



MODULE SPECIFICATION

Code: UJUTAE-30-3 **Title:** Sexuality and the Law **Version:** 3
Level: 3 **UWE credit rating:** 30 **ECTS credit rating:** 15

Module type: Standard

Owning Faculty: FBL **Field:** Undergraduate Law

Faculty Committee approval: QSC **Date:** 03/06/10

Valid from: September 2009 **Discontinued from:**

Contributes towards: LLB; LLB. (European and International Law); LLB. (Law with French); LLB. (Law with German); LLB. (Law with Spanish); LLB. (Law with English as a Foreign Language); Law Joint Awards, Law with Criminology, Criminology with Law.

Pre-requisites: Either UJUTA3-30-1 Method, Procedure & Systems + Law modules at level 1 worth at least 30 credits or 80 credits acceptable to the Law award on which the student is registered.

Co-requisites: None

Excluded combinations: None

Learning outcomes: The module will provide students with the opportunity to study in depth and in context an area of substantive English law. This links into the Quality Assurance Agency ("QAA") benchmark skills for law (skill 1). More particularly students will be provided with opportunities to develop and demonstrate the following skills:

Application and problem-solving (based on QAA benchmark skills for law - skill 2):

1. Application of her or his knowledge to a situation of in order to provide arguable conclusions for concrete problems
2. This skill will be tested in Assessment Component A and in Assessment Component B, elements 1 and 3.

Sources and research (based on QAA benchmark skills for law - skill 3):

1. To identify accurately the issue(s) which require researching;
2. To identify and retrieve up-to-date legal information, using paper and electronic sources;
3. To use primary and secondary legal sources relevant to the topic under study.
4. This skill will be tested in Assessment Component A and in Assessment Component B, elements 1 and 3

Analysis, synthesis, critical judgment and evaluation (based on QAA benchmark skills for law - skill 4):

1. to recognise and rank information and issues in terms of relevance and importance;
2. to bring together information and materials from a variety of different sources;
3. to produce a synthesis of relevant doctrinal and policy issues in relation to a topic;
4. (all the above will be tested in Assessment Component A and in Assessment Component B, elements 1 and 3)

5. to make a critical judgement of the merits of particular arguments (tested in Assessment Component B, element 3);
6. to present and make a reasoned choice between alternative solutions (tested in Assessment Component B, element 3).

Autonomy and ability to learn (based on QAA benchmark skills for law - skill 5):

1. to act independently in planning and undertaking tasks in areas of law previously studied (tested in Assessment Component A, element 1 and Assessment Component B, elements 1 and 3)
2. to reflect on his or her own learning (tested in Assessment Component B, element 2)

Communication and literacy (based on QAA benchmark skills for law - skill 6)

1. to understand and use the English language proficiently in relation to legal matters (tested orally in Assessment Component A, tested in writing in Assessment Component B, elements 1 and 3);
2. to present knowledge or an argument in a way which is comprehensible to others (tested orally in Assessment Component A, tested in writing in Assessment Component B, elements 1 and 3);
3. to read and discuss legal materials which are written in technical and complex language (tested orally in Assessment Component A, tested in writing in Assessment Component B, elements 1 and 3);

Other key skills: numeracy, information technology and teamwork (based on QAA benchmark skills for law - skill 7)

1. to produce a word-processed skeleton argument (Component B, element 1), reflective skills portfolio (Component B, element 2) and judgment (Component B, element 3)
2. to use some electronic information retrieval systems (research for Component A, element 1 and Component B elements 1 and 3 and a potential source of reflection for Component B element 2)
3. to work in a group as a participant who contributes effectively to the group's tasks (tested in Component A and a potential source of reflection for Component B, element 2)

Syllabus outline:

The course will complement existing undergraduate law courses particularly those on: *Civil Liberties, Crime and Society, Criminal Law, Cyberlaw, Employment Law, European Human Rights, European Union Law, Family Law and Institutions, Gender and the Law, the Law of Contract, Public Law and Public Law 2*. The course will focus on legal approaches to sexuality and sexual activity. Precise course content will vary from year to year but the following is an indicative list of areas that may be covered:

- Legal restrictions on consensual sexual activity (including inter alia: defining consent, the age of consent, consensual sexual offences, offences related to prostitution,)
- Legal approaches to the depiction and reporting of sexuality and sexual activity,
- Equality legislation: particularly legislation relating to sexual orientation discrimination both in the workplace and in terms of the supply of goods and services, but also briefly examining changes brought about through the introduction of civil partnerships and related legal changes, and
- The legal framework within which sex education operates.

In relation to the above topics the approach will be to examine the current law, consider recent developments, assess proposals for reform, explore comparative approaches and attempt to identify the theoretical underpinnings of the current legal approach. The course involves an area of law which has changed considerably in recent years and where the impact of the European Union and of the European Convention for the Protection of Human Rights and Fundamental Freedoms is significant.

The area is also one which is politically charged and one in which the media, religious organisations and pressure groups have considerable interest. The course will therefore provide students with the opportunity to view the subject within this framework and to consider the extent to which law reform shapes or is shaped by public attitudes.

