

GDL 005 EQUITY & TRUSTS

Module Number: GDL 005

Module Title: Equity and the Law of Trusts

Number of Aston Credits: 20

Total Number of ECTS Credits: 10

(European Credit Transfer)

Staff Member Responsible for the Module:

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Pre-Requisite(s) for the Module: None

Module Learning Outcomes:

This module introduces students to the English law of equity and trusts. At the end of this module, students will:

(a) Understand the relationship between law and equity and the origins of equity



- (b) Understand the nature of equitable ownership and equitable remedies
- (c) Be able to demonstrate a clear understanding of the uses of the trust, the types of trust, and the obligations and duties of trustees and fiduciaries
- (d) Be able to consider critically the operation and function of the principal equitable rules, and to develop reasoned arguments in this regard
- (e) Be able to apply the main principles of law and equity to complex facts, offering advice based upon analysis, independent study and research
- (f) Engage in doctrinal discourse; providing their own responses to unresolved legal problems and providing imaginative solutions to difficult issues.
- (g) Engage with primary and secondary legal materials, identifying relevant precedents and authorities, use correct form of legal citation (OSCOLA)
- (h) Identify and apply relevant legal rules to factual situations, offering advice that is reasoned, accurate and effectively communicated, and informed by independent research and analysis

Module content:

The organisation, content and teaching methods for this GDL module reflect QAA Benchmark standards for Law and are designed to meet the learning outcomes specified above. The module is designed to ensure that outcomes meet the professional standards (Joint Announcement) required for this foundation subject at the academic stage.









- (a) The origins and general character of equity; The maxims and principles of equity
- (b) Definition and distinction from other legal concepts: Classification of trusts. Equitable rights and remedies.
- (c) Express private trusts. Statutory requirements for creation. Secret trusts. Incompletely constituted trusts. Certainties of a trust. Protective trusts. Discretionary trusts. Purpose trusts.
- (d) Implied and resulting trusts. Purchase in the name of another. Joint purchase and joint accounts. Contributions to purchase price. Adding value to another's property. Mutual wills both types. Beneficial interest not completely disposed of.
- (e) Constructive trusts. General nature. Comparison with proprietary estoppel. The contractual vendor as a constructive trustee. The express trustee as a constructive trustee. Trustee profiting from trust. Remuneration of trustees.
- (f) The appointment, retirement and removal of trustees. Delegation of trustees' powers and discretions.
- (g) Trustees' powers and duties. Investment of trust funds.

 Maintenance and advancement. Accumulation of income
- (h) Charitable trusts. Definition. Distinctions from private trusts. Classification of charitable trusts. Doctrine of *cy près*.
- (i) Trusts in the commercial context
- (j) Accessory liability and knowing receipt
- (k) Remedies for breach of trust. Personal and proprietary remedies. Tracing. Trustees' liability for breach of trust. Trustees' right of indemnity or contribution.
- (I) Unincorporated Associations
- (m) Private Purpose Trusts









International dimensions:

This module is concerned with English law. References to the law in other jurisdictions will be made for comparative purposes.

Corporate connections:

Actual case examples and practical illustrations are used throughout. Questions are based on hypothetical evidential documents and statements. Workshops rely heavily on the case law technique to ensure understanding of legal principle through a process of self-learning of principle

Dr James Brown is a barrister of Grey's Inn.

Links to Research

Dr James Brown is a well-known author in the field of property law and has written extensively about all aspects of the material covered by this module. Dr James Brown is an experienced examiner in the subject and has delivered invited lectures to a wide audiences.

Method of Learning and Teaching:

Lectures are used to introduce the legal principles, primary and secondary sources of relevant law, and to explain their practical operation whilst highlighting areas of difficulty and reform. Their aim is to provide a framework for students' independent study and research.

Workshops have two aims: (i) To direct students to their own identification of the applicable legal principles through analysis of primary source materials and (ii) To develop understanding of the application and operation of legal principles in particular contexts. Workshops can take a variety of forms with a range of both individual and group tasks being undertaken.









Seminars are designed to focus on application and analysis of specific legal principles already identified in lectures and workshops. The focus is on student contributions and on detailed, tight, analysis and discussion in order to prepare students for the examination assessment and the development of skills required for workshop assessments. Students will be required to apply their knowledge to practical case studies, identify relevant issues, sources and legal principles and present the results of their research and study either independently or in groups. In addition, seminars will assist students to develop skills of critical evaluation of a selection of secondary sources of equity and trusts law and to consider comparative solutions to particular legal problems.

Self-test questions and **multiple choice questions** for each topic are made available on the VLE, together with guidance on answering problem questions in equity and trusts law and some worked answers (with reasoning processes).

Online/Class Discussion Activities At various points in the course, students will be introduced to areas where further reading and independent research will be necessary. The VLE will provide students with the opportunity to raise questions, discuss subject areas and approaches to set questions. This area of study is challenging, dynamic and diverse, and students will be encouraged and supported to take responsibility for their own learning experience.

Contact and directed learning:

Contact

Lectures 30 hours Workshops, Seminars 18 hours Examination 3 hours









Directed learning

Private study: workshop

tasks 125 hours

Workshop assessments

writing up 24 hours

Total 200 hours

Programme Outcomes:

The table below shows how this module contributes towards the achievement of the overall programme outcomes

Module Code	Module Name	A1	A2	А3	Α4	В1	B2	ВЗ	C1	C2	СЗ	D1	D2	D3	D4	D5	D6
GDL005	Equity and Trusts Foundation	V		V	V	V	V	V	V	V	V	V	V	V	V		

Ethical Approval:

This module does not require any primary research and no ethical approval will be necessary.

Method of Assessment:

The module is assessed by means of an examination (70%) and a summative coursework exercise (30%).









The examination is closed book (except for the ability of students to use their own copy of an **unannotated** approved statute book). The examination is of three hours' duration and will comprise a selection of hypothetical problems and essay questions. Students are required to answer at least one problem question but may choose to answer up to three from the available selection.

The summative coursework exercise (30%) involves a case study and application tasks which will require evidence of fact analysis, identification of legal principle, research and analysis of legal principle, and application of accurate principles to factual scenarios. It will also evaluate the correct use of citation and legal writing style.

Feedback will be provided orally in workshops and seminars as responses to student answers to tasks set for these classes and any questions raised. Individual, detailed, written feedback for summative assessment is provided with follow-up online or face-to-face appointments to discuss progression and performance. Common errors identified in generic feedback on each exercise are posted on the VLE.

Generic examination feedback is posted on the VLE.

Indicative Reading List:

Texts

Introductory

 Gardiner S, An Introduction to the Law of Trusts, 2nd edition Clarendon Law Series, OUP

Essential

Either

 Martin, J., Hanbury and Martin: Modern Equity, 18th edition, Sweet and Maxwell, London, 2009.









 Pearce, R. Stevens, J. and Barr W, The Law of Trusts and Equitable Obligations, 5th edition, OUP, Oxford, 2010.

Casebook

Either

- Maudlsey and Burns, 'Trusts and Truststees: Cases and Materials', 7th edition OUP
- Watt, G., *Todd and Watt's Cases and Materials on Equity and Trusts*, OUP, Oxford, 2009, 7th edition.

Statute Book

 Thomas M, 'Blackstones Statutes on Property Law', 2010-11, OUP

Journals

The generalist law and commercial journals often contain articles concerned with equity and trusts. See, e.g., *The Modern Law Review*, *The Cambridge Law Journal*, *The Oxford Journal of Legal Studies*, *The Law Quarterly Review* and *The Journal of Business Law*. Equity and trusts are also considered in *The Conveyancer and Property Lawyer* and the *Property Law Review*, (*both* published by Thomson, Sweet and Maxwell). Aspects of fiduciary law and equitable remedies are also considered in specialist commercial journals including, e.g., *The Company Lawyer*.

Useful online resources:

Westlaw UK
 J Username and password required.

Lexis-Nexis Professional 3 See the LIS database pages for









- Lawtel] further information
- The British and Irish Legal Information Institute: http://www.bailii.org/
- Cardiff Index of Legal Abbreviations: http://www.legalabbrevs.cardiff.ac.uk/
- Statute Law Database: http://www.statutelaw.gov.uk
- Office of Public Sector Information: http://www.opsi.gov.uk





