



# Pearson BTEC Nationals in Applied Law

## Delivery Guide

Pearson BTEC Level 3 National Certificate in Applied Law

Pearson BTEC Level 3 National Extended Certificate in Applied Law

First teaching September 2017



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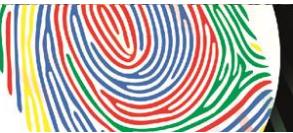
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# Welcome to your BTEC National delivery guide

This delivery guide is a companion to your BTEC Level 3 National specifications, Authorised Assignment Briefs (AABs) and Sample Assessment Materials (SAMs). It contains ideas for teaching and learning, including practical activities, realistic scenarios, ways of involving employers in delivery, ways of managing independent learning and how to approach assessments. The aim of this guide is to show how the specification content might work in practice and to inspire you to start thinking about different ways to deliver your course.

The guidance has been put together by tutors who have been close to the development of the qualifications and so understand the challenges of finding new and engaging ways to deliver a BTEC programme in the context of the new qualifications from 2017.

Guidance around what you will need to consider as you plan the delivery of the qualification(s) has been provided. You will find information around the structure of your course, how you may wish to build the course for your learners, suggestions for how you could make contact with employers and information around the other support and resources available to you.

Unit-by-unit guidance has been provided and includes suggestions on how to approach the learning aims and unit content, as well as ideas for interesting and varied activities. You will also find coverage of assessments, including useful advice about external assessment, as well as tips and ideas around how to plan for and deliver your assignments.

You will also find a list of carefully selected resources for each unit. The lists include suggestions for books, websites and videos that you can either direct your learners to use or that you can use as a way to complement your delivery.

We hope you will find this guidance relevant and useful.

Enjoy your course!

## What's new

The BTEC Level 3 Nationals 2017 are the result of more than three years' consultation with employers, higher education institutions (HEIs), and many thousands of tutors and managers in colleges and schools. Our aim has been to ensure that the BTEC Level 3 Nationals continue to allow a recognised and well-respected route into employment or higher education by meeting the needs of these key stakeholders and that learners continue to enjoy a stimulating course of study and develop the skills and attributes that will enable them to progress.

As a result of this consultation and on the advice of employers, higher education institutions and most importantly of those of you who teach BTEC, some key changes have been made to the BTEC Level 3 Nationals. These are described throughout this delivery guide and include the following.

- **Updated content and a larger proportion of mandatory content** – both employers and universities said they wanted a greater consistency in coverage of the subject for BTEC learners. Employers wanted to see systematic coverage of core knowledge and skills for their sector, and for the Nationals to reflect up-to-date industry practice.



- **The re-introduction of external assessment** – employers were keen to see an element of rigour and consistency across the country in terms of assessment, while HEIs wanted learners to be better prepared for meeting deadlines and preparing for formal exams, where appropriate. Both were keen to see learners applying their knowledge and skills to new contexts through synoptic projects and assessments.
- **A focus on employability skills** – the BTEC approach to learning, through projects, practical assignments, group work and through simulating the world of work, has always supported the development of employability skills such as self-management. In the new Nationals, the balance of cognitive and skills work has been carefully calibrated to ensure that learners get a range of different opportunities across their course.
- **Broader assessment in internal units** – the assessment criteria for each unit are carefully structured to set a clear level of demand. Distinction criteria encourage and require depth of study, including demonstration of the application of knowledge and understanding as well as a synoptic element for the learning aim or unit.
- **Alignment with DfE criteria for performance measures for 16–19 year olds in England** – all new BTECs are designed as either Applied General qualifications or Tech Levels to fulfil criteria for inclusion in 2018 performance tables and funding for 16–19 year olds and 19+ learners.

To support transition to the BTEC Level 3 Nationals 2017, we are providing a support programme with exemplar and practice materials, and training available. Please see the *Support and resources* section for details of the support and the link to sign up to training, which will be available from 2017 and throughout the lifetime of the qualification.

#### Notes:

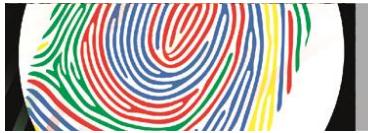
The specification tells you what must be taught and what must be assessed. This delivery guide provides suggestions and ideas about how the content could be delivered.

The suggestions given in this delivery guide link with the Authorised Assignment Briefs provided by Pearson but they are not compulsory. They are designed to get you started and to spark your imagination.



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# OVERVIEW

## Introduction

With a track record built over 30 years of learner success, BTEC Level 3 Nationals are widely recognised by industry and higher education as the signature vocational qualification at Level 3, providing progression into the workplace either directly or via study at a higher level. Proof comes from YouGov research, which shows that 62 per cent of large companies have recruited employees with BTEC qualifications. What's more, well over 100,000 BTEC learners apply to UK universities every year and their BTEC Level 3 Nationals are accepted by over 150 UK universities and HEIs for relevant degree programmes either on their own or in combination with A levels.

The Pearson BTEC Level 3 Applied Law qualifications are designed to provide innovative vocational learning for learners wanting to progress to higher education or employment in the legal field or in business generally.

The Extended Certificate is equivalent in size to one A level and the Certificate is equivalent in size to 0.5 A level. This allows centres to determine whether to deliver them full time or as part of a broader learner package alongside other qualifications.

One of the aims for their development was to increase confidence in these qualifications, so they carry UCAS points and are well recognised by higher education and employers. With a focus on progression, learners develop the skills and knowledge to move into higher education, apprenticeships or employment and build a valuable portfolio of work.

The combination of mandatory units and external assessment will drive the quality of learning. It will also help learners take increased responsibility for their own development. The demands within the legal profession mean learners need to be able to manage deadlines well and communicate their ideas in different ways. This assessment methodology now more closely matches experiences that learners will have in employment and thus increases their chances of successful progression.

The units provide valuable ways for learners to develop highly transferable skills and to be assessed in a synoptic way. All of the units can contain opportunities for stakeholder or employer engagement to stimulate learning experiences.



## Structure and purpose

Pearson has developed the content of the new BTEC Nationals in Applied Law in collaboration with employers and representatives from higher education and relevant professional bodies. In this way, we have ensured that content is up to date and that it includes the knowledge, understanding, skills and attributes required in the sector.

Each unit has its own purpose. The mandatory and optional content provides a balance of breadth and depth, while retaining a small degree of choice for individual learners to study content relevant to their own interests and progression choices. Also, the content may be applied during delivery in a way that is relevant to local employment needs.

The proportion of mandatory content ensures that all learners are following a coherent programme of study and acquiring the knowledge, understanding and skills that will be recognised and valued. Learners are expected to show achievement across mandatory units.

BTEC Nationals have always required applied learning that brings together knowledge and understanding (the cognitive domain) with practical and technical skills (the psychomotor domain). This is achieved through learners performing vocational tasks that encourage the development of appropriate vocational behaviours (the affective domain) and transferable skills. Transferable skills are those such as communication, teamwork, research and analysis, which are valued in both higher education and the workplace.

## Making the right choice for your learners

The qualifications are meant to be inclusive and support individuals in their progression. The prior achievement and aspirations of learners are key to advising the most appropriate study programme. This would ideally combine in-depth discussion with a portfolio and qualification review.

For learners who wish to progress directly to higher education, the Extended Certificate is a qualification that ensures they will have the skills to cope with independent academic learning. In recognition of some of the basic knowledge and skills within the legal profession and business, the Certificate provides an opportunity for learners to have some vocational experience in parallel with other qualifications to allow them to progress in their careers.

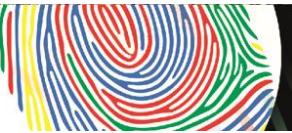
Below are some examples of learners' potential progression routes.

**16-year-old learner choice**

<b>Progression intention</b>	<b>Prior achievement</b>	<b>Potential BTEC National route</b>
LLB at HE or Law combined with another subject or Law-related course, e.g., Criminology	5 or 6 GCSEs at 4 or above with Maths and English	Extended Certificate with A level of choice or other BTEC National qualifications
HE but uncertain of course	5 or 6 GCSEs at 4 or above with Maths and English	Year 1: Certificate with A level or other BTEC National qualifications Year 2: continue into Extended Certificate. If moving away from sector, a second Certificate in another specialism
Entry level employment	5 GCSEs at 4 or above with Maths and English	Certificate

**19+-year-old learner choice**

<b>Progression intention</b>	<b>Prior achievement</b>	<b>Potential BTEC National route</b>
LLB at HE or Law combined with another subject or Law-related course, e.g., Criminology	No experience in Law but 5 or 6 GCSEs at 4 or above with Maths and English	Extended Certificate with A level of choice or other BTEC National qualifications
LLB at HE or Law combined with another subject or Law-related course, e.g., Criminology	Some experience in Law with 5 or 6 GCSEs at 4 or above with Maths and English	Certificate



## Making contact with employers

Employer contact is one of the most cherished experiences BTEC National learners can have, ensuring realistic and valuable learning. Learners benefit from having contact with employers to see how the theory learned in is put into practice in the workplace and to observe workplace relationships.

Partnerships between companies, practitioners and BTEC National courses can often build an annual collaboration that reduces bureaucracy and eases any preparation. Here are some ideas that may support centres expanding their employer engagement.

### Legal practices

- For live assignment briefs, guest speakers and employer critiques, contact a local solicitor's firm or barrister's chambers.
- To ensure projects are realistic, submit them to a partner college for discussion and revision.
- The courts, especially magistrates' courts and the Crown Court, and the CPS may be willing to provide work experience for your learners. Court visits should be undertaken to show learners the law in action.
- Contact small local businesses such as estate agents or insurance brokers and suggest how they may be able to support your learners through experiences including mock interviews, practice dealing with clients, and case studies.

### Partners

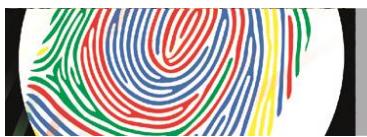
- For work experience and placements, contact your local education business partnership.
- For real projects, contact your local police liaison officer.
- Approach a large local legal firm or provider through their human resources department.
- For sponsorship of competitions, approach law firms or barristers' chambers serving your area.

### Other providers

- Contact local charities or pressure groups, especially those dealing with contemporary legal issues, as they are often keen to share information and often keen for the publicity learners can generate about their cause.
- Connect with larger local financial employers through their human resources department.

### Local stakeholders

- For support in teaching and workshops, contact previous learners who have moved into the legal profession and started their careers, or those studying in local universities who may be prepared to mentor your current learners.
- Cooperate with your local university for discussion of important precedent cases, seminars and mock trials.



# PLANNING THE DELIVERY OF YOUR COURSE

## How should the units be delivered for specific programmes?

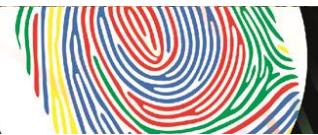
We understand that each centre is different and that it is not possible to provide a 'one size fits all' strategy to delivering BTEC Level 3 Nationals. Indeed, one of the key features of the qualifications is that their delivery and, to a large extent, assessment can be tailored to meet the constraints of individual centres in terms of curriculum time, availability of space, equipment and staff expertise and availability. There are, however, requirements that have to be met in relation to assessment plans and teaching and learning preceding assessment that will be discussed in later sections of this guide.

### Real testing

A challenge of working within the legal sector is the way it constantly evolves and changes. How prepared and resourceful a learner is will have a direct impact on their success. The BTEC Nationals are testament to the commitment to preparing learners for purposeful careers in the legal sector. Part of this assurance relies on how the testing of learning compares to the varied experiences the individuals will encounter in a challenging career.

Here are some ways that you could stimulate your learners' resourcefulness with, through different assessment methods.

- Letters or emails to clients, file notes and briefs to barristers, which develop appropriate communication skills to the relevant audience.
- Interviews with clients, recorded through video calling.
- Information leaflets to clients on certain practice or procedure.
- Recorded interviews with clients or court presentations can replace long written evaluations and help replicate a legal environment.
- Case studies of relevant cases exploring the issues and the impact of decisions.
- Considering current reported cases and how the law can be, and how it has been applied.
- Comparing learners' views with actual results.



## Induction

A short period of induction should be included to help learners understand the demands of the course they have opted to study and the BTEC ethos and methodology. Self-management skills in relation to accepting responsibility for their own actions and meeting deadlines must be stressed. Research and referencing skills need to be covered, forms of plagiarism discussed and potential consequences made clear to learners. A set of *Skills for Learning and Work* activities covering areas such as these have been provided for you to download, and could be used during your induction session.

Ensure that learners are aware of the structure of the units and know how to use assignment briefs to best advantage. The level and depth of responses required to meet each level of achievement – pass, merit and distinction – should also be covered with learners, and command word definitions used in the assessment criteria should be made available to them.

Subject-based induction should cover the difference between civil and criminal laws, the difference between actions and offences and respective outcomes and the different court systems. The nature of laws and where they are made could also be outlined.

A similar induction for BTEC Level 3 tutors, especially those new to delivery and assessment of BTEC work, is also recommended as part of standardisation training at the beginning of each academic year and when/if new staff join the team during the year.

The material covered in *Unit 1: Dispute Solving in Civil Law* and *Unit 2: Investigating Aspects of Criminal Law and the Legal System* is the foundation for coverage of the compulsory *Unit 3: Applying the Law* and any of the chosen units in the Extended Certificate course. Learners should be encouraged to develop their knowledge of the civil and criminal legal systems by using methods such as case glossaries or a database of the meaning of legal words and phrases. Learners can divide this into civil and criminal coverage; they could create diagrams – for example, to link the different forms of law making from Units 1 and 2 – or complete tables of the non-fatal offences. You could also use approaches such as concept mapping, webbing or mind maps for each topic.

## Creating a course

We appreciate that the new BTEC Nationals in Applied Law cover breadth and depth over a wide range of specialist areas. However, there is basic knowledge of civil and criminal law, the legal system and of the different types of law that all lawyers need. This will also be required by employers in the legal sector. It will also give learners a useful introduction to the study of law at a higher level. Therefore, there are two mandatory units on the Certificate course.

There is a further mandatory unit on the Extended Certificate course covering further aspects of criminal law and introducing the idea of defences and synoptic assessment. Many centres will want to deliver an option that builds on the strengths of their own practitioners or that may support progression into a specific area of law. There is therefore a small amount of flexibility to provide a tailored learning experience. Centres with a large cohort could offer a differentiated programme of study for the optional unit depending on the expertise of the practitioners.



## External units

The inclusion of the mandatory external units aims to open learners' eyes to the working of the legal system and the different forms of law as well as how the most common civil and criminal laws apply in practice. Relating real cases and scenarios to their study of units covering how the legal system is organised and where laws come from can bring more relevance to this area and help learners to engage with it more fully.

In addition, each mandatory unit aims to enhance learners' ability to manage the rigour and experiences that they will have at different stages in their career.

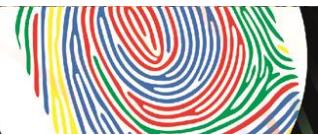
The skills and learning in the mandatory units are:

- researching and referencing legal information
- finding, using and applying appropriate sources of information
- communicating with colleagues, other lawyers and clients
- presenting information verbally and in writing.

These match many of the skills that learners will be routinely undertaking through their studies in law or related subjects. It means that learners will see how transferable and useful these skills are in a variety of legal topics, in subjects such as business and in the workplace.

On the Extended Certificate, it is likely that the externally-assessed unit will be set in the second year. The extent of preparation for the external assessment will have an impact on the level of learners' success within this unit. Learners need to be encouraged and coached to be able to understand and interpret scenarios and terminology used. They will need to be familiar with different forms of work-based documents such as file notes, letters or emails to clients and other lawyers and briefs to counsel. Learners will need to be able to understand the task before they can produce a confident response. Sample assessment materials will be available and could be used in a less formal setting first and later used in mock/practice time-constrained conditions.

Practice tasks and peer assessment can encourage learners to understand what will be required in the assessment. Practice tasks can allow learners to refine their ability to summarise, be concise and pinpoint the evidence requirements. Learners will be able to prepare notes from the issue of the pre-released materials to take with them into the timed assessment.



For all units in the qualification, it is important that learners continually collect resources and class notes that they can use for assessments and preparation. This practice will help them to become more independent learners. It is good practice to carry out portfolio checks regularly to identify any gaps. One method would be to provide learners with a checklist so that they can peer assess portfolios for content and organisation.

### **Unit 1: Dispute Solving in Civil Law**

The external assessment is a pre-released case study, which could be in the form of a law report or a short scenario.

Learners need to be directed to relevant resources to be able to carry out the required research on the area of law and in wider implications such as

- the courts and possible relevant alternatives to the courts,
- sources of legal advice and funding for that advice and subsequent representation,
- the system of judicial precedent, and
- the area of law relevant to the case or case study.

Sample assessment materials can be used so that learners can identify and interpret relevant legal terms and to identify potential areas for assessment. Formative assessment and practice tasks will give learners the confidence needed to approach an external assessment.

### **Unit 3: Applying the Law**

The external assessment is a pre-released case study, which could be in the form of a law report or a newspaper report.

Learners need to be directed to relevant resources to be able to carry out the required research on the area of law and in wider implications such as

- the areas of the law on fatal offences relevant to the case or case study,
- the areas of the law on property offences relevant to the case or case study,
- possible defences to both fatal offences and property offences relevant to the case or case study, and
- police powers relevant to the case or case study.

Sample assessment materials can be used so that learners can identify and interpret relevant legal terms and to identify potential areas for assessment. Formative assessment and practice tasks will give learners the confidence needed to approach an external assessment.

**Unit 1: Dispute Solving in Civil Law****Timing within Certificate and Extended Certificate**

The unit content is relevant to all future legal studies. It is assessed through a 1.5-hour supervised assessment.

Delivery in year 1 is required as the assessment will be available and aiming for the May/June session in 2018.

Delivery of this unit in year 1 would be beneficial before learners study Unit 3 and become involved in applying for university or jobs.

**Combination and delivery**

Delivery throughout the duration of year 1 to give enough time to prepare for external assessment.

Depending on the centre's focus and need to specialise, this unit could be taught either alongside or separately from the internally assessed Unit 2.

**Unit 3: Applying the Law****Timing within Extended Certificate**

The unit content is relevant to all future legal studies. It is assessed through a 2-hour supervised assessment.

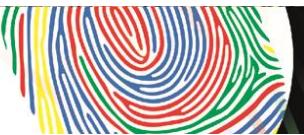
Delivery is expected to take place in year 2 for those studying a 2-year programme. However, for Year 13 learners, it will be for the May/June session in 2018.

However, as an alternative for Year 13 learners, it will be possible from the first year for learners to receive delivery of all units in one year to achieve the Extended Certificate qualification.

**Combination and delivery**

Delivery throughout the duration of year 2 to give enough time to prepare for external assessment.

Depending on the centre's focus and need to specialise, this unit could be taught either alongside or separately from the optional internally assessed unit.



## Projects

The course is designed to give your learners the study of a range of civil and criminal laws and a study of the legal system and law making. Although a more complete picture of law and the legal system will emerge by the end of the course, assessments will be required for each of the units.

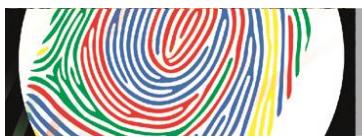
However, you will be able to include coverage of the required skills through the course. In the Certificate course, skills of communication, research and using and applying legal information are required in both units. These skills will be developed further in the Extended Certificate.

The Solicitors Regulation Authority sets out skills that solicitors will need to show on qualification. These include:

- Knowledge of the law
- Problem solving
- Commercial and financial implications
- Negotiation, drafting, and dispute resolution
- Personal development and work management.

These are skills common to all lawyers in all areas of legal work and more generally in business. In addition, employers will be looking for employees with basic skills in literacy, numeracy and IT.

The development of these employability skills has been considered during the development of this BTEC Applied Law qualification – further details can be found in the qualification specifications.



## myBTEC

myBTEC is an online tool designed to support the administration of delivering BTEC courses. This service will be available free to centres offering supported qualifications.

### **Control all your BTEC provisions from one place**

Complete visibility of all courses, assessment, internal verification and results at your centre.

- See the complete assessment schedule for every course at your centre.
- See all assessment decisions and verification processes.
- Track the progress of every learner throughout their course.
- 90 per cent of BTEC Firsts (next generation) and Nationals (QCF) supported.

### **Built by Pearson, for BTEC**

Designed specifically for BTEC qualifications, so you know you are doing it right.

- Designed to help you meet all requirements of BTEC assessment and awarding, including next generation.
- Courses automatically checked against rules of combination.
- Design your own assignments, or use the pre-loaded Authorised Assignment Briefs.
- Calculates scores and predicted grades automatically.

### **Access for the full team**

Full access for the entire delivery team, whatever their department or role.

- Access for the full team, whatever their role, in as many BTEC subjects as they deliver.
- Log in with your Edexcel Online password.
- Quality Nominee has ultimate control over access.

### **Saves you time**

Enter your information once; download and export at will.

- Automatically generates the documents and tracking screens you need.
- Export and download data whenever you need to – no need to copy it out again.



## **Easy to use and fully supported**

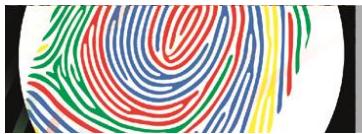
Step-by-step wizards for the key tasks; walkthrough videos and other resources available on demand.

- Browser based, so it works from anywhere.
- Step-by-step wizards for the key tasks.
- Walkthrough videos and help content on our website and in the platform.

To get started, all you need is an Edexcel Online account (your centre's Exams Officer can set one up) and for the myBTEC profile box to be ticked.

To log in to the service, go to: [mybtec.pearson.com](http://mybtec.pearson.com)

For help, support and user guides, or to sign up for a free online training event, go to: [quals.pearson.com/mybtec](http://quals.pearson.com/mybtec)



## SUPPORT AND RESOURCES

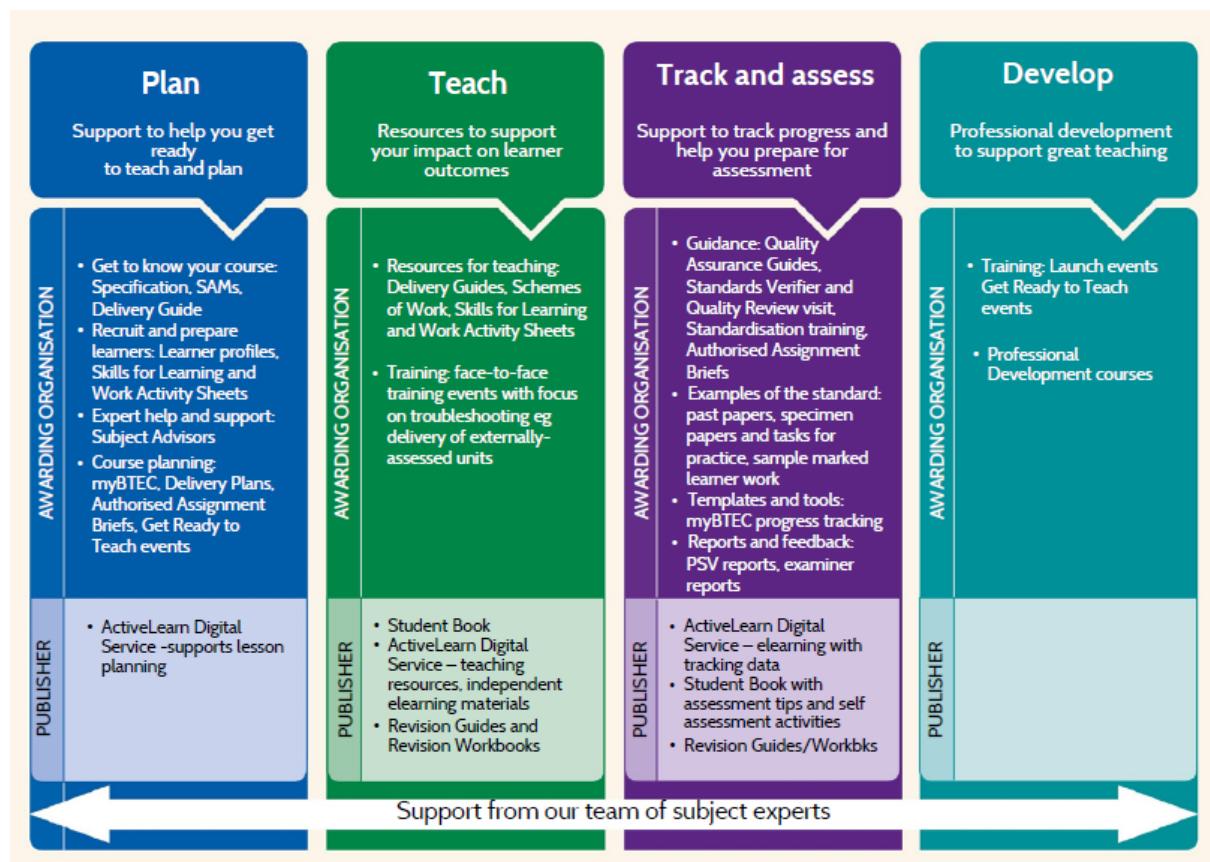
There are a wealth of resources available to ensure that you feel confident delivering your BTEC National qualification throughout your entire course.

All the 'Awarding Organisation' resources can be found on the Pearson Qualifications website here:

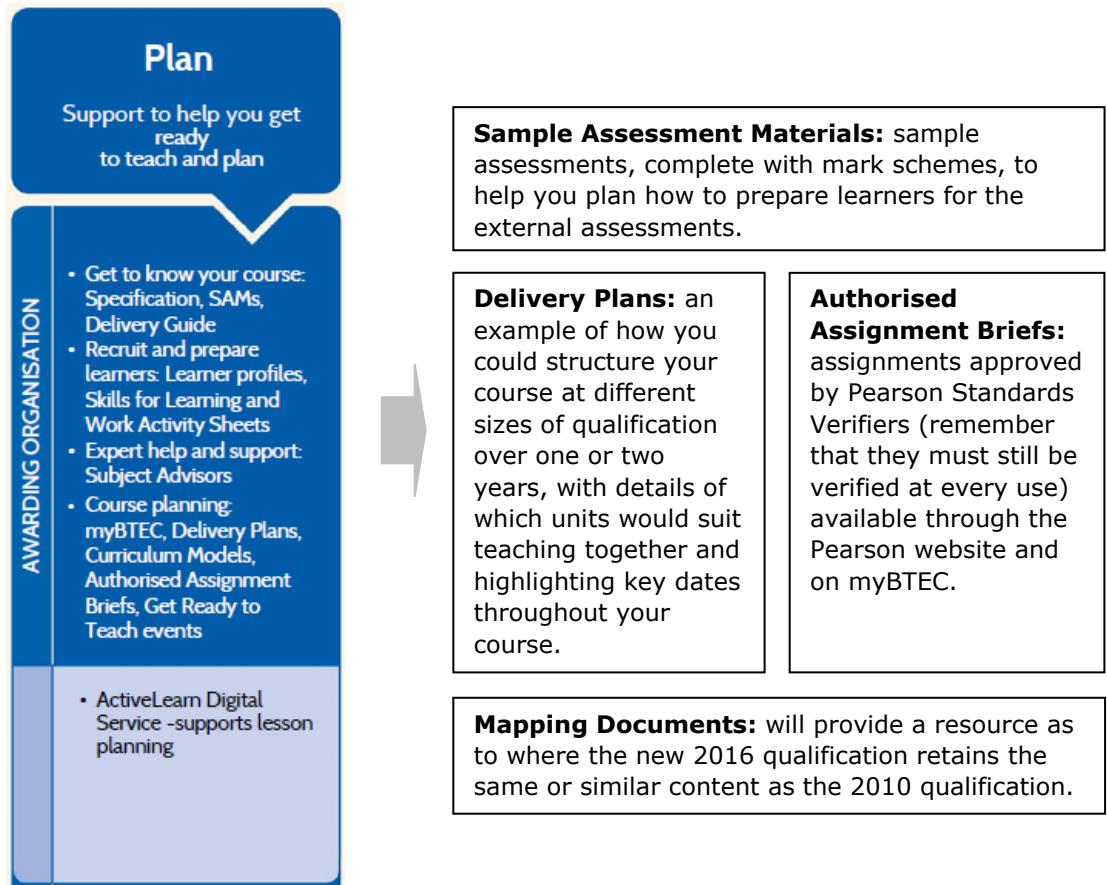
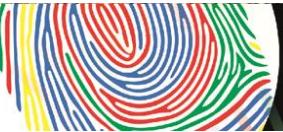
<http://qualifications.pearson.com/en/qualifications/btec-nationals/applied-law-2017.html>

In addition to the free resources supporting the qualification, provided by Pearson as an Awarding Organisation, Pearson Learning Services ('Publisher' in the tables below) provides a range of engaging resources to support BTEC Level 3 Nationals, including:

- Student books in e-book and print formats
- Revision guides and revision workbooks in e-book and print formats
- Teaching and assessment packs, including e-learning materials via the ActiveLearn Digital Service.



In addition to the 'publisher' resources listed above, publishers other than Pearson may produce textbooks that are endorsed for BTEC. Check the Pearson website (<http://qualifications.pearson.com/en/support/published-resources.html>) for more information as titles achieve endorsement.



**Schemes of Work:** available as customisable Word™ files for all mandatory units in each sector; to provide ideas for teaching and learning activities.

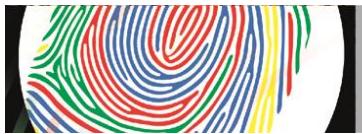
**Skills for Learning and Work:** activity sheets to be used during the induction process, introducing learners to their BTEC course and helping them think about learning strategies and how best to approach their work.

## Teach

Resources to support your impact on learner outcomes

- Resources for teaching: Delivery Guides, Schemes of Work, Skills for Learning and Work Activity Sheets
- Training: face-to-face training events with focus on troubleshooting eg delivery of externally-assessed units

- Student Book
- ActiveLearn Digital Service – teaching resources, independent elearning materials
- Revision Guides and Revision Workbooks



## Track and assess

Support to track progress and help you prepare for assessment

- Guidance: Quality Assurance Guides, Standards Verifier and Quality Review visit, Standardisation training, Authorised Assignment Briefs
- Examples of the standard: past papers, specimen papers and tasks for practice, sample marked learner work
- Templates and tools: myBTEC progress tracking
- Reports and feedback: PSV reports, examiner reports

AWARDING ORGANISATION

PUBLISHER

**Sample Marked Learner Work:** exemplar marked learner work for selected internal and external units to help you understand the expectations of the standard for each grade.

**Sample Assessment Materials:** additional sample papers will be available from September 2016 for units that are first assessed in Summer 2017. For units first assessed in 2018, additional SAMs will be available from 2017. Past papers will be published following each assessment, complete with mark schemes, on or before results day for that series. Examiner's reports will also be available from 2017. Further assessment materials will be made available as the course progresses. These materials can be found on Edexcel online.

## Develop

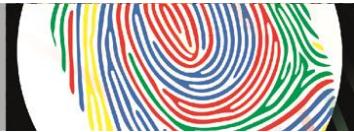
Professional development to support great teaching

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Subject Advisor
<b>Mr Julius Edwards</b>
<a href="mailto:teachinglaw@pearson.com">teachinglaw@pearson.com</a>

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# Unit 1: Dispute Solving in Civil Law

## Delivery guidance

### Approaching the unit

For any learners wishing to pursue a career in law, an understanding of civil law is vital. This unit will give you an opportunity to introduce learners to the most important elements of civil law and dispute resolution in England and Wales.

You will have opportunities to present learners with an overview of the law of Tort (with a particular emphasis on negligence and the three major elements to satisfy a civil action for negligence: duty of care, breach of duty and damage resulting from the breach). In addition to this, you will give a practical insight into the people who make the day-to-day running of our civil legal system possible: divided into the decision makers – judges – and those who advocate for a particular decision – solicitors and barristers. You will also give your learners an overview of the charities and other non-governmental organisations who are involved in the provision of justice and who attempt to provide services for clients in civil law. There are significant opportunities for discussions regarding the most recent reforms in Legal Aid and the Sentencing and Punishment of Offenders Act 2012. There will also be an evaluation of the impact of such changes to the provision of civil legal services.

In addition to giving an insight into the courts, this unit shows learners the alternatives to courts (focusing on negotiation, mediation, conciliation, arbitration and the use of domestic and administrative tribunals). Learners will consider how to deal with a variety of concerns and issues that clients typically raise. This will require you to show them how each of the alternative dispute resolution (ADR) models operate and how these compare in terms of outcomes to the role that the civil courts play in settling disputes. Your expertise and guidance will be instrumental, taking them through this rapidly ever-changing area of law with an informed view about the current position of civil law in England and Wales.

To complete this unit and the external assessment, your learners will need to demonstrate an understanding of how all these issues make up our civil legal system.

You can use a range of delivery methods in this unit, such as:

- Case studies looking at how leading cases have built upon each other and developed Tort law into a coherent system of rules
- Discussion on key issues, such as whether it is right that unelected judges should have so much power in the development of civil law
- Videos and presentations to depict civil law from a range of perspectives (e.g., humorous 'snail in a ginger beer bottle' YouTube videos).



There is significant opportunity for you to effectively utilise local lawyers and providers of civil legal services to further the understanding of your learners by:

- Inviting solicitors and barristers to lessons or video conferencing to speak to learners about their roles and how they deal with legal aid cases
- Asking County Court judges to discuss their roles and how they deal with cases of negligence in the civil courts
- Giving learners the opportunities to interact with law on a practical basis through law firms and chambers who provide work experience.

## **Delivering the topics**

### **Topic A**

Topic A is an introduction to the core elements of the civil court system, which deals with approximately 1 million legal disputes every year. There is an opportunity for you to begin by establishing what learners know through a short 'true or false' quiz to assess what they have heard about the operation of the courts. In looking at how the courts operate, learners could be encouraged to produce a poster/flow chart of the civil court hierarchy as a study aid, which summarises the role of each court, the different civil cases they deal with, and the value of compensation they can handle, as well as how precedent operates throughout each court.

Learners will need to understand how different models of alternative dispute resolution (ADR) operate and in what situations they would be most appropriate. You will need to develop learners' knowledge of negotiation, mediation, conciliation, arbitration and tribunals. You could ask learners to independently research the different methods of dispute resolution and to produce comparative tables highlighting the similarities and differences between them in terms of the civil issues they deal with and the role of trained professionals in each model, as well as looking at the strengths and weaknesses of using each individual model. You could extend this at a later point by getting learners to compare the ADR model to the civil courts as a means of dispute resolution and outline the problems with each. This method of scaffolded discussion, analysis and evaluation will help learners to demonstrate a deeper understanding of this topic and answer questions about why each method of dispute resolution may be better suited to some models and not others.

### **Topic B**

Topic B looks at how civil law is enforced and as part of this it focuses on the ways that a claimant or defendant can obtain legal advice and how this can be funded. You will have significant scope to contact local legal service providers such as local law firms and/or the Citizen's Advice Bureau. The [Law Society](#), [The Bar Council](#) and the [Citizen's Advice Bureau](#) have excellent resources outlining the nearest service providers. Contacting these organisations and to engage with your learners will also give learners an opportunity to meet real legal professionals and foster working relationships with such organisations. This could serve to help learners gain a practical understanding of how legal services are obtained and paid for.

A clear understanding of the recent reforms in legal aid, services and the relevant critiques of these changes is vital in allowing learners to engage



properly with this material. In particular, learners will need to demonstrate a clear understanding of the impact of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

You will need to ensure that learners look at the personal effects of obtaining legal services and the costs that are associated with them. This could be supported by getting learners to comment upon recent news articles relating to the reforms of legal aid (e.g., looking at the areas such as divorce on the grounds of domestic violence that no longer qualify for legal aid) and prepare an evaluative summary of this topic. This evaluation could draw upon current news stories or learners' own experience in researching and interacting with the civil courts.

### **Topic C**

Topic C is a consideration of the operation of the doctrine of judicial precedent. In this topic, learners must be able to explain how judicial precedent operates throughout the courts, including the practical and theoretical features needed for it to thrive. Simply explaining what law reports and the court hierarchy mean and what *ratio decidendi* and *obiter dicta* are is not enough. Learners will need to demonstrate how these features work and why they are so important. Your strength in discussing leading cases and examples will be important in getting learners to display their understanding of this key role of judges.

As well this, it is vital that learners also understand and can explain clearly, why judges may wish to avoid being bound to follow previous precedents and how they can do this. There are numerous reasons for avoiding a precedent and learners will need to be able to explain, with examples, what changes to social and moral views have impacted on 'out of date' precedents and the reasons that a precedent may be 'per incuriam'.

This can be further broken down into the separate powers of each superior court to avoid being bound by their own precedents (Supreme Court – Practice Direction, Court of Appeal – Young Directions), as well as the general techniques for avoiding a precedent such as distinguishing, overruling and disapproving (learners will need to be familiar with leading examples of each). Use your strong working knowledge of the key cases and decisions to show learners how such a structured series of rules can have a significant impact on the development of law in their everyday lives.

In bringing this alive, you can create opportunities for learners to develop their own precedents in response to created scenarios. This can be an interesting way of applying legal theory to practical situations.

To help learners understand the advantages and disadvantages of using judicial precedent in our legal system, you might get learners to produce a 'pros and cons' table using the cases and examples you have discussed in class as evidence for either side. Learners can draw upon their own research as well as your teaching here. Getting them to produce their own reasoned and developed evaluations of this system is an important part of preparing them for assessment.

### **Topic D**



Topic D looks at the law of negligence and its application. From an early stage in your classroom discussions, you will be able to deliver a clear overview of how the courts would deal with a claim under the law of negligence. This will require discussion of how a duty of care is established by the courts, with reference to the leading case of *Donoghue v Stevenson* and the three elements needed to prove this (proximity, foreseeability and fair, just and reasonable including the relevant case authority).

Breach of duty requires you to build on duty of care and explain how a defendant will break their relationship with the claimant, including explaining how we prove the standard of a reasonable person, starting with *Blyth v Birmingham Waterworks*, and the risk factors, which are associated with certain roles. Learners may wish to draw on real-life examples of different jobs and look at how various roles are affected by the risk factors developed by leading case law.

Proving that the breach has caused damage allows you to look at causation from a civil law perspective and discuss the rules of remoteness through leading cases and examples. These areas of law are vital in establishing civil responsibility and you will need to get learners to interact confidently with the leading cases and demonstrate how these have expanded on the principles of remoteness and the thin skull rule. A clear distinction must be drawn between causation in civil law and criminal law. Make sure you reinforce with learners the need to use different case authorities at this point.

Once you have outlined the rules of duty, breach and damage, this will lead into a discussion of damages (including the categories, which can be claimed in court) and *res ipsa loquitur* and its impact on a trial. An effective method of consolidating this discussion is to present learners with a scenario and build a mock trial around it, encouraging them to invest in researching the elements of negligence and preparing for a trial and discussion. Learners could be asked to present a legal argument for the defendant or claimant, which draws upon the elements of Tort that have been previously discussed.

The external assessment requires your learners to demonstrate a developed understanding of civil law and the people who are involved in this system and apply this to a scenario in light of a set resource that they will need to interact with. Learners will be given a case study two weeks prior to the assessment, which will contain carefully selected materials looking at one or more areas of the content discussed above. During the pre-assessment period, you will have the opportunity to consolidate learners' understanding of the Unit content and get them to carry out research on the nature of the sources and the area of civil law it deals with. To prepare your learners for this one and a half hour assessment, you will need to give them practice questions that deal with the source and the area of law it deals with. Ask them to think about how this area of law could be applied to a real-life situation and how they would apply the rules and principles in an essay answer. It is important for learners not to focus on just the single issue in the source, but actually how this source fits into civil law generally and how it interacts with all the previous areas of teaching.



## Assessment guidance

This unit is externally assessed with a source provided prior to the learner completing the assessment. This source will need to be used as part of the assessment. Working under controlled conditions, your learners will use this source and their own knowledge to respond to a scenario in which a client or organisation has come to them seeking legal advice on a particular area of law. Learners will be asked long answer essay-style questions, which will require them to discuss how the law applies to the scenario and how relevant case law and organisations may be involved.

To support them in preparing for this assessment, learners will need to have conducted their own research alongside classroom teaching into the relevant areas of law covered in the pre-release material. This will allow them to answer the questions with confidence and to draw upon a wider range of resources in their discussion. In preparation for the assessment, it would be useful to set learners a timed mock assessment, which asks them to apply the principles of law covered in a source to a scenario. However, this will only be effective once all the teaching and learning is complete and learners have confidently engaged in individual research on the pre-release material. Learners are allowed two sides of A4 notes when taking the assessment to aid them with the task.



## Getting Started

This provides you with a starting place for one way of delivering the unit. Activities are provided in preparation for the external assessment.

### Unit 1: Dispute Solving in Civil Law

#### Introduction

Civil law is an important part of our legal system, which deals with a range of diverse disputes between individuals and organisations. As well as this, it is important to understand how to resolve a dispute without using the courts at all. The aim of this unit for learners is to be able to apply their knowledge of civil law to a real-world scenario and explain the effect of the law on an individual's liability.

#### Topic A – Civil dispute resolution

- You could begin this section by engaging in a discussion of what learners know about the civil courts. A True or False quiz is a good way to separate the fact from the fiction of the courts. You can build on this by getting learners to look at articles discussing compensation in a particular high profile civil case and ask them if this is a justifiable amount of compensation to give and what they would do differently if they were the judge in this case.
- Discussing the court hierarchy and the role of judges in each court may help to produce a diagram or poster, which outlines the position of each court and how each judge performs their role in each court. To expand on this, learners could be asked to research and add details to the poster on the types of cases dealt with by this court and the financial value of cases that it might be expected to deal with. It may be appropriate to arrange a visit to a local County Court at this point to expose learners to the daily operations of the courts. Visit the Courts and Judiciary website <https://www.judiciary.gov.uk/> for an easy way of accessing the contact details for your nearest courts.
- Learners will need to understand how each of the five types of ADR (negotiation, mediation, conciliation, arbitration and tribunals) operate and what types of dispute they would be used for, as well as the specific advantages and disadvantages of using each. Asking learners to research and come up with their own examples of when each model would be used as well as getting them to produce a series of tables to compare each type and giving them challenging evaluative questions to outline the pros and cons of each model will allow them to develop their own understanding of the role ADR plays in resolving disputes.

#### Topic B – Enforcement of civil law

- In small groups, you could ask learners to focus on a particular source of advice and get each group to research it and produce a presentation and revision guide on that topic, as well as a form of assessment, which they can use to test the understanding of their fellow learners. This will allow them to build up a wealth of tailored resources on the people and organisations involved in providing legal services and invest in preparing for assessments. These resources could be collated and used by the class (after your checks for accuracy) as a general revision resource for the whole class collaboratively.
- An extension to this could also be made by getting the small groups to research the ways in which an individual can obtain funding for legal services. Each group could be given a targeted research brief, which would give them specific questions, and areas of research that you would expect their resource to deal with. This would ensure that learners remain focused on the elements which are relevant and that they produce a resource which is accurate and geared towards their final assessment.



As part of this, learners should be encouraged to weigh up the reasons for and against using each method of funding, and to deliver an informed evaluation as to which is the most or least effective method.

- Learners could be encouraged to produce a leaflet for the civil courts aimed at those considering taking a case to court. This leaflet could evaluate the physical, financial and emotional costs to obtaining funding. This would give learners an opportunity to research and develop resources in light of current news articles or stories of interest (Heather McCartney's decision to represent herself in court during her 2008 divorce hearing could be used as an introduction). Getting learners to consider their audience carefully will allow them to develop a thoughtful evaluation on whether the current arrangements (developed under the Legal Aid, Sentencing and Punishment of Offenders Act 2012) for funding legal advice are appropriate for a modern legal system. It will also give them grounds to consider whether they serve the purpose of providing fair access to justice for the most deserving in society.

### **Topic C – How precedent works**

- Learners could be encouraged to look back at their court hierarchy diagrams from topic A in considering how precedent operates within the courts. It may be engaging to split learners into small groups, give them a series of cases and ask them to produce a precedent and a justification. Asking learners to expand on why they have reached a decision will help them to develop the intellectual skills needed to evaluate the advantages and disadvantages of the doctrine of precedent.
- After the creation of precedent, it may be a good opportunity to get learners to produce their own tables looking at the advantages and disadvantages of using judicial precedent. This could be done as large posters, which could be used as wall displays for revision purposes. Learners could be given a mock assessment question that asks them to produce a structured essay, which takes their poster and converts it into a balanced essay which draws on a range of cases and examples.

### **Topic D – Application of the law of negligence**

- In studying duty of care, learners will need to understand how the principles set out in *Donoghue v Stevenson* would apply to a real scenario (including the additional requirements to prove a duty exists under *Caparo v Dickman*). Using mock scenarios and getting learners to apply their knowledge would be an effective tool in developing their applied knowledge of this topic. Learners could be asked to write their own scenarios and produce their own mark schemes and get their fellow learners to answer these questions and mark them.
- It would be useful for learners to investigate the practical application of breach of duty and the reasonable person test in a business context. Learners could produce a guide for a business on the standards that are expected of them and their staff under the Standard and Special characteristics. There is scope here to produce a leaflet that combines legal understanding and practicality for a business setting. This could be extended further with the use of practice questions looking first at the concept of the reasonable person and the legal requirements to prove or disprove whether the defendant has reached this standard. Further questions could specifically focus on the risk factors in civil law and identifying what impact these have on the standard expected of the defendant.
- This could be extended further when considering damage. The rules of causation and remoteness are vital to a business if it is to run successfully. Learners may be asked to produce a legal opinion for a business, which serves as an overview of the potential risks they may encounter and how they can avoid them. Practice questions could be used here to identify when a defendant has satisfied the rules of causation and how the rules of remoteness will dictate whether they are liable and



the extent to which they would be liable in civil law.

The above areas along with damages and *res ipsa loquitur* can be applied through looking at scenarios and setting learners assessment-style questions to see if they can apply the law with the cases and resources they have developed. Learners should be encouraged to engage in independent research to develop their knowledge of case law and academic opinions. A further activity such as a mock trial could be used as a summary for this whole topic, where learners present their legal arguments under the law of negligence to a scenario with the whole class acting as a court. You or a small group of learners could act as judges and produce a binding precedent on this case.



## Details of links to other BTEC units and qualifications, and to other relevant units/qualifications

This unit links to:

- Unit 2: Investigating Aspects of Criminal Law and the Legal System

This unit would benefit from employer involvement in the form of:

- guest speakers such as solicitors, barristers, judges, magistrates
- court visits
- work experience in the legal sector
- law materials as exemplars
- support from local legal staff as mentors.

## Resources

In addition to the resources listed below, publishers are likely to produce Pearson-endorsed textbooks that support this unit of the BTEC Nationals in Applied Law. Check the Pearson website (<http://qualifications.pearson.com/endorsed-resources>) for more information as titles achieve endorsement.

### Textbooks

Currer J, Price N, Smith P and Wortley R, *AQA Law AS* (Second Edition), Nelson Thornes, 2012 ISBN 1408519461 – This book provides an excellent overview for Unit 1 and Unit 2 in the BTEC Certificate. It contains accessible explanations of the core content for this unit and provides excellent example practice questions for all the elements covered in Unit 1.

Darwent P and Yule I, *My Revision Notes: AQA AS Law* (First Edition), Hodder Education, 2014 ISBN 1471807150 – A large revision focused textbook that sets handy short revision targets and tests throughout. Useful as a recap or revision resource in the build-up to the assessment.

Elliot C and Quinn F, *English Legal System: 2016–2017* (17th Edition), Pearson, 2016 ISBN 1292089148 – A higher education standard textbook that could be used for extension tasks and getting learners to research particular elements of the civil structure. This textbook could be used only for topics A, B and C.

Finch E and Fafinski S, *Law Express: Tort Law (Revision Guide)* (5th Edition), Pearson, 2014 ISBN 1292012862 – This is a short revision guide focusing specifically on material in topic D. It should be used as an overview once teaching has been completed as it provides a brief overview of the main elements, which could be covered by an assessment.

Martin J, *AQA Law for AS* (Sixth Edition), Hodder Education, 2015 ISBN 1471850218 – This is a concise book that offers excellent insight into civil and criminal law. It gives clear explanation to all the topics covered in Unit 1 and provides an excellent basis for classroom teaching and research.

### Websites

<http://alevellaw.doomby.com/> – Winstanley College – A concise website run by the A level Law team at Winstanley College. Does not have a wide range of coverage of all the resources for Unit 1. But short and accurate and discussions are provided for some topics.



<http://www.e-lawresources.co.uk/> – A free online resource that gives a brief overview of lots of the content for Unit 1 and Unit 2 in BTEC Certificate in Law. This could be used as a brief starting point for research.

<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service>  
– Ministry of Justice – A detailed but difficult to navigate site that offers a range of useful details on local courts and current and future policies for civil law and legal aid.

<https://www.judiciary.gov.uk/about-the-judiciary/the-justice-system/court-structure/> – Courts Service – A detailed website that gives accurate overviews of the roles of each court and the judges within. Useful as an introduction to the units.

<http://sixthformlaw.info/> – Bournemouth and Poole College – A detailed website good case summaries and short introductions to key topics across all of Unit 1.

*Pearson is not responsible for the content of any external internet sites. It is essential for tutors to preview each website before using it in class so as to ensure that the URL is still accurate, relevant and appropriate. We suggest that tutors bookmark useful websites and consider enabling learners to access them through the school/college intranet.*



# Unit 2: Investigating Aspects of Criminal Law and the Legal System

## Delivery guidance

### Approaching the unit

This unit is a practical unit that will familiarise learners with the various methods of law making in England and Wales and the legal personnel involved in the administration of justice, as well as providing them with an introduction to criminal law. Naturally, this unit will serve as a basis for further study of criminal law, however the law-making aspect of the content is also an essential foundation for moving on to and learning about other areas of law.

Given that crime is reported and presented in the media on a daily basis, and as laws and the legal system have to adapt to the needs of society, there will be a rich source of information to aid you in your delivery of this unit. Newspaper articles and video clips of news reports, as well as TV shows such as Crimewatch and fictional programmes can all be used to support your delivery and as a means of research for learners.

You can deliver this unit using a mix of theory, to introduce learners to the topics covered in the unit content, guest speakers from a number of legal personnel, and practical approaches and activities in which learners can apply the theoretical concepts they have learned. Learners should be encouraged to research legal information, whether this is case law or statute law or academic commentary on key areas of law. It is essential that learners are shown how to find facts about cases and statutes and that key legal terminology is explained to them. Visits to local magistrates' and Crown courts provide an ideal opportunity to set the theory in context of the real-life criminal process and the legal personnel involved.

A strong introduction that emphasises the distinction between civil and criminal law is necessary as this may be your learners' first experience of studying law.

### Delivering the learning aims

#### Learning aim A

For learning aim A, learners need to understand what drives legislative change, how laws are made by Parliament and how laws are interpreted by the courts. To explain and illustrate legislative change, you could devise activities for learners in which they work in groups looking at a particular pressure group or media campaign. They could be asked to present their findings on what the campaign was, what was done to try and force a change in the law and how successful it was.



To explain the process of statutory law making, role-play activities could be devised by dividing the learners into two groups acting as the House of Commons and the House of Lords debating a law of their own suggestion. They could also be encouraged to devise visual representations of how a bill becomes a law, for example, by creating a flow chart that explains how a real-life bill became a law. Statutory interpretation could be delivered by encouraging learners to investigate case law to familiarise themselves with the language used by judges. They could also be asked to apply the rules of interpretation to case studies to develop their understanding of the benefits and drawbacks of each method of interpretation.

### **Learning aim B**

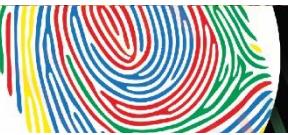
Learning aim B builds on the content of learning aim A and introduces learners to law making outside Parliament. When delivering delegated legislation, learners could make use of case studies to determine what the most appropriate piece of delegated legislation would be in a given scenario. Learners should also be encouraged to analyse the effectiveness of the controls on each form of delegated legislation. When introducing the European Union, use could be made of group activities in which learners are asked to research the impact of European law on English law. Learners could be asked to investigate case law that either conflicts with EU law or has been overruled by the EU in order to debate the extent to which EU membership affected Parliamentary supremacy.

### **Learning aim C**

For learning aim C, learners need to consider the role of legal personnel who work within criminal law. This aspect of the unit is best supported by visits from guest speakers so that learners are able to question these individuals to further enhance their understanding of the role of the various legal personnel. If you contact your local magistrates' court, they should be able to help you in this regard or alternatively there may be parents who are currently serving magistrates. If you have colleagues or parents who have experience of jury service, they may be willing to talk through their experiences. A visit to the magistrates' and the Crown courts is also an ideal way to show learners the roles of the various legal personnel. Court ushers are often good points of contact. Remember that when going into the court rooms, group sizes should be kept small (approximately six learners up to a maximum of 10 to each member of staff) and learners need to be fully briefed on their behaviour in court. If this sort of visit is not feasible, you could use clips from television programmes to highlight the roles of the different legal personnel. Alternatively, you could turn your classroom into a mock court asking them to represent the different legal personnel in a court case in order to explain the specific role.

### **Learning aim D**

When delivering learning aim D, a good starting point is to discuss current local and national reports of crimes, particularly the offences against the person. This will lead well into the discussion of the elements of a crime. Once learners have been introduced to the concepts of *actus reus* and *mens rea*, learners should be encouraged to identify these concepts in specific crimes. Learners should also be given the opportunity to research key cases and locate the principle that each case has created. This aspect of the unit lends itself nicely to role-play activities, as well as the use of case studies in which learners can apply their knowledge of criminal law to scenarios. Delivery of sentencing of individuals can be further enhanced with reference to current news items, and the Ministry of Justice website (<http://www.justice.gov.uk/>) allows learners to participate in activities on the sentencing of individuals for specific offences.



### Assessment model (in internally assessed units)

Learning aim	Key content areas	Recommended assessment approach
<b>A</b> Explore how statutory rules are made and interpreted	<b>A1</b> Influences on Parliament <b>A2</b> The law-making procedure <b>A3</b> How statutes are interpreted by the courts	A verbal presentation on the influences on Parliament, the procedure of making new laws inside and outside Parliament, by the EU and the rules of statutory interpretation
<b>B</b> Examine how legislation is made outside of Parliament	<b>B1</b> Delegated legislation <b>B2</b> The European legislative process	Written evaluation of these processes in a leaflet format
<b>C</b> Explore the various legal personnel involved in a criminal trial	<b>C1</b> The legal profession <b>C2</b> Financing advice and representation in a criminal trial <b>C3</b> Lay people <b>C4</b> Judiciary	Application to non-fatal offence case studies of: <ul style="list-style-type: none"> <li>personnel in different criminal trials – first instance and appeal</li> <li>finance for advice and representation</li> <li>liability and sentences for the different non-fatal offences</li> </ul>
<b>D</b> Apply the key elements of crime and sentencing in non-fatal offence case studies	<b>D1</b> Elements of crime <b>D2</b> Non-fatal offences <b>D3</b> Aims of sentencing <b>D4</b> Factors involved in sentencing <b>D5</b> Types of sentences	A magazine article evaluating the current roles of personnel in the criminal trial system, non-fatal offence law and sentencing trends



## Assessment guidance

This unit is internally assessed and the specification suggests a maximum of two assignments. The first assignment covers learning aims A and B and the second covers learning aims C and D.

All learners must independently generate evidence that can be authenticated.

For the first assignment, the suggested format is a verbal presentation that focuses on the influences on Parliament, the procedure of making new laws inside and outside Parliament, by the EU and the rules of statutory interpretation. This is to be followed up by a written leaflet that evaluates these processes. Learners could be asked to prepare a presentation as if they were a trainee solicitor for the senior partners of the firm, tracking a specific bill as it progresses through each stage of the legislative process. They could also be asked to present to the 'partners' how a specific case could be decided using each method of interpretation, so that they may give advice to the client. BTEC assessors should complete observation records, while people such as work colleagues could complete witness statements. Observation records alone are not sufficient sources of learner evidence; the original learner-generated evidence must support them.

An example for the leaflet for the assessment could be one that is aimed at other trainee solicitors to develop their understanding of law making. Learners should be encouraged to use appropriate language for their target audience.

For the second assignment, case studies and scenarios are excellent ways for learners to demonstrate their knowledge and understanding by identifying the offence and applying the relevant case law, as well as suggesting the appropriate sentence. Learners could be encouraged to create a letter to a client advising them of the consequences of their legal issue. Written fictional scenarios could be developed, or alternatively actual cases could be used where the learners do not have access to the final decision. In their written advice, learners should ensure that they explain to their client the role of the various legal personnel who they will come into contact with.

The magazine article that requires learners to evaluate the current roles of personnel in the criminal trial system, non-fatal offence law and sentencing trends could either be directed at law learners or trainee solicitors.



## Getting started

This provides you with a starting place for one way of delivering the unit, based around the recommended assessment approach in the specification.

### Unit 2: Investigating Aspects of Criminal Law and the Legal System

#### Introduction

After explaining the unit content and learning aims and assessment for the unit, you could initiate a discussion on the distinction between civil and criminal law. Following on from this, working in groups or individually, learners could draw up a table showing the difference between civil and criminal law and reinforcing the purpose of each type of law. Learners could then be presented with a list of scenarios and asked to identify which ones are civil cases and which are criminal cases. This activity will provide context to the study of criminal law so that learners are aware that the crimes in these scenarios are against society and they can distinguish them from civil wrongs. This could be followed up by a discussion of current legal issues that are in the press, focusing on criminal law, using clips from, e.g., the news, *Crimewatch* and, where appropriate, selected crime dramas.

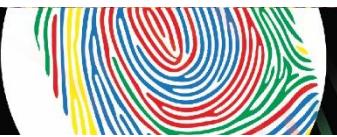
#### Learning aim A – Explore how statutory rules are made and interpreted

- Legal skills are an important aspect of this unit and so learners should be encouraged to develop these skills throughout the course. An introduction to the importance of effective research and the various sources of information could be followed by asking learners to locate the same material using different sources. They can then assess whether the interpretation of the material is different depending on the source. In order to highlight the problems that often occur when using the internet for research, learners could be provided with a list of criteria for assessing the reliability of websites and asked to use this to assess the validity of websites that they have used for researching legal information. Learners at this point should also be encouraged to use only UK law and so they should be advised on how to identify whether a website they have located is based on UK law.
- Throughout the course, activities could be used to develop learners' practical skills to prepare them for summative assessment. Learners could be given examples of poor presentations, professional letters, leaflets and so on, and asked what could be done to improve them. This could be followed up with a tutor explanation of the key aspects of, e.g., a good formal report or professional letter, using an example for reference.
- Before learners are introduced to the process of Parliamentary law making, it is a good idea to determine how much they already know about Parliament and what it does. This could be done by organising a group quiz on the basic aspects of Parliament and its functions. This could then be reinforced by a tutor-led explanation of what Parliament is and the idea of Parliamentary sovereignty.
- In order to explain the ways in which laws are made by Parliament, a group task could be devised in which learners are provided with several sheets of A4 green paper and one sheet of A3 white paper. To begin with, ask learners to individually come up with ideas for laws (approximately three ideas each) and jot them down on their green paper. Learners should then be asked to share their ideas with the rest of their group and discuss the pros and cons of each proposed law. The group should then take a vote on which idea for a law they feel should become an actual law. Once they have made their decision, they should then be asked to add more detail to the proposed law, including elements such as punishments if the law is broken, who the law would apply to and so on, and record this on their white A3 sheet of paper. Following this, the tutor could explain to learners that this was an



example of the pre-legislative process and invite learners to suggest reasons why this process is conducted.

- For the legislative process itself, learners should be introduced to the different types of bills. To reinforce learning, learners could be provided with a list of scenarios and asked what the most appropriate type of bill would be to use in the given situation. They could then be asked to research the process of a bill and produce a flow chart to explain the procedure that a bill must go through in order to become an Act of Parliament. This could be reinforced by asking learners to track the process of a real-life bill in the legislative stages.
- When introducing the concept of law reform to learners, you could conduct a tutor-led discussion of how and why the law needs to change. Learners could then be provided with visuals from several media campaigns such as the *News of the World* campaign for Sarah's Law and articles regarding the Dangerous Dogs Act 1991 as the basis of a discussion of how the media has led to a change in the laws. Learners could then be asked to research their own examples of media campaigns petitioning to change the law and how successful these have been.
- When introducing the Law Commission, ask learners to conduct a research activity into its background, its members and its role. Learners could retrieve examples of successful Law Commission proposals and areas where their proposals have failed. This could serve as a basis for a debate surrounding the importance of the Law Commission as a law reform body.
- To introduce the concept of pressure groups, learners could be provided with a definition of a pressure group and a few examples of current pressure groups. The class could then be asked to name as many pressure groups as they can think of before being provided with the different categorisations (sectional/cause, insider/outsider) and asking them to identify what categories each of the pressure groups listed would fall into. A group activity could then be devised where learners are required to create their own pressure group. They should produce an outline of their campaign and what it is they seek to change. They should produce posters and leaflets to promote their pressure groups and identify what methods they will use to try and force a change in the law. Further research could be conducted into successful pressure group campaigns.
- The topic of statutory interpretation invites a wide range of interesting learning activities that can develop learners' understanding of the various methods of interpreting legislation. To begin with, learners could be provided with a list of words that may have more than one meaning and be encouraged to find as many different meanings of that word as they can. Examples of words/phrases could include: season, stamp, public place and patient. This could lead on to a discussion regarding the difficulty that judges may have when interpreting legislation, given that many words may have a variety of meanings, or some words may have changed their meanings over time.
- An extension to this task could surround the definition of cakes and potato snacks for the purposes of VAT, which has been the subject of case law. Learners could be asked to compare, e.g., Pringles with Walker's crisps and determine whether they are potato snacks for the purposes of VAT law. Similarly, there could be a discussion surrounding whether Jaffa cakes are cakes or biscuits by asking learners to compare them to a variety of other cakes and biscuits. Both of these tasks should serve to illustrate the difficulty in determining the meaning of words in a statute. Alternatively, in groups, learners could be asked to create an Act of Parliament, e.g., one which requires that everyone must trade their vehicle in for an electric car. Learners could then swap their Act of Parliament with another group who would identify any problems with its wording and what complications this could lead to.
- When illustrating the different methods of statutory interpretation, there could be a tutor-led introduction to the different statutory rules (literal rule, golden rule,



mischief rule and purposive approach). This could be followed up by an exploration of each of the rules using case studies to illustrate the operation and problems of each rule of statutory interpretation. As a consolidation task, learners could be provided with a list of case studies that they decide using each of the approaches to statutory interpretation.

- To help with recall of key cases for each of the rules, a game of Pictionary is always a fun task. Divide learners into groups and ask one member from each group to draw a given case for their team to guess. Once they correctly identify the case, they should be asked to explain what the principle was from the case. An 'odd one out' activity of the cases is also a good method for helping learners to differentiate between the cases for each rule.
- In order to aid analysis, learners could be divided into groups, allocated a rule and asked to identify as many problems with that rule as they can. This should be fed back to the class and a vote could be taken on which is the best rule of statutory interpretation, with learners being asked to justify their decision.

### **Learning aim B – Examine how legislation is made outside of Parliament**

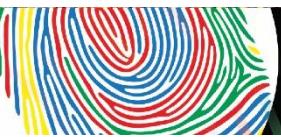
- To introduce delegated legislation, learners could be provided with pictures of a variety of different bylaws and asked to notice what their key features are. These could include links to local issues, method of punishment (i.e., by a fine), how they are displayed and whether they are for a specific geographical area. Examples of bylaws could include dog fouling, littering or putting feet on train seats. This could be followed up with a tutor-led explanation of bylaws, after which learners could be asked to come up with their own bylaws they would like to see introduced at their own school/college.
- Learners could be asked to research the other types of delegated legislation, after which they could be provided with scenarios and asked to explain which type of delegated legislation would be appropriate for each situation.
- As an introduction to controls on delegated legislation, learners could be provided with a parent act and be asked to identify any limits on the powers that have been delegated. This should lead on to a discussion of the various controls and a debate as to their effectiveness.
- In order to determine how much learners already know about the European Union, they could be divided into groups and asked to name as many members of the EU as they are able to in one minute. They should then compare their list with a list of the actual members of the EU and a prize could be given to the team who got the most correct.
- The powers of the EU could be introduced through a true or false quiz. This will serve to identify how much learners already know and will provide a basis for a tutor-led discussion of the actual powers of the EU.
- The Europa website ([https://europa.eu/european-union/index\\_en](https://europa.eu/european-union/index_en)) contains a vast amount of resources that can help in teaching about the EU and could serve as a starting point for a research task where learners research a specific institution and present its role to the rest of the groups.
- After a tutor-led discussion of the different types of EU law, learners could be given a specific law to research and produce a flow chart of how that regulation, decision or directive became a law.
- In order to discuss the impact of the EU on the UK, there are plenty of clips available on the internet surrounding the UK's departure from the EU and arguments for and against leaving. These could be shown to elicit discussion of the impact of the EU and could be followed up by a group task where learners are required to research aspects of the impact of EU law in preparation for a class debate on whether the UK should have left the EU. Learners should be told that



during the debate their points must be backed up with reference to information that they have researched.

### Learning aim C – Explore the various legal personnel involved in a criminal trial

- The delivery of this unit could be enhanced with guest speakers from various roles in the legal system to provide an insight into what happens in a criminal trial and the roles that are involved. Example speakers could include: a solicitor (from either private practice or the Crown Prosecution Service), a barrister, a magistrate, or a legal executive. This allows learners to ask questions and consolidate learning to make the topic more ‘real’ to them. Learners should prepare the questions in advance so that you can check their relevance.
- When explaining the differences between the work of solicitors, barristers and legal executives, present learners with a list of scenarios in which legal advice is required and ask them to choose the appropriate legal professional to deal with the issue.
- A visit to the magistrates’ and the Crown courts is essential when delivering material regarding the role of lay people as it will allow learners to observe magistrates and juries doing their job, enhancing their understanding. A visit such as this will also allow learners to compare the roles of all the legal personnel involved in criminal trials first hand. If a court visit is difficult to arrange, there is a video that explains in detail the role of a juror, which can be found on YouTube – <https://www.youtube.com/watch?v=DbHU02U8lko>.
- Role plays are always an effective tool for enhancing and developing knowledge and understanding of learners regarding the role of the various legal personnel. A mock trial style role play could be conducted involving all the class in which they are required to assume the various roles of each of the legal personnel involved in a criminal trial.
- You could arrange an activity in which learners are required to create a job advert and a job description for a specific role, requiring them to research their allocated legal professional in depth.
- Learners are required to demonstrate an understanding of the various methods of funding a criminal case. In order to develop their understanding of this, learners could be divided into groups and asked to research each of the various sources of financing advice and representation in a criminal trial and then present them back to the class. To ensure that learners have understood the material that has been presented to them by their peers, a group quiz could be conducted to consolidate learning.
- As the topic of means testing in financing advice and representation can be a difficult one, to further enhance their understanding of this topic, learners could be provided with profiles of a list of fictional people, detailing their income and assets. Using this information, they could then be asked to work out the level of legal funding each of the people would be entitled to using the financial eligibility calculator for criminal legal aid available on the government website.
- To enable learners to develop their skills of analysis of the use of lay people in the criminal justice process, you could create a ‘learning mat’ for your learners containing information on the advantages and disadvantages of the use of lay people. In groups, learners should study the information in detail and then turn the mat over where they are presented with a statement (such as ‘Lay people are of no use to the criminal justice process.’). They are then required as a group to determine how far they agree with this statement on a scale of 1 to 10 on the basis of the information that they have read. Once they have all come to a conclusion, all groups in the class should stand up and position themselves at different corners of the room depending on what number their group came to, creating a living continuum. Each group should be questioned as to why they



decided that they were that number, being required to justify why they came to that conclusion.

### Learning aim D – Apply the key elements of crime and sentencing in non-fatal offence case studies

- When introducing the key elements of a crime, you could ask learners to list as many crimes as they can think of. They could then be asked what they see as the key aspects of each offence that must be proven in order for a person to be found guilty. The tutor could then lead a discussion on the key elements of a crime, presenting learners with the legal definitions of offences taken from relevant statute law and asking them to identify *actus reus* and *mens rea*. This could be reinforced with mini case studies to enable learners to identify the different types of wrongful acts and guilty mind element.
- When covering the topic of causation, a set of scenarios could be placed around the classroom each containing an issue of causation. Learners could be asked to go to each scenario and decide whether the defendants in each situation were the cause of the crime, recording their answers on a worksheet. This could be followed up by a class discussion of each of the scenarios, before a tutor-led explanation of the key elements of causation.
- In order to introduce the non-fatal offences, learners could be placed in groups and asked to produce a grid that explains the *actus reus* and *mens rea* for each offence. This knowledge could be reinforced through the use of mini case studies where learners could be asked to identify which offence has been committed. Learners could also devise their own scenarios in groups and swap these with other groups who would be required to apply their knowledge of the non-fatal offences to the situation presented.
- Learners could be placed into groups and asked to produce role plays for the rest of the class, requiring them to apply their knowledge of the non-fatal offences.
- Research into key cases will enhance and deepen learners' understanding of the key elements of each offence. Learners could be allocated a specific case to research and produce a wanted poster for that criminal.
- Card sort activities aid learners in enhancing their knowledge and understanding of the key principles from cases. Provide learners with the case name cards and ask them to match them to the correct legal principle coming from the case.
- To explore the topic of aims of sentencing, learners could be presented with pictures of punishments either from the past or from other countries/cultures. Examples of this could include: the stocks, tarring and feathering, the electric chair, burning at the stake, hanging, the scold's bridle, being stoned and cutting off someone's hand. Learners should be asked to identify what each of the punishments were and what they think the purpose of punishing criminals in each of the various ways was. This activity will lead on to a discussion of the aims of sentencing and should be reinforced with a tutor-led explanation.
- Mitigating and aggravating factors could be explored using the 'You be the Judge' activity from the 'Courts and Tribunals Judiciary' website.
- Group work could be used to explore sentencing, with each group being presented with a selection of scenarios and asking them to determine the appropriate sentence for each. Learners could supplement their work with documented internet research in order to explore the potential outcomes. Following this activity, groups should present their outcomes to the rest of the group, justifying their choices.



## Details of links to other BTEC units and qualifications, and to other relevant units/qualifications

Pearson BTEC Level 3 Extended National Certificate in Applied Law:

- Unit 1: Dispute Solving in Civil Law
- Unit 3: Applying the Law

## Resources

In addition to the resources listed below, publishers are likely to produce Pearson-endorsed textbooks that support this unit of the BTEC Nationals in Applied Law. Check the Pearson website (<http://qualifications.pearson.com/endorsed-resources>) for more information as titles achieve endorsement.

### Textbooks

Elliott C and Quinn F, *English Legal System* (17th edition), Pearson, 2016 ISBN 9781292089140 – This textbook covers several of the key aspects of the English legal system that are covered in this unit. It contains sections on key sources of law (such as statute law, statutory interpretation, delegated legislation and European law) as well as reference to law reform and a comprehensive coverage of the people working in the legal system.

Martin J, *The English Legal System* (8th edition), Hodder Education, 2016 ISBN 9781471879159 – This textbook supports learners studying a wide range of courses and is a good introductory textbook on the English legal system.

Martin J and Storey T, *Unlocking Criminal Law* (5th edition), Routledge, 2015 ISBN 9781138780934 – This is a good, easy to understand textbook that provides an introduction to criminal law, as well as focusing on specific offences.

### Videos

The Barristers

- This is a 2008 documentary following four law learners training to become barristers. This is good for discussing training of barristers and the difficulties of entering the profession, as well as looking at the work of qualified barristers. The whole series is available on YouTube.

The Jury

- An ITV TV series that centres around the jury deliberations in a high profile case. It takes you through the court case itself and the jury deliberations. There are two series, both of which can be bought on DVD, however, you can find all six episodes in full on YouTube.

### Websites

<http://www.barcouncil.org.uk/> – The official website of the Bar Council. It provides information regarding the history of the Bar, the Inns of Court and the disciplinary procedure.



<https://www.barstandardsboard.org.uk/> – The official website of the Bar Standards Board, the regulatory body for barristers and specialised legal services in England and Wales. It contains useful information about qualifying as a barrister and complaints and professional misconduct.

<http://www.cilex.org.uk/> – The website for the professional body for Chartered Legal Executives. It provides information regarding training to be a legal executive.

[https://europa.eu/european-union/index\\_en](https://europa.eu/european-union/index_en) – The European Union website. This website provides useful information regarding the history and workings of the EU, as well as containing resources for tutors teaching about the European Union under the Documents and Publications section.

<https://www.gov.uk/topic/legal-aid-for-providers/crime> – The government website that contains information about government services and departments. This particular section is a guide to criminal legal aid, explaining who qualifies for criminal legal aid and the means testing process.

<https://www.judiciary.gov.uk/> – The Courts and Tribunals Judiciary website. It contains useful information about the judiciary, their role in the justice system and going to court.

[www.lawcommission.justice.gov.uk](http://www.lawcommission.justice.gov.uk) – The Law Commission website. It contains information on the role of the Law Commission and current law reform projects.

<http://www.legalombudsman.org.uk/> – Official website of the Legal Ombudsman for England and Wales, an independent and impartial body that receives complaints regarding the quality of legal services that an individual has received. Contains useful information regarding making a complaint.

<https://www.magistrates-association.org.uk/> – The Magistrates' Association website (a national charity that is governed by magistrates). This website contains information about the history, qualification, training and role of magistrates.

<http://www.open.justice.gov.uk/courts/criminal-cases> – The Ministry of Justice website, containing useful information regarding the criminal (and civil) process, as well as facts and figures about sentencing.

<http://www.parliament.uk/about/how/laws/> – The Parliament website. This particular section contains resources explaining how laws are made in Parliament. The website also provides a list of bills currently before Parliament.

<https://www.sentencingcouncil.org.uk/> – The official website for the Sentencing Council for England and Wales. Explains how sentences are worked out for specific offences.

<http://www.sra.org.uk> – The official website for the Solicitors Regulation Authority. It contains a range of information, including the process for becoming a solicitor, as well as explains how complaints against solicitors are dealt with.

<http://ybtj.justice.gov.uk/> – 'You Be the Judge' is a sentencing activity produced by the Ministry of Justice that provides learners with case studies to develop their knowledge and understanding of sentencing, explaining the operation of mitigating and aggravating factors in coming to a final sentence.

*Pearson is not responsible for the content of any external internet sites. It is essential for tutors to preview each website before using it in class so as to ensure that the URL is still accurate, relevant and appropriate. We suggest that tutors bookmark useful websites and consider enabling learners to access them through the school/college intranet.*



# Unit 3: Applying the Law

## Delivery guidance

### Approaching the unit

This is a unit allowing your learners to apply the law to different scenarios, identifying the relevant area of law, explaining and analysing the law, determining the arguments from either side, advising the parties and evaluating both the law and the circumstances of a case. The unit is very practical and learners can be encouraged to work in the same way as legal professionals do on a daily basis. Learners can use transferable skills relevant to working in the legal profession. You may wish to stress the importance of employability skills, professional and ethical behaviour along with the sensitivity needed to deal with clients in challenging situations.

Crime and criminal law are often fascinating areas of study. The range of resources available to you is vast, with crime reported on a daily basis both locally and nationally. In addition, criminal statistics and trends can be utilised for learner activities. This unit is a synoptic unit and builds on the content from *Unit 2: Investigating Aspects of Criminal Law and the Legal System*. Having some prior learning on the elements of crime and criminal procedure is useful to encourage and motivate your learners to want to progress and learn more.

A range of delivery methods is important, including discussion, case studies, presentations, researching law, cases and statistics. Learners will benefit from a range of different approaches incorporating games and competitions. You could add more variety by using guest speakers and linking this to career options and employability skills. Visits to courts or law enforcement agencies also add to learners' interest and enthusiasm for the unit.

### Delivering the topics

Your learners need to be well prepared for their external assessment. It is important that they compile a folder with notes, activities and research and you could instruct them to organise these materials in sections relating to each topic and a section for general use. As an ongoing activity, you could ask learners to start to compile a glossary of legal terminology. Demonstrate to your learners how they can find facts about cases and statutes by introducing them to law books, table of cases and statute and explaining law report abbreviations. Learners' folders are useful evidence of formative assessment. Revision for the external assessment should be an ongoing task, so much so that it becomes routine to revise as learners progress through the course.



## Topic A

For topic A, a good starting point would be first to recap prior learning from Unit 2 on the elements of crime, *actus reus*, *mens rea*, causation, categories of crime and criminal procedure. Ensure that learners understand the words fatal and non-fatal and can appreciate that murder and manslaughter cases can be horrific and upsetting and carry serious consequences for the parties involved. A good starting point is to discuss current local and national reports of fatal offences. News reports of actual cases may be used for a problem-solving activity to examine who, what, why, when, where and how. Local or national newspapers can be used, or encourage learners to visit official websites such as BBC News. To encourage independent learning, allocate different cases to each individual learner for them to research, and build confidence by allowing them to share with the rest of the group what they have learned about their case. This type of activity can be extended to examine the relevant law, the offence, the evidence and criminal procedure. Ensure the learners use only UK law and advise them how to identify whether a website they may use for research is linked to UK law or, for example, New South Wales or Malaysia law. Learners should also be instructed to use legal terminology and professional language and to beware of changing the names of legal principles or legal definitions.

A thorough examination of the legal definitions learners will encounter in this unit will be essential. Local magistrates are often keen to visit as guest speakers and can be contacted through the local magistrates' court. You may also be able to encourage guest speakers from other branches of the legal profession who deal with criminal cases. Court visits are useful but it is important to plan these carefully ahead of the visit. Keep the group size small – around six learners per member of staff - and fully brief learners about their behaviour in court. Some courts allow you to see the listings for that day and this may guide you as to the most interesting courtroom to observe. By carefully choosing cases or written scenarios for learners to research and carry out practice tasks in relation to, you can use these to stretch and challenge your learners.

## Topic B

Though topic A also concentrates on fatal offences, your learners will have been introduced to partial defences outlined in statutory provisions; likewise for topic B your learners will be examining the 'bigger picture', not only the different types of involuntary manslaughter offences but also the tests used by the courts to determine liability and also some potential defences. Your learners can be encouraged to use a systematic approach to solving legal problems by applying the elements required for each type of offence. For corporate manslaughter, both the HSE and Hazards Campaign offer valuable information, videos and statistics. Official websites such as the Ministry of Justice website allow learners to take part in activities in relation to sentencing for specific offences.

## Topic C

Topic C covers a wide range of offences against property, enabling learners to distinguish between theft, robbery and burglary. You can use criminal statistics to look at trends in crime and review properties and areas that are most likely to be targeted. Crime maps are also useful for comparing rural, local and urbanised crime rates and offences. Fraud is covered in topic C and this could be used to introduce the growing area of cybercrime and allow you to emphasize the importance of internet safety. For topic C, and the whole of this unit, you could use role plays and case studies so that learners can apply the law and devise arguments for the prosecution and defence. Your learners will need to be able to read the evidence carefully and summarise the key points to produce a clear, logical and concise set of arguments. Learners also need to be able to recognise and use key cases and statutory provisions to support their arguments.



## Topic D

Topic D covers a range of general defences and includes some controversial areas that are ripe for discussion such as mental health and crime, whether intoxication should make a difference and what is 'reasonable' force. Ask learners to examine the link between a successful defence and the impact on the outcome of the case for the defendant. Research and discussions can be expanded to cover the purpose of criminal law, the impact on the victim and the aims of sentencing. Here you could focus on the importance of human rights and principles such as 'innocent until proven guilty'. Current national and local criminal issues will be an important source of information for learners to use to examine potential defences and verdicts.

## Topic E

The final learning outcome, Topic E, will build on the previous discussions relating to rights and duties. Ask learners to think about how police powers allow the police to investigate crime and to stop, search, arrest and detain suspects before charge. They provide a crucial link between protecting the community from crime and the delivery of justice by the court system. Learners need to appreciate the balance needed between a person's rights to go about their everyday life and the need for the police to ask questions to detect and investigate crime. A good source of information and a good basis of discussion to lead into this topic is the Police and Criminal Evidence Act and the amended codes of practice. You could arrange for guest speakers and visits to police stations to show the role of the custody officer and the investigating officers. Case law is important to show the consequences of failing to follow proper procedure, for example, inadmissible evidence.



## Assessment guidance

Two weeks before the supervised assessment period, learners will be given a case study (Part A) in order to carry out research. During these two weeks, they will carry out and compile their research to produce up to two pages of notes, which they may take into the two-hour supervised assessment period. The case study will include fatal offences, offences relating to property, partial and/or general defences and police powers. More information relating to the case study will be supplied in Part B in the supervised assessment session. The task set by Pearson will assess your learners' ability to explain, analyse and evaluate aspects of criminal law by applying the law to a scenario. Assessments will be available twice each year with the first assessment available in May/June 2018.

This is a synoptic unit, which means it builds upon the content already covered in Unit 2 and some of this may relate to the assessment of Unit 3, for example, elements of crime, criminal courts and procedure.

The maximum number of marks for this unit is 72.

Essential content	
<b>A</b>	The laws relating to homicide: murder and voluntary manslaughter
<b>B</b>	The laws relating to involuntary manslaughter
<b>C</b>	An introduction to offences against property: theft, robbery, burglary, fraud and criminal damage
<b>D</b>	Introduction to general defences in criminal law
<b>E</b>	An overview of police powers

You can use quizzes, tests, practice tasks and summaries throughout the delivery of the topics to prepare learners for the external assessment. Your learners should be encouraged to revise on a weekly basis using a variety of resources such as their notes and visual aids like posters and flashcards. You can carry out portfolio checks regularly, by tutor or by peer assessment to ensure that learners have no gaps in the information they require for the external assessment. Learners should be encouraged to manage their time effectively and to make a revision plan setting out the time spent on revising different areas. They should be encouraged to test themselves by reading their notes and then writing down the key points they have remembered. Alternatively, they could make a recording on their mobile devices listing points they can recall. This can be saved and listened to, to reinforce revision.

In order to carry out the pre-assessment research, learners need to be able to pick out key points and make concise notes. Ensure that learners remember the plan for applying the law: identify the relevant areas of law, explain and analyse the law, apply to the scenario and advise the clients. Learners need to consider any potential areas for discussion and the legal terminology that may be required or that may have to be explained. Your learners will have approximately six hours, over the two weeks, to complete independent research around Part A and can take this research (two sides of A4) into the supervised assessment.

For the external assessment, your learners will have two hours to produce a report and case file notes, using a professional format and a logical order. Learners need to ensure their work is appropriate for the intended audience that will be specified in Part B.



## Getting Started

This provides you with a starting place for one way of delivering the unit. Activities are provided in preparation for the external assessment.

### Unit 3: Applying the Law

#### Introduction

You could provide an outline of the unit content, duration and assessment before setting learners a quiz to assess their prior learning of elements of crime, categories of crime and criminal procedure. Organise a discussion of local and national current criminal issues, using selected clips available from television programmes such as Crimewatch or news programmes. Introduce the idea of a glossary of legal terminology for learners to begin and maintain throughout the course, and ask them to make a start on researching useful terms and definitions for this unit.

#### Topic A – The laws relating to homicide: murder and voluntary manslaughter

- You could plan to start your lessons each week with a group discussion of current issues in the news relating to homicide offences, property offences, defences and police powers. Set up a rota so that each week one learner can take the minutes to practise the art of summarising information. You could start the discussion by posing questions or showing a video clip from the news or allowing learners to access a news article of your or their choice using their mobile devices.
- Throughout the delivery of each topic, you can use activities to develop practical skills related to formative and summative assessment. 'How to' activities can help you to demonstrate how learners can prepare for a presentation, carry out a successful presentation, format a report or a professional letter, display statistics in a variety of visual formats and use punctuation and grammar. You could concentrate on one area per week and issue handouts on the skill being developed followed by a practice task. For example, you could issue a handout on formal letter format and then ask learners to draft a formal letter advising a client about corporate manslaughter. The 'How to' activities will be determined by the strengths and areas of improvement for your learners and the requirements of class tasks and external assessments.
- Devise start and end-of-lesson activities to recap content and skills in the form of games or quizzes, e.g., a word search on homicide and legal terminology, spelling and definitions quiz or a case law quiz.
- Provide notes to explain the legal definition of murder and the difference between murder and manslaughter and set up a discussion for learners to comment on or provide criticisms of the current law and proposals for reform.
- You could collect a series of newspaper articles on different homicide cases and display them around the room. Instruct learners to move around the room and give learners a table to complete that extracts information about the facts of the case, e.g., offence, defendant, victim, *actus reus*, *mens rea*, consequences.
- Assign a different case name to each learner, or split learners into groups and instruct them to research the facts of the case, the legal principle illustrated by the case and the decision in the case before each learner/group feeds back to the class.
- You could lead a small group activity where learners prepare a presentation on partial defences and changes in the law resulting from the Coroners and Justice Act 2009.
- The black bag activity can be used on a regular basis – it is simply a dustbin bag containing random items (different items each time), learners pick out one item each and are given a card saying either D, A or E, each then has to either describe, analyse or evaluate the chosen object. Each time you use this activity, ensure that



learners are aware of the definitions of 'describe, analyse and evaluate'. The items used could be anything relatively small and easy to carry to class such as a tin of beans, pencil sharpener, packet of chewing gum, notebook. You can develop this activity later so that learners are analysing and evaluating cases, points of law, legal concepts and law reform.

- You could devise a task based around criminal statistics relating to homicides so that learners can examine the number of offences recorded as homicide, case outcomes related to convictions, likely victims and their relationship with the principal offender, different methods of killing and the prevalence of knife crime etc. You could instruct learners to identify trends relating to statistics by comparing current figures to the previous years. The results of their finding could be visually displayed as graphs or charts.
- You could devise case studies based on either actual cases or fictitious cases to allow your learners to apply the law of murder and voluntary manslaughter to these and to evaluate the law in each particular case.
- Set up and lead a group discussion on issues such as mental health and homicide, domestic violence and homicide, dangerous driving and causing death.
- Devise a task where your learners form a jury to decide on a verdict of murder or manslaughter. You can access a summary of some real-life cases where the defendant has been found guilty of murder and sentenced to life but where there were indications of loss of control or diminished responsibility. First, print off page 1 of the specimen jury summons on <https://formfinder.hmctsformfinder.justice.gov.uk/jury-summons-eng.pdf>.
- Copy one per learner and place it in a named envelope for each learner. Inform the group that in this exercise, they are all over 18; some are in full-time work and some are full-time carers. Distribute the envelopes and the case facts and explain that the group needs to come to a unanimous and fully justified decision as to whether the guilty verdict should be murder or manslaughter.
- You could instruct half of your learners to produce a table or diagram showing the similarities and differences between murder and manslaughter, and the other half to produce a table or diagram showing the consequences of homicide to the parties involved. The diagrams or tables could then be peer assessed and exchanged.
- You could devise different tests each week to revise the content covered to date. At the end of topic A, ask the learners to devise different revision aids in small groups, e.g., posters, flash cards for key points or key cases, flow charts for what has to be proved. The revision aids produced could then be shared for all the group to refer to.

### Topic B – The laws relating to involuntary manslaughter

- You could start by recapping *mens rea* and explain that this determines whether a case is voluntary or involuntary manslaughter.
- Distribute a different case name to pairs of learners with half of the cases relating to constructive manslaughter and half to gross negligence manslaughter. Ask learners to create a storyboard or poster illustrating the facts of their case and what had to be proved in court. These could be displayed in class and peer assessed.
- You could devise a series of mini cases where learners are asked to appropriately label the case and state which laws would apply. Use examples with a mixture of voluntary and involuntary manslaughter and constructive and gross negligence manslaughter. You could use the following examples as inspiration:
  - A victim of violent abuse for years poisons her husband
  - An electrician who wires up the electrics so badly that the householder is electrocuted
  - A doctor who removes a healthy kidney instead of the diseased one and the



- patient dies
- A robbery gone wrong where the shopkeeper is pushed to the ground and suffers a fatal head injury.
  - You could ask your learners to produce graphs and charts to display relevant trends relating to deaths at work divided into geographical area and industry sector.
  - Divide learners into groups and ask different groups to research a specific disaster and potential corporate manslaughter case. Examples include the 'Marchioness', 'Herald of Free Enterprise', King's Cross Fire, Southall rail crash. Ask learners to prepare a presentation explaining the facts and applying the current law to the case. You may ask learners to include a range of consequences following such an event. Learners could also use reports from 'Hazards' publications to compile facts and research cases relating to corporate manslaughter.
  - You could create a presentation to explain and discuss what must be proved in a case of corporate manslaughter and then instruct learners to research corporate manslaughter cases and their outcomes post 2008. You could then lead a discussion to evaluate the effectiveness of the Corporate Manslaughter and Corporate Homicide Act 2007.
  - Carry out a mock external assessment using your own devised Parts A and B relating to homicide or using the Sample Assessment Materials on the Pearson website. You can give learners three hours to prepare notes based on Part A and then one hour to compile a report relating to Part B under exam conditions. This will allow for formative assessment and action planning for individual learners.
  - Keep devising different tests each week to revise content covered to date, and at the end of topic B, divide learners into small groups and ask them to devise different revision aids, e.g., posters, flash cards for key points or key cases or flow charts for what has to be proved in this topic. The revision aids produced could then be shared.

### **Topic C – An introduction to offences against property: theft, robbery, burglary, fraud and criminal damage**

- Obtain and distribute a range of local and national newspapers to small groups of learners and ask them to cut out any articles relating to offences against property. They could then categorise the articles using their own criteria, display them on a poster and give reasons as to how they chose the different categories.
- Split your learners into five groups and allocate one offence to each from topic C. Instruct the learners to carry out detailed research into their offence, the elements that have to be proved, *actus reus*, *mens rea*, potential consequences and relevant case law and statute. Their research could then be incorporated into a presentation and handout and shared with the other groups.
- Courtroom observations and guest speakers such as magistrates, police or prison officers and legal professionals would be particularly useful for this aim. If possible, organise a trip to the magistrates' court where a case relating to theft and fraud is being scrutinised. After the visit, direct learners to press reports about the cases they observed and to relate these to their own observations in the court. Under controlled conditions, it is possible for ex-offenders to visit schools and colleges to talk about how being found guilty of a crime affected their life.
- You could devise mini cases to help your learners distinguish between theft, robbery, burglary, fraud and criminal damage and to apply the law and explain any tests used by the courts.
- You could ask your learners to research criminal statistics and crime maps to examine the types, trends and targets related to property crime, in their area or nationwide. Learners could present their findings using visual formats such as graphs and charts and they could then provide justification for the trends.
- You could lead a discussion on cybercrime and allow learners to make suggestions



on protecting themselves and their information when using the internet.

- Ask learners to produce a checklist or flow chart of what has to be proved in court for each type of offence against property.
- Use different tests each week to revise the content covered to date and at the end of topic C, instruct the learners in small groups to devise different revision aids, e.g., posters, flash cards for key points or key cases or flow charts for what has to be proved. The revision aids produced could then be shared.

### Topic D – Introduction to general defences in criminal law

- Begin by asking learners to produce a list of excuses that a defendant may use in court to explain why he or she committed a crime. You could follow this up with a discussion of whether any of the excuses listed could form a valid defence.
- Explain the difference between a partial and a complete defence, stressing the consequences and applicability of the different defences.
- Split the class into five small groups and allocate a different defence to each: self-defence, duress, insanity, automatism and intoxication. Ask each group to research their area and then devise and perform a role play where a defendant is claiming that particular defence; the group also has to put forward justified arguments as to whether the defence is likely to be successful.
- You could then distribute handouts summarising the law applying to defences and ask learners to use the handout to help them to apply the law to a series of mini case studies you have devised.
- You could split the group into two teams and ask the learners to devise a quiz for the other team dealing with defences.
- To consolidate learning so far, you could produce a set of laminated cards, each containing a key point or key case from topics A to D. Distribute one or two different cards to each learner, allow five minutes thinking time and then ask each to explain their card to the remainder of the class by talking for two minutes, monitored by a timer.
- Use different tests each week to revise content covered to date and at the end of topic D, instruct the learners in small groups to devise different revision aids, e.g., posters, flash cards for key points or key cases, flow charts for what has to be proved. The revision aids produced could then be shared.

### Topic E – An overview of police powers

- You could arrange a visit to a police station or for a guest speaker representing the police to cover the procedure of stop, search, arrest and detention. Prior to the visit, you could ask learners to produce a list of questions relevant to the unit specification and content.
- After the visit, you could instruct learners to produce a brief job description and person specification for a police officer.
- Ask learners to produce a list of the rights of a detained person.
- You could instruct learners to find and print off a series of images relating to police uniforms and equipment; the pictures could be displayed as a collage to show how and why police officers need protection. You could follow up this activity with a discussion of how the police strike a balance between an individual's rights and freedoms and the task of detecting and investigating crime.
- Allocate a different code of practice (A – H) to pairs of learners; they can be instructed to research the code and produce a leaflet explaining the code and why the rules are necessary. This can be uploaded on the VLE and shared with the rest of the class. The codes of practice were introduced by the Police and Criminal Evidence Act 1984 and are listed below.



<b>Code</b>	<b>Areas covered</b>
Code A	Police powers to stop and search any person or vehicle
Code B	Police powers to search, seize and retain property found on premises or persons
Code C	Requirements for treatment and questioning of detained suspects not relating to terrorism
Code D	Methods used to identify people in relation to a criminal investigation
Code E	Audio recording of interviews with suspects
Code F	Visual recordings with sound of interviews with suspects
Code G	Powers of arrest
Code H	Requirements for treatment and questioning of detained suspects relating to terrorism

- Ask learners to research current issues relating to police powers such as bodycams, criticisms of stop and search, police complaints, failing to follow procedure and inadmissibility of evidence. Instruct your learners to compile a report on why following best practice is essential for the police officer and the consequences of failing to do this.
- You could devise different tests each week to revise content covered to date, and at the end of topic E, instruct the learners in small groups to devise different revision aids, e.g., posters, flash cards for key points or key cases, flow charts for what has to be proved. The revision aids produced could then be shared.
- You could carry out a mock external assessment using your own devised Parts A and B relating to property offences and police powers or using the Sample Assessment Materials on the Pearson website. Learners should be given three hours to prepare notes based on Part A and will then be given one hour to compile a report relating to Part B under exam conditions. This will allow for formative assessment and action planning for individual learners.



## Details of links to other BTEC units and qualifications, and to other relevant units/qualifications

This unit is linked to *Unit 2 – Investigating Aspects of Criminal Law and the Legal System*.

## Resources

In addition to the resources listed below, publishers are likely to produce Pearson-endorsed textbooks that support this unit of the BTEC Nationals in Applied Law. Check the Pearson website (<http://qualifications.pearson.com/endorsed-resources>) for more information as titles achieve endorsement.

### Textbooks

Martin J and Storey T, *Unlocking Criminal Law* (5th edition), Routledge, 2015 ISBN 9781138780934 – This book is useful as a tutor resource as it contains key facts and brief case details.

### Websites

[www.cps.gov.uk/](http://www.cps.gov.uk/) – Role of CPS and some up-to-date cases.

[www.cps.gov.uk/legal/a\\_to\\_c/corporate\\_manslaughter/](http://www.cps.gov.uk/legal/a_to_c/corporate_manslaughter/) – Legal guidance to corporate manslaughter.

[www.e-lawresources.co.uk/Criminal.php](http://www.e-lawresources.co.uk/Criminal.php) – Games, quizzes, cases and text on aspects of criminal law.

[www.hazards.org/index.htm](http://www.hazards.org/index.htm) – Useful resources on amendments to corporate manslaughter law.

[www.hse.gov.uk/corpmanslaughter/](http://www.hse.gov.uk/corpmanslaughter/) – Corporate Manslaughter and Corporate Homicide Act 2007 and other resources.

<https://magistrates-association.org.uk/> – History, role and appointment of magistrates.

[www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice](http://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice) – Statistics relating to homicide and property offences.

<http://open.justice.gov.uk/get-involved/you-be-the-judge/> – Interactive game on sentencing.

[www.police.uk/](http://www.police.uk/) – Access to crime map.

*Pearson is not responsible for the content of any external internet sites. It is essential for tutors to preview each website before using it in class so as to ensure that the URL is still accurate, relevant and appropriate. We suggest that tutors bookmark useful websites and consider enabling learners to access them through the school/college intranet.*



# Unit 4: Aspects of Family Law

## Delivery guidance

### Approaching the unit

This unit is a practical unit that will familiarise learners with key aspects of family law as it applies in England and Wales. Learners will explore the legal rules governing the formation and dissolution of adult relationships, what orders may be made on the breakdown of a relationship and the orders that may be made in respect of children.

Given that celebrity relationships are reported in the media on an almost daily basis, there will be a rich source of information to aid you in the delivery of this unit. Newspaper and magazine articles, video clips of news reports as well as sections of fictional programmes can all be used to support delivery.

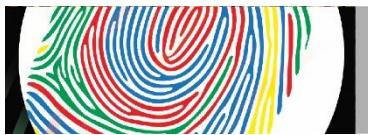
A range of delivery methods is important, including case studies and research exercises on various aspects of family law, as well as discussions and debates surrounding contentious issues within family law to enhance learners' skills of analysis and evaluation. You could introduce learners to the theory underpinning various aspects of the unit content and enhance this by inviting guest speakers of various personnel involved in family law disputes, for example, solicitors or counsellors from Relate. Learners could also be presented with practical activities that encourage them to apply the theoretical concepts they have learned. As with the majority of law units, it is important that you show learners how to locate cases and statutes, as well as academic commentary about various aspects of the family law.

It is important to note that there may be many topics in this unit that are sensitive to learners as they may have been recently involved, directly or indirectly, in a relationship breakdown for example; therefore, the unit should be approached sympathetically.

### Delivering the learning aims

#### Learning aim A

For learning aim A, learners need to understand the distinction between the legal rules governing the formation of marriage, civil partnerships and cohabitation. You could devise activities in which learners work in groups looking at scenarios and determining the legality or otherwise of the marriage or civil partnership, presenting their findings back to the rest of the class. Throughout all aspects of this unit, learners should be encouraged to apply their knowledge of the law to factual scenarios so that they understand how the law works in practice. News items regarding the introduction of same-sex marriage and the surrounding debates could enhance the delivery of this aspect of the unit, as would encouraging learners to debate the extent to which the law should be involved in individuals' relationships.



### **Learning aim B**

Learning aim B concerns the breakdown of formal relationships. You could deliver this aspect through the use of role-play activities around different scenarios. This may require learners to place themselves in the position of separating couples to help them to understand the legal requirements of different individuals and from different sides. You could invite guest speakers from family law firms and mediation facilities. Set up opportunities for learners to evaluate the current law on divorce/dissolution and ask them to suggest any changes that could be made to the law in this respect. Again, it is important to note that this could be a topic that is sensitive to learners as they may have been recently involved, directly or indirectly, in a relationship breakdown.

### **Learning aim C**

For learning aim C, learners will focus on the monetary, property and pension orders that might be made on a relationship breakdown. Learners could be encouraged to research the key cases and any news items relating to couples in the media who are experiencing a relationship breakdown. You could turn your classroom into a mock courtroom and ask learners to act out their relationship breakdown, with a learner as the judge making the final decision as to what order could be made.

### **Learning aim D**

In learning aim D, learners will examine the orders that might be made in respect of children. Learners should be encouraged to debate the key aspects, such as the operation of surrogacy in this country compared with other countries, as well as examining the extent to which a child's wishes should be respected. They should be encouraged to apply their knowledge to scenario-based tasks and complete worksheets that explain the various orders that can be made.



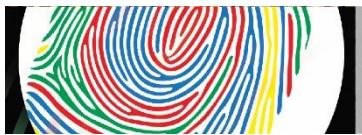
## Assessment model (in internally assessed units)

Learning aim	Key content areas	Recommended assessment approach
<b>A</b> Explore the legal rules governing the formation of marriages, civil partnerships and cohabitation	<b>A1</b> Marriage and civil partnership <b>A2</b> Cohabitation <b>A3</b> Legal rights and obligations of marriage/civil partnership and cohabitation	Application of law to given case studies, advice to clients based on case studies regarding the legal rules surrounding the formation and dissolution of adult relationships Evaluation of the current law and proposals for reform of the law
<b>B</b> Explore the various methods for dissolving a relationship	<b>B1</b> Nullity <b>B2</b> Divorce and dissolution <b>B3</b> Judicial separation	
<b>C</b> Investigate the legal rules governing the distribution of money and property on the breakdown of a relationship	<b>C1</b> Financial orders available to the courts on divorce/dissolution <b>C2</b> Factors the court will take into account when deciding what order to make <b>C3</b> Orders for children	Legal advice provided based on case to a client explaining the financial orders and orders for children applicable on the divorce/dissolution of the case studies An article that evaluates the impact of the financial and other orders that can be made on the breakdown of a relationship, suggesting proposals for reform
<b>D</b> Examine how the courts resolve disputes over children	<b>D1</b> Parenthood and parental responsibility <b>D2</b> Children's rights <b>D3</b> Disputes over children	Legal advice provided based on case studies explaining the law relating to parenthood and parental responsibility Leaflet/article/report evaluating the impact of methods used by the courts to resolve disputes over children

## Assessment guidance

This is an internally assessed unit, with the specification suggesting a maximum of two assignments. The first covers learning aims A and B and the second covers learning aims C and D.

All learners must independently generate evidence that can be authenticated.



For the first assignment, the suggested form of assessment is application of the law to given case studies, advising clients on the legal rules regarding the formation and dissolution of adult relationships. This could be met by giving learners a set of scenarios and asking them to provide advice to various clients in the form of solicitor's letters, explaining the law fully and accurately. Learners are also required to evaluate the current law and proposals for reform regarding the formation and dissolution of relationships. This could be completed by asking them to deliver a presentation to the partners of a law firm, detailing the areas of the law that are in need of reform and evaluating any proposals that have been suggested. Alternatively, learners could meet this criterion by producing an article for either a law magazine aimed at level 3 learners, or trainee solicitors at the firm.

The second assignment covers the legal rules governing the distribution of money and property after a relationship breakdown, as well as looking at how courts resolve disputes over children. Once again, the suggested programme of assessment is legal advice to a client. To vary the format from the earlier assignment, learners could be given a role-play activity, based on the earlier scenarios, where they are now required to meet with the client as a trainee solicitor to give them verbal advice. The assessment approach suggests that learners could follow this up with an article that evaluates the impact of the financial and other orders that can be made on the breakdown of a relationship, suggesting proposals for reform. This article could, again, be aimed at level 3 learners or trainee solicitors. Alternatively, you could devise a scenario in which learners imagine they are completing work experience with the Law Commission, considering the key areas of the law that are in need of reform and suggesting any changes that should be made.



## Getting started

This provides you with a starting place for one way of delivering the unit, based around the recommended assessment approach in the specification.

### Unit 4: Aspects of Family Law

#### Introduction

In order to begin to examine the unit content, duration and assessment, you could initiate a discussion on what the learners believe will be covered in the family law unit. Learners could consider what is meant by the term 'family' in the eyes of the law and research key cases in which the concept of the family has been developed over the years. You could further develop the discussion with reference to topical newspaper articles on musicians, actors and other high profile people whose domestic situations and problems are in the news.

#### Learning aim A – Explore the legal rules governing the formation of marriages, civil partnerships and cohabitation

- In order to introduce learners to the concept of a valid marriage, you could divide learners into groups and give them a range of scenarios that include couples who may legally marry and those who may not. Learners could discuss each of the scenarios, identifying which would be valid marriages and present their findings back to the rest of the group, justifying the conclusions they have reached.
- To further develop the discussion regarding the categories of people who may and may not marry, you could lead a debate as to whether the law should police who an individual may marry. You could also ask learners to discuss whether there should be any legal formalities surrounding the ceremony itself. Follow this up with an explanation as to why the law does restrict the categories of people who may legally marry.
- Present learners with video clips and other news items regarding the legalisation of same-sex marriage, and ask them to research their own. These could be used to form the basis of a discussion as to whether the traditional definition of marriage is still relevant today.
- In explaining the concept of civil partnerships, place learners into groups and ask them to research the Civil Partnership Act 2004. They could use their research to produce a timeline identifying why the Act was introduced, when the first civil partnerships took place and what the present legal situation is regarding converting a civil partnership into a marriage. This could be followed up with a tutor-led summary and discussion of the key requirements for a valid civil partnership.
- When delivering the topic of cohabitation, you could give learners a list of true and false statements regarding the legal rights of people who are cohabiting in the UK. This could be followed up with a group discussion as to what the key differences are between marriages/civil partnerships and cohabitation and what legal rights cohabitants have.
- In order to introduce to learners how individuals can formalise their status as cohabitants, place them into pairs with a set of prompts about their characters and ask them to research and draw up their own cohabitation agreement. The pairs could then present their agreements to the rest of the group for evaluation.
- Set up a group discussion debating whether heterosexual couples should be allowed to form a civil partnership. Support this with reference to video clips of news items where there have been campaigns for heterosexual couples to enter into civil partnerships, comparing this to anywhere that allows such unions.
- To consolidate learning on the distinction between the various forms of legal relationship, ask learners individually to produce a table that outlines the



differences between marriage, civil partnerships and cohabitation and review these as a group.

- You could devise role plays and scenarios to prepare learners for summative assessment, asking them to apply the legal rules they have covered in the learning aim to determine whether the individuals in the role play or scenario have formed a legal relationship.

### **Learning aim B – Examine the various methods for dissolving a relationship**

- To introduce learners to the concept of dissolving a relationship, place learners into pairs and ask them to divorce, end their civil partnership or ask for a judicial separation from their spouse or partner. They could fill out the petition, reading the accompanying guidance as to the grounds for divorce/dissolution and choose which fact they are basing their petition on. One learner could be filing for divorce and the other could be responding. You could take this process as far as the decree absolute and follow the exercise up with a class discussion and note-taking as to what the key stages of ending a relationship are.
- As a group, ask learners to use the information from the divorce/dissolution/judicial separation role play to produce a flow chart of the stages to ending a relationship, as well as a table of the differences between judicial separation and divorce.
- In order to introduce the distinction between void and voidable marriages, you could recap the key requirements for a valid marriage by setting up a group quiz. Explain the basic difference between a void and voidable marriage and then present learners with a card sort that includes factors that would render a marriage voidable and those that would not. The factors would include grounds both for a voidable marriage and for a voidable civil partnership. Learners could then be asked to produce a flow chart that explains the procedure for obtaining a decree of nullity.
- Learners could be placed into groups and required to research and prepare a leaflet for clients of a firm that explains to them the grounds on which their marriage or civil partnership may be voidable, including the key cases for this area of law and any bars to annulment. Learners could be asked to explain the procedure that an individual would have to go through to obtain a decree of nullity. To ensure that learners have understood the key legal rules governing the dissolution of relationships, ask them to devise their own scenario on either divorce, ending of a civil partnership or a civil partnership and then invite other learners to apply their knowledge of the law to the facts of the situation.
- You could enhance the unit and provide a real-life view by inviting a guest speaker from Relate or from a solicitor's firm. Ask learners to prepare questions in advance for the guest speaker regarding application of the grounds for divorce/judicial separation.
- In order to examine the extent to which the law relating to dissolving a relationship is in need of reform, place learners into groups and ask them to role play acting as the Law Commission. They could be asked to identify the areas of law that are in need of reform and present any proposals that they feel would address these problems, presenting these back to the group. Learners could then debate as a group which they feel would be the best proposals for reform and compare these with the actual proposals that have been put forward by the Law Commission.

### **Learning aim C – Investigate the legal rules governing the distribution of money and property on the breakdown of a relationship**

- In order to initiate discussion into the rules on the distribution of money and property, you could introduce the concept of prenuptial agreements and explain that these are not enforceable in the UK, but have been upheld in the UK at a

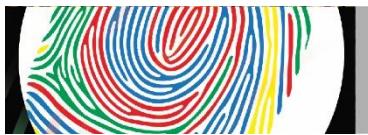


judge's discretion. Ask learners to debate whether these should be enforceable. You could give learners an example of a prenuptial agreement that has been highlighted in the media as a starting point and then divide them into two groups, with one arguing that prenuptial agreements should be enforceable and one arguing that they should not be enforceable. You could ask each of the groups to research further examples of prenuptial agreements in the media as well as any key cases that have reached the Supreme Court regarding this matter in preparation for the debate.

- To address the difficulty of distributing property on relationship breakdown, set up a role play for learners of an attempt at mediation based on a set of character prompt cards. The role play could be used as the basis of a whole group discussion of what types of orders learners think the court could make in this situation and what rules they think the court should apply in making their decision.
- There are a variety of different orders that can be made on divorce/dissolution, such as money orders, property orders and pension orders. You could produce a worksheet that identifies each of the different orders and ask learners to research and produce, using either the internet or textbooks, a description of each order that might be made, who benefits from that order, whether the order can be varied and what the effects are on the payer's death.
- Learners could be placed into the same pairs that they were in for the divorce topic and asked to complete the notice of an intention to proceed with an application of a financial order, available from the government website.
- You could enhance this aspect of the unit with reference to topical newspaper or magazine items where high profile relationships in the media have broken down. This could lead on to an explanation of cases that have involved a lot of money and the approach that the courts have developed in order to distribute assets.
- In looking at the factors that the court would take into account when deciding on the distribution of money and property on a relationship breakdown, you could give learners a list of scenarios and ask them to research the statutory factors and relevant case law that would be taken into account.
- Using the same couple scenarios from the distribution of money and property, the scenarios could be further developed by asking learners to research and determine what would be the appropriate orders for the children in each relationship. They could be asked to produce a client letter that explains the orders that could be made in their situation.
- You could lead a debate as to whether learners think that a wealthy spouse should have to share their assets on divorce.

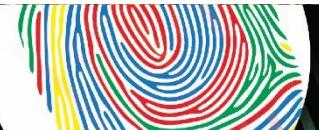
#### **Learning aim D – Examine how the courts resolve disputes over children**

- You could introduce this topic by asking learners to research the number of live births that there have been in England and Wales, the total fertility rate (number of children per woman) and the average age of a mother at various points in history up to the present day. This could lead onto a discussion of the concept and definition of parenthood, looking at the difference between biological and social parenthood.
- Ask learners to carry out research into the law relating to surrogacy, comparing the law in the England and Wales to that of other countries across the world. Learners could debate whether they think that the surrogacy agreement should be enforceable or not.
- After introducing learners to the concept of parental responsibility, you could lead a discussion in which learners brainstorm as a group what they think are the rights of someone with parental responsibility over a child. This could lead onto a debate as to what, if any, issues they feel that parents should not be able to determine.
- In examining the factors that will be taken into consideration when making an



order in respect of the child, learners could be placed in pairs and given a scenario and asked to come up with a list of what they think the court should base its decision on. This list could be compared with the actual welfare checklist. Learners could follow this up by researching each of the key cases relating to the welfare principle and applying these to factual scenarios that may have been covered in the media.

- Initiate a debate regarding the extent to which the child should be able to make a decision regarding their own welfare. Ask learners to define what children's rights are and how the group definition compares with that of the definitions of children's rights as defined by the law.
- Place learners into groups and ask them to create a poster to be placed in a solicitor's office that explains the different orders that may be made in respect of resolving disputes over children.
- Set up a discussion where learners debate whether shared parenting is always in the interests of a child. They could use the basis of this discussion to draw up a list of advantages and disadvantages of this.



## Details of links to other BTEC units and qualifications, and to other relevant units/qualifications

This unit links to

- Unit 1: Dispute Solving in Civil Law

## Resources

In addition to the resources listed below, publishers are likely to produce Pearson-endorsed textbooks that support this unit of the BTEC Nationals in Applied Law. Check the Pearson website (<http://qualifications.pearson.com/endorsed-resources>) for more information as titles achieve endorsement.

### Textbooks

Gilmore S and Glennon L, *Hayes and Williams' Family Law* (Fifth Edition), Oxford University Press, 2016 ISBN 9780198753087 – This textbook is an in-depth explanation of family law that would be useful to support tutors' class notes.

Herring J, *Family Law* (Seventh Edition), Pearson, 2015 ISBN 9781292064635 – This textbook provides a good overview of the family law, including case summaries and extracts from legislation that learners may use to support their studies.

Herring J, *Law Express: Family Law* (6th Edition), Pearson, 2016 ISBN 9781292086897 – This book is a good summary of key aspects of family law, providing flow charts and scenarios that learners may use to apply their knowledge to in formative assessment.

### Websites

<http://www.family-solicitors.co.uk/> – A website that provides links to family solicitors and information on family law topics.

[www.lawcommission.justice.gov.uk](http://www.lawcommission.justice.gov.uk) – The Law Commission website – It contains information on current law reform topics that learners may use to research areas of the family law that have been proposed to be reformed.

*Pearson is not responsible for the content of any external internet sites. It is essential for tutors to preview each website before using it in class so as to ensure that the URL is still accurate, relevant and appropriate. We suggest that tutors bookmark useful websites and consider enabling learners to access them through the school/college intranet.*



# Unit 5: Consumer Law

## Delivery guidance

### Approaching the unit

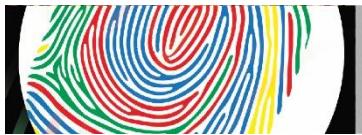
Your learners need to be well prepared for their assignments, so, as with other units, it is important that they compile a portfolio for this unit with notes, activities and research. You could suggest that they organise these materials in sections relating to each learning aim, as well as a section for general use. You could also ask learners to compile a glossary of relevant terminology for use in this unit as an ongoing activity. Demonstrate how your learners can find out about various consumer rights by introducing them to specific websites, journals, and local and national news sources, and by explaining words and key terms. Stress the importance of using up-to-date resources, particularly as there were major changes to the law on the sales of goods and services in 2015, which replaced all the old statutory law. At present, there do not seem to be any useful textbooks written but consumer-related websites have, on the whole, been updated to include reference to the new law.

### Delivering the learning aims

Consumer law should be an interesting area of study for your learners. They will be buying goods and services several times a day. This could be food or drink at, or on the way to or from school/college, or travelling by bus or train. Considering the number of consumer contracts that are made every day, there is a surprising amount of ignorance about the full legal rights of consumers when buying goods or services. Many learners will be employed in the retail or service sectors and have experience of dealing with customer complaints about products that have been purchased or services supplied. You can ask your learners to share experiences and practices that they have been instructed to apply by their employers, which may, or may not, accurately follow correct procedures.

The rules setting out consumer rights were formerly contained in the Sale of Goods Act and the Sale and Supply of Goods and Services Act. These rules have been updated and made clearer in the Consumer Rights Act 2015. The rules of consumer law, in relation to the purchase of goods and services, are based on contract law but it is not necessary for learners to have previously studied contract law. Few cases on the new rules have come to court at present, so you will be interpreting the statutory rules. One useful approach to get learners to begin considering consumer rights is to use a case study. This could be following an experience that learners have been involved with, or with facts that they develop themselves.

Although a detailed knowledge of contract law is unnecessary, a useful introduction to the unit might be to give an overview of some basic contract law rules such as offer and acceptance, privity, capacity, where the terms of a contract can be set out and remedies. This can lead to coverage of the terms implied into a contract for the purchase of goods and the rights and remedies now implied by the Consumer Rights Act 2015. In addition, you could cover with your learners where a consumer could go for advice about their rights and what to do with goods that do not work or perform in the way they are expected to.



You can adopt the same case study approach for the purchase of a service that is not supplied to the required standard or within the stated time. Learners will be used to buying goods and services either face-to-face or by distance selling and they may be able to bring their own experiences into discussion for this area. After discussion of both of these areas, you can lead learners on to coverage of the terms implied into contracts for the purchase of services, and the rights and remedies now given to consumers. It is less likely that your learners will have been involved in cases of unfair trading or have suffered injury by using defective products, so you may need to find case examples of these to discuss and to illustrate the rules.

Your learners will also need to consider terms in a contract for the purchase of goods or services. A practical aspect of the unit could be to study as a group the small print of a contract, especially any exclusion or limitation clauses, and their effect. From there, you can lead into a consideration of the differences between common law and statutory protection provided to consumers and why there is such need for such protection.

It is important to draw on learners' own experiences and to use a range of delivery methods, including discussions, case studies and presentations, as well as research exercises on aspects of statutory law and remedies available to consumers.

Learners will benefit from a range of different approaches. You could introduce role-play scenarios between retailer and consumer and adviser and consumer. Consumer cases can give an opportunity for learners to engage in negotiation or mediation about their situation. You could introduce consideration about the effect of advertising claims and guarantees provided by manufacturers.

You could add some variety by visiting customer service departments of leading retailers or by inviting a representative to speak to your learners.

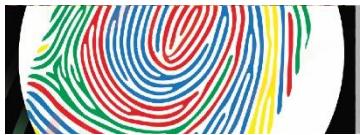
Local employers could become involved in the delivery of this unit by inviting them to be involved as:

- audience members who can feed back on learner presentations
- recipients of letters written by your learners and responding to those letters
- mentors.



## Assessment model (in internally assessed units)

Learning aim	Key content areas	Recommended assessment approach
<b>A</b> Examine the current law on the sale of goods and the availability of related advice and assistance for consumers, applying them in given case studies	<b>A1</b> Sale of goods – Consumer Rights Act 2015 <b>A2</b> Obtaining help and advice	Provision of legal advice to case study problems on sale of goods, to include liability and possible remedies An evaluation of the new law A leaflet describing the organisations that are available to provide advice and assistance to consumers
<b>B</b> Explore and apply the law on the supply of goods and services and other areas of consumer protection law	<b>B1</b> Supply of goods and services <b>B2</b> Unfair trading <b>B3</b> Distance selling <b>B4</b> Consumer protection	Provision of legal advice to case study problems on relevant consumer protection laws, to include liability and possible remedies An evaluation on the impact for consumers of rules on unfair trading, aggressive practices and defective products
<b>C</b> Investigate the law on exclusion clauses, applying this in given contractual case studies	<b>C1</b> Contractual clauses <b>C2</b> Common law rules <b>C3</b> Protection given by statute	Provision of legal advice to case study problems on common law and statutory principles of exclusion clauses An evaluation on the effectiveness of protection for consumers provided by current common law and statutory provisions for the validity of exclusion clauses



## Assessment guidance

This unit is internally assessed through a maximum of three summative assignments: one for learning aim A, one for learning aim B and one for learning aim C.

Summative assignments can each include a number of tasks, although each task should be related directly to the assignment as a whole. It is important that you give learners a realistic and achievable number of tasks for each assignment.

You should set an assignment that is scenario based. It should include clear signals to learners to be able to identify the possible problems and to give advice to named consumers. When answering the problems in the scenario, learners should be encouraged to explain the rules of law that apply and support their explanation by reference to relevant statutory rules or precedent cases. Once they have set out the rules, the answers should apply the rules to the problems in the scenario. Encourage your learners to conclude their assignments by giving clear advice to those involved.

When they deal with evaluative issues, encourage your learners to:

- Evaluate the effectiveness of the new law set out in the Consumer Rights Act 2015. This may well require a comparison of the old and new law.
- Evaluate the effectiveness of the impact of current laws on providing services, unfair trading, aggressive practices and defective products. Learners could approach this by considering the outcome of case studies.
- Evaluate the effectiveness of the protection given by provisions for the validity of exclusion clauses. Learners could approach this by considering the outcomes of precedent cases and small print in contracts.

All learners must independently generate individual evidence that can be authenticated. The main sources of evidence for this unit are likely to be written letters, briefs, file notes, emails or reports providing advice and, where appropriate, evaluating current law. Learners should incorporate in-depth research that is corroborated by a fully referenced bibliography.



## Getting started

This provides you with a starting place for one way of delivering the unit, based around the recommended assessment approach in the specification.

### Unit 5: Consumer Law

#### Introduction

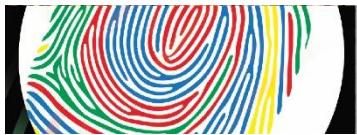
Begin by asking learners, through a group discussion and sharing of ideas, to define the difference between goods and services and what laws they think apply when buying goods or services from retailers. These can be contrasted with rights learners think a consumer has when buying goods privately and via eBay and Facebook. They could be asked why they think that consumers need protection when buying from a retailer and not when buying from other individuals. Learners are likely to be familiar with buying goods online and it would be interesting to discover what protection they think applies to online purchases. You could explore with them what they think guarantees or warranties are and what benefit they give to a consumer. You can extend the discussion by exploring whether learners think there is a difference between buying goods in cash or using a card. You should draw on examples, using your own experiences or the learners' experiences of purchasing. Many learners will be working in the retail or service sector and it is likely they will have been given instructions by their employers on how to deal with consumers who return a product or complain. Consider with them the accuracy of those instructions and what outcomes have been for consumers they have dealt with.

There are several videos that were produced in October 2015 (see Resources section) when the Consumer Rights Act 2015 was introduced. What do your learners think of these videos and how clear are the explanations contained in them? Can they be understood by the average consumer? Would the average consumer know how to find them?

You can conclude with a group discussion on the content of the three learning aims, and the requirements for assessment in this unit.

#### Learning aim A – Examine the current law on the sale of goods and the availability of related advice and assistance for consumers, applying them in given case studies

- Take learners through a case study of the process of buying a product from a business supplier and the express and implied terms in the contract of sale. The specific implied rights you should cover are description, quality and fitness for purpose. The available remedies for breach of those rights could be explored. This case study could investigate the recent purchase of a product by a learner with a study of the contract itself and the implied terms included. Ask learners to draft a letter advising the consumer of their rights under current legislation and how the rules would apply to their situation.
- Devise and distribute a short case study involving a problem with goods that do not meet the description, are of unsatisfactory quality and are not fit for purpose. Ask learners to advise the consumer on their rights and remedies against the supplier.
- Ask learners to investigate where a consumer can get advice. Ask learners to report back to the group on their findings and evaluate how successful their research was. Explain to learners that there is, perhaps understandably, very little information available from retailers or suppliers to tell consumers what to do if there is something wrong with a product. There is also limited published information to inform consumers where to go to get advice about products that do not work properly. An internet search or forum might provide general advice but if specific



advice is required a consumer might have to pay for it. A consumer might be prepared to approach a lawyer but there will be cost issues again, and many lawyers might have knowledge of the general rules but might not be able to offer specific advice. A suggested task for learners, which could be extremely useful, would be preparing a leaflet explaining where advice on specific consumer issues could be obtained and how this would be funded. The leaflet could be aimed directly at consumers and could give local contact details of relevant organisations. In fact, this leaflet could be distributed to learners at your centre.

### **Learning aim B – Explore and apply the law on the supply of goods and services and other areas of consumer protection law**

- Present to learners a case study of the potential consequences of buying a service from a business supplier and coverage of the express and implied terms in the contract. The specific implied rights you should cover are of care and skill, price and time for completion. The available remedies for breach of those rights could be explored. Ask learners for examples of a recent purchase of a service and choose an example to use as an in-depth case study with a discussion of the contract itself and the implied terms included. Ask learners to draft a letter advising the consumer of their rights under legislation and how the rules would apply to their situation.
- Learners could investigate a case of aggressive selling, the rights of a consumer who is subject to this and the remedies available. There are some cases reported in the media involving the sale of window and furniture products, which can provide case studies. Arrange a role play involving a face-to-face interview, with learners playing the roles of a consumer and an adviser.
- Introduce learners to the special rules that apply to distance selling. Learners may well be used to buying products from a distance seller such as via the internet, so a case study could be made of a recent purchase by one of the learners. In groups, ask learners to investigate the express terms in the contract and check the specific rights about the information provided and notices to be given. Set up a role play involving a face-to-face interview, with learners playing the roles of a consumer and an adviser.
- Give learners the opportunity to investigate what rights they may have if they are injured when using a defective product. Organise a discussion comparing rights using the tort of negligence with strict liability rights under the Consumer Protection Act 1987. You could ask learners to cover points such as who could be sued, what has to be proved, any defences available and the remedies available to the injured consumer. Give learners relevant cases such as *Abouzaid v Mothercare* and *Bogle v McDonald's* to investigate and ask learners to draft a letter advising the consumer of their rights under legislation and precedent and how the rules would apply to their situation.
- Distribute a case study involving a problem with a service that does not meet standards of care and skill, at a reasonable price and completed within a reasonable time. It should also include further problems of unfair trading, of distance selling and of a possible claim under the Consumer Protection Act 1987. Learners should be asked to advise the consumer on their rights and remedies in each situation.

### **Learning aim C – Investigate the law on exclusion clauses, applying this in given contractual case studies**

Many consumers are unaware of the existence of small print in a contract for the purchase of goods or a service. If they are aware of the small print, do they read it? Do they understand the effect of the small print? Can they identify exclusion and limitation clauses and can they understand their effect? Most package holiday contracts contain a considerable amount of small print and you could ask learners to investigate such a contract and the effect of the terms, with particular emphasis on exclusion clauses. Once learners are familiar with the concept of exclusion clauses, ask them to



investigate the effect of some precedent cases such as *Chapelton v Barry UDC*, *Olley v Marlborough Court* and *L'Estrange v Graucob*. The effect of these decisions could be applied to the clauses in the contract.

The statutory protection given to a consumer could also be investigated by considering the effect of the Unfair Contract Terms Act 1977 and the Consumer Rights Act 2015 on the terms in the contract.

- Distribute a case study on an issue involving the operation of an exclusion clause and ask learners to advise the consumer on the inclusion and effect of such a clause and their rights under common law and statute.



## Details of links to other BTEC units and qualifications, and to other relevant units/qualifications

Pearson BTEC Level 3 Certificate in Applied Law Unit 1

Pearson BTEC Level 3 Extended Certificate in Applied Law:

- Unit 1: Dispute Solving in Civil Law
- Unit 6: Contract Law
- Unit 7: Aspects of Tort

Pearson BTEC Level 3 Nationals in Business (NQF):

- Unit 14: Investigating Customer Service
- Unit 23: The English Legal System

Chartered Institute of Legal Executives:

- Level 3 Certificate and Professional Diploma in Law

## Resources

In addition to the resources listed below, publishers are likely to produce Pearson-endorsed textbooks that support this unit of the BTEC Nationals in Applied Law. Check the Pearson website

(<http://qualifications.pearson.com/endorsed-resources>) for more information as titles achieve endorsement.

### Textbooks

Price, Summerscales and Wortley, *BTEC Applied Law for Business*, Pearson – Written specifically for the new BTEC Applied Law specification.

### Journals

*A-level Law Review* (Hodder Education) – Available to subscribing schools, colleges and individual learners, this magazine is directed at level 3 law learners and publishes articles on aspects of tort law as well as updates in the law.

*New Law Journal* (LexisNexis) – Available for reference at many publicly accessible university law libraries, the New Law Journal covers all possible areas of law, and regularly features articles and cases on tort law.

*E-lawlearner* – This is a subscription-based online service, which can be purchased by the school or college. It provides up-to-date notes aimed at an A level audience and weekly updates on legal news and current affairs for tutors and lecturers.

*The Times Law* (The Times) – This supplement to *The Times* newspaper contains a wide range of articles on law, including tort law, and publishes law reports on a regular basis.

### Videos

Brief introductions to the Consumer