Teaching and learning methods:

The module will be taught by means of weekly interactive three hour workshops during which students will have the opportunity to:

- learn about legal approaches to sexuality and sexual activity,
- discuss relevant legal issues,
- discuss the social, political and moral context in which the legal debate takes place,
- develop research skills,
- develop time management skills,
- develop group working skills,
- develop individual and group presentation skills,
- make individual and group oral presentations.

In addition the module will be supported by on-line materials which will enable students to test their understanding and which will enable them to pursue their interests further both through digitised materials and on-line discussion fora.

Reading Strategy

Essential reading to accompany the workshops in term 1 will be provided electronically or as printed study packs. Students will be encouraged to read widely using the library catalogue, a variety of bibliographic and full text databases, and Internet resources. Guidance to some key authors and journal titles available through the Library will be given in the course guide and through UWEonline. It is expected that assignment bibliographies and reference lists will reflect the reading carried out.

It is important that students can identify and retrieve appropriate materials. The module offers an opportunity to develop further the information skills introduced at Level 1. As the course progresses and especially in relation to the assessed elements of the course students will be expected to undertake their own literature and case searches, support for this will be given in term 1 (during which period students will be given opportunities to practice and develop these skills) but by term 2 when assessed work is undertaken students will be expected to have developed these skills and will be assessed in part on their ability to demonstrate an ability to find, evaluate and utilise relevant sources.

Indicative Reading List:

The following list is offered to provide validation panels/accrediting bodies with an indication of the type and level of information students may be expected to consult. As such, its currency may wane during the life span of the module specification. However, as indicated above, CURRENT advice on readings will be available via other more frequently updated mechanisms.

Currently there is no single textbook covers the entire *Sexuality and the Law* course, accordingly:

- it is not envisaged that at present there will be a recommended textbook that students will be instructed to buy,
- extracts from relevant books and articles will be provided in digitised form where appropriate to support workshop activities,
- students may consult relevant books and articles available through the library to support their studies.

Students will be recommended to consult relevant chapters of books on more general topics:

Fairhurst, J., (2006) *The Law of the European Union* (5th edn.) Harlow: Longman

Feldman, D. (2002) *Civil Liberties and Human Rights in England and Wales* (2nd edn.) Oxford University Press

Fenwick, H., (2002) *Civil Liberties and Human Rights* (3rd edn.) Cavendish: London

Ovey, C. & White, R., (2006) *Jacobs and White; the European Convention on Human Rights*, (4th edn.) Oxford: OUP;

Rubenstein, M., (2005) *A guide to the relevant case law on sex, race and disability and sexual orientation discrimination and equal pay* (18th edn.), London: Eclipse.

Stone, R., (2006) *Textbook on civil liberties and human rights* (6th edn.) Oxford University Press

Students will also be expected to access relevant official publications for example:

Home Office, (1957) *Report of the Committee on Homosexual Offences and Prostitution [Wolfenden report]* (Cmnd 247) HMSO

Home Office, (1979) *Report of the Committee on Obscenity and Film Censorship* (Cmnd 7772) HMSO

Home Office, (1981) *Report on the age of consent in relation to sexual offences* (Cmnd 8216) HMSO

Home Office, (2000) *Setting the boundaries reforming the law on sex offences consultation paper* London: Home Office

Home Office, (2004) *Paying the price: a consultation paper on prostitution* London: Home Office (also available on the internet
http://www.homeoffice.gov.uk/documents/paying_the_price.pdf)

Warwick, I., (2004) *Homophobia, sexual orientation and schools: a review and implications for action* - DfES research report no.94, Nottingham: DfES (also available on the internet
<http://www.dfes.gov.uk/research/data/uploadfiles/RR594.pdf>)

In addition to reading statutes, students will be advised of the value of reading guides to major legislative provisions such as:

Card, R., (2004) *Sexual offences: the new law*, Bristol: Jordans

Rook, P.F.G., Ward, R., Cybulska, B & Cooke, G., (2004) *Rook & Ward on sexual offences: law and practice* (3rd edn.), London: Sweet & Maxwell

Stevenson, K., Davies, A. & Gunn, M., (2004) *Blackstone's Guide to The Sexual Offences Act 2003*, Oxford: Blackstone.

There are a range of books which students may find useful depending on the hypothetical case study which they are presenting and the one on which they are writing a judgment. The following is a list of some of the major texts which they may want to consult:

Bamforth, N., *Sexuality, Morals and Justice: a theory of lesbian and gay rights law*, (1997), Cassell

Blake, S., (2002) *Faith, values and sex and relationships education*, London: National Children's Bureau,

Cretney, S.M. (2006) *Same sex relationships: from 'odious crime' to 'gay marriage'*, Oxford University Press

Devlin, P., (1965) *The Enforcement of Morals*, Oxford University Press

Foucault, M., (1990) *The History of Sexuality* (translated from the French by Richard Hurley) New York: Vintage

Hart, H.L.A., (1968) *Law, Liberty and Morality*, Oxford University Press

Herman, D. & Stychin, C., *Legal inversions: lesbians, gay men, and the politics of law*,

McGregor, J., (2005) *Is it rape? On acquaintance rape and taking women's consent seriously*, Aldershot: Ashgate

Selfe, D.W. & Burke, V., (2001) *Perspectives on sex, crime and society*, (2nd edn.), London: Cavendish

Stychin, C., (1995) *Law's desire sexuality and the limits of justice*, London: Routledge

Thomson, B. (1994) *Sadomasochism: painful perversion or pleasurable play?* Cassell

Weeks, J., (1989) *Sex, politics and society the regulation of sexuality since 1800*, (2nd edn.), Longman.

