

Unit 1: Common Law I

Learning hours: 60 hours

Unit level: H1 (H1 or H2 for BTEC Higher Nationals only)

Unit description

The aim of this unit is to provide an introduction to the law of contract, with a particular focus on the formation and operation of a business contract. Learners are encouraged to explore the contents of such an agreement and, in particular, to appreciate the practical application of standard-form business contracts. Additionally, the unit enables learners to understand how the Law of Tort differs from the law of contract and examines the Tort of Negligence and issues of liability pertinent to business.

Summary of learning outcomes

To achieve this unit a learner must:

- 1 Understand the **essential elements of a valid** and legally binding **contract** and its role in a business context
- 2 Explore the significance of **specific terms in a business contract**
- 3 Examine the role of the **Law of Tort in business activities** assessing **particular forms of tortious liability**
- 4 Understand and apply the **elements of the Tort of Negligence**.

Content

1 Essential elements of a valid contract

Essential elements: types of contractual agreements and their application in business; the making of a valid offer and its unconditional acceptance; the essential existence of a clear and unambiguous intention supported by sufficient consideration; the parties to the agreement possessing the necessary capacity and being privy to the agreement

2 Specific terms in a business contract

Specific terms: contents of a valid agreement and standard form business contracts; comparative analysis of express and implied terms; the effects of the breach of a condition, warranty or an innominate term; the legal effect on the agreement of the incorporation of an exemption clause

3 The Law of Tort in business activities and particular forms of tortious liability

The Law of Tort: fundamental aspects of tort; tortious liability and business operations; advantages of using tortious, as opposed to contractual, remedies

Types of tortious liability: the tortious liability of occupiers, employer's liability including vicarious liability for employees, health and safety issues, strict liability, difficulties of practical application

4 Elements of the Tort of Negligence

Negligence: the nature and scope of the duty of care and the standard of care; breach of duty, issues of causation and remoteness of damage

Learning outcomes and assessment criteria

Learning outcomes	Assessment criteria for pass To achieve each outcome a learner must demonstrate the ability to:
1 Understand the essential elements of a valid and legally binding contract and its role in a business context	<ul style="list-style-type: none"> • explain the different types of business agreement and the importance of the key elements required for the formation of a valid contract • apply the rules of offer and acceptance in a given scenario, also considering any impact of new technology • assess the importance of the rules of intention and consideration of the parties to the agreement • explain the importance of the contracting parties having the appropriate legal capacity to enter into a binding agreement
2 Explore the significance of specific terms in a business contract	<ul style="list-style-type: none"> • analyse specific contract terms with reference to their importance and impact if these terms are broken • apply and analyse the law on standard form contracts • discuss the effect of exemption clauses in attempting to exclude contractual liability
3 Examine the role of the Law of Tort in business activities assessing particular forms of tortious liability	<ul style="list-style-type: none"> • describe the nature of general tortious liability comparing and contrasting to contractual liability • explain the liability applicable to an occupier of premises • discuss the nature of employer's liability with reference to vicarious liability and health and safety implications • distinguish strict liability from general tortious liability
4 Understand and apply the elements of the Tort of Negligence	<ul style="list-style-type: none"> • explain and understand the application of the elements of the Tort of Negligence • analyse the practical applications of particular elements of the Tort of Negligence

Guidance on delivery and assessment

Delivery

This unit can be delivered in a variety of ways. Group work and other active methods of learning can be employed to enhance learners' experience and promote the required understanding. The use of case studies and specimen documentation is to be particularly encouraged, both as a means of assessment and as part of the normal learning process.

Assessment

Evidence of outcomes may be in the form of:

- case studies to assess differing approaches to contractual liability
- group work, presentations, and role plays used critically, to examine the essential elements of a valid contract
- case studies to assess differing approaches to tortious liability
- group work to examine critically particular elements of negligence
- group role play to simulate situations where various forms of tortious liability apply.

Links

This unit provides for the development of a solid understanding of the essential requirements of a valid business contract. This will be a foundation for *Unit 27: Common Law II* where the knowledge base and understanding gained will be further developed and enhanced. To a lesser extent there will be some common ground between the contents of this unit and *Unit 25: English Legal System* in relation to the forms of liability and the development of common law and equitable remedies.

Support materials

Textbooks

Sufficient library resources should be available to enable learners to achieve this unit. Particularly relevant texts are:

Atiyah P S — *Introduction to the Law of Contract* (Clarendon Press, June 1995) ISBN: 0198259530

Beale/Bishop and Furmston — *Contract — Cases and Materials* (Butterworth, October 2001) ISBN: 040692404X

Cheshire/Fifoot and Furmston — *Law of Contract* (Butterworth, October 2001) ISBN: 0406930589

Cooke J — *Law of Tort* (Prentice Hall, May 1997) ISBN: 0273627104

Elliott and Quinn — *Contract Law* (Longman, December 2002) ISBN: 0582473306

Elliott and Quinn — *Tort Law* (Longman, July 1997) ISBN: 058243811X Harvey and Marston — *Cases and Commentary on TORT* (Prentice Hall, 2000)
ISBN: 0582423511 NB: Will be republished 2004 (5th Edition ISBN: 0406971382)

Hodgson J and Lewthwaite J — *Law of Torts* (Blackstone, October 2001) ISBN: 1841742759

Jones M — *Textbook on Torts* (Oxford University, August 2002) ISBN: 0199255334

Pannett A — *Law of Torts* (Prentice Hall, March 1997) ISBN: 0712110704

Treitel G — *Law of Contract* (Sweet & Maxwell, June 2003) ISBN: 042178850X Young M — *Cases and Commentary in Contract Law* (Prentice Hall, June 1997)
ISBN: 0273625705

Journals

Law Society Gazette

New Law Journal

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