nature of the course; one casebook and one volume of selected statutes. In addition students will be referred to the range of materials in the Bolland Library and they will be expected to fully utilise the variety of legal journals available both in hard copy and electronically, as part of their research for coursework in the Foundation subjects.

By way of illustration, in the 2011 /2012 academic year, the texts provided to students will be:

Watt, Trusts and Equity, 4th ed, OUP

Todd and Watt, Equity and Trusts - Cases and Materials on, 8th ed , OUP

Blackstone's Statutes on Property Law

Assessment

Equity and Trusts is taught and examined at the same stage of the Diploma as Property, and European Union Law. In any given academic year, there will be a coursework in two of these three subjects. Consequently, in two years of a three- year cycle, there will be assessed coursework in Equity and Trusts. In every academic year, there will be an unseen examination in each of the three subjects. (The fourth subject for TB2 and Year 2 is the Independent Research Project)

Weighting between components A and B

In an academic year in which there is an assessed coursework

A: 75% **B:** 25%

In an academic year in which there is no assessed coursework

A: 100%

First attempt within CPE Regulations

In an academic year in which there is an assessed coursework

Component A

1 Unseen examination of two and a half hours duration. Students are permitted to take their own, unannotated, copy of the relevant statute book into the examination.

Component B

1 Coursework task

In an academic year in which there is no assessed coursework

Component A

1 Unseen examination of three and a half hours duration. Students are permitted to take their own, unannotated, copy of the relevant statute book into the examination.

Second attempt within CPE Regulations

(further attendance at taught classes is not required)

In an academic year in which there is an assessed coursework

Component A

1 Unseen examination of two and a half hours duration. Students are permitted to take their own, unannotated copy of the relevant statute book into the examination

Component B

1 Coursework task

In an academic year in which there is no assessed coursework

Component A

1 Unseen examination of three and a half hours duration. Students are permitted to take their own, unannotated, copy of the relevant statute book into the examination.

Third and last attempt within CPE Regulations

Attendance at taught classes is not required.

In an academic year in which there is an assessed coursework

Component A

1 Unseen examination of two and a half hours duration. Students are permitted to take their own, unannotated copy of the relevant statute book into the examination

Component B

1 Coursework task

In an academic year in which there is no assessed coursework

Component A

1 Unseen examination of three and a half hours duration. Students are permitted to take their own, unannotated copy of the relevant statute book into the examination