Weeks, J., Holland, J. & Waites, M., (eds.) (2003) *Sexualities and society: a reader*, Cambridge: Polity Press

Wintemute, R., (1997) *Sexual orientation and human rights*, Clarendon Press.

Yuval, M. (2002) *Equality for same-sex couples the legal recognition of gay partnerships in Europe and the United States*, Chicago: University of Chicago Press.

Law Journals:

Students will be expected to make use of the legal journal search facilities available through the library databases. Articles on issues relating to sexuality and the law may appear in a wide range of journals with which students may already be familiar for example: *Criminal Law Review*, *European Human Rights Law Review* and the *Industrial Law Journal*. In addition students will also be directed towards specialist Sexuality and the Law journals such as: *Gay and Lesbian Law Journal* and *Law and Sexuality: a review of a review of lesbian and gay, bisexual and transgender legal issues* (both of which are available electronically).

Assessment Strategy

Brief explanation of the first assessment opportunity.

Students will form into an even number of groups. There will be approximately four students in each group. Each group will be allocated to represent one side in a hypothetical case study. Another group will represent the other side. Each group will produce a skeleton argument outlining their client's main lines of argument and the authorities on which they intend to rely (Assessment Component B 1). These skeleton arguments will then be exchanged and each side will then plan a group presentation of no more than 20 minutes duration which will outline their client's arguments and can also counter the arguments contained in the opposing side's skeleton argument. Groups will present their arguments (Assessment Component A, Element 1). Groups will then be questioned on their arguments by the audience (students taking the module not involved in that particular hypothetical) and will then deliver a closing statement. These two elements constitute Assessment Component A, Element 2. In addition to receiving two group marks (Assessment Component A, Elements 1 & 2) students will also receive an individual mark for their oral contribution in the presentation, question answering and closing statement. This individual element is Assessment Component A, Element 3. Students will be expected to produce a reflective skills portfolio on one or more of the following: their experience researching for the presentation, their experience presenting their arguments and/or their experience of working as part of a team. The reflective skills portfolio will be based around a number of prompting questions encouraging students to reflect back on their experience in a self critical manner designed to enable them to identify and evaluate the approach they adopted. This element is Assessment Component B, Element 2. Students must also choose to write a judgment for one of the hypothetical case studies in which they were not involved. Students will need to reflect on and assess the merits of the arguments advanced in the hypothetical case, but will also be expected to investigate the area of law themselves and arrive at a reasoned decision on the issue. This element is Assessment Component B, Element 3. Detailed guidance will be provided for all the assessment elements.

Brief explanation of the second assessment opportunity

Students will be informed of a proposal for law reform. Students will have to investigate the proposal, evaluate it and give an individual presentation of no more than 15 minutes duration on the proposal outlining the strengths and weaknesses of the proposal and coming to a reasoned conclusion as to the appropriate course of action that should be taken. Students will then be questioned on their presentation and assessed on their presentation and their handling of questions. This will constitute Assessment Component A. For Assessment Component B students will be informed of a proposal for law reform on a different area of law. Students will have to investigate the proposal, evaluate it and write a report on the proposal outlining the strengths and weaknesses of the proposal, detailing the

research undertaken and coming to a reasoned conclusion as to the appropriate course of action that should be taken. This, together with the reflective skills element, forms Assessment Component B.

Weighting between components A and B (standard modules only)

A: 3 B: 7

ATTEMPT 1

First Assessment Opportunity

Component A

Description of each element

Element weighting

- 1 Group Presentation - main presentation (20 minutes)
- 2 Group Presentation - handling questions and concluding statement
- 3 Individual performance in group presentation elements (1 & 2 above)

4
1
1

Component B

Description of each element

Element weighting

- 1 Skeleton Argument – maximum 2 sides of A4
- 2 Reflective skills portfolio – indicative length 2000 words excluding appendices
- 3 Judgment - indicative length 4000 words

1
2
4

Second Assessment Opportunity (further attendance at taught classes is not required)

Component A

Description of each element -

Element weighting

- 1 Individual presentation on reform proposal

1

Component B

Description of each element

Element weighting

- 1 Written submission on reform proposal
- 2 Reflective skills portfolio

5
2

SECOND (OR SUBSEQUENT) ATTEMPT: Attendance at taught classes is required.

Specification confirmed byDate
(Associate Dean/Programme Director)