

MODULE DESCRIPTOR

MODULE TITLE	TRUSTS AND EQUITY		
MODULE CODE	LW3507 (L6)	CREDIT VALUE	20 UK CREDITS / <u>10 ECTS</u>
SCHOOL	SCHOOL OF LAW		

MODULE AIMS

- Explain the fundamental principles of equity and the evolution of the trust concept and outline its relevance and importance to contemporary society
- Distinguish fixed trusts, discretionary trusts and mere powers and the practical operation of each type of disposition.
- Outline the criteria for creation of a valid express trust.
- Examine the duties and powers of trustees with specific reference to investment and delegation and to assess whether beneficiaries are adequately protected within the existing legal framework.
- Explain the role of implied trusts and their significance in contemporary society.
- Evaluate the equitable remedy of tracing available to beneficiaries and to compare and contrast it with tracing at common law.
- Examine and assess the restrictions and legal provisions which govern and regulate charitable and non-charitable purpose trusts.
- Demonstrate skills of analysis, reasoning, oral and written communication in the context of Trusts and Equity through the practical application of the relevant principles and provisions.
- Promote the use of IT in the research and presentation of their discussion of problems.

MODULE CONTENT

This module will consider:

- Introduction to Trusts and Equity: the nature and significance of equity in a historical and contemporary context; the role and scope of equitable maxims; the concepts of trusts and mere powers; classification of trusts.
- The creation of express private trusts: the requirement of certainty; the formalities essential for validity; the need for the trust to be properly constituted and the problems confronted by a volunteer.
- Duties and Powers of trustees: an examination of their fiduciary role; liability to account for profits generated in breach of fiduciary duty; the duty to invest trust property; power of trustees to delegate trust functions and obligations.
- Constructive Trusts: circumstances of creation; recipient and accessory liability.
- Equitable Remedies: tracing in the context of and by comparison with restitution and common law tracing.
- Trusts of imperfect obligation: legality of non-charitable purpose trusts.
- Public/charitable trusts: characteristics; legal definition; comparison with private trusts; regulation and utilisation.

INTENDED LEARNING OUTCOMES

On successful completion of this module a student will be able to:

1. Explain the history of equity and the evolution of the trust and identify the legal provisions which govern the operation of trusts (express and implied)
 2. Explain the similarities and differences between trusts, discretionary trusts and mere powers and the key principles underlying the creation of express private trusts and the duties of trustees pertaining to express trusts
 3. Critically evaluate these legal provisions and the policy considerations underlying them.
 4. Assess whether a breach of trust has occurred and which, if any of the equitable remedies are available (imposition of constructive trust or tracing)
 5. Explain and evaluate the legal provisions which govern and regulate charitable and non-charitable purpose trusts
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TEACHING METHODS

A student's ability to articulate, in writing, legal analysis and argument, identify and apply legal sources to a fictitious practical scenario, and work within time/word/presentational constraints, will be assessed by a written assignment and an unseen examination. Additionally, a student's ability to research and marshal legal evidence in support of an argument, express legal analysis and technique, whilst respecting and responding to the viewpoints of others, will be supported by their oral contribution in seminars of legal problems prepared in advance by the student.

ASSESSMENT METHODS

This module is assessed through a coursework and a written examination.

LANGUAGE OF INSTRUCTION

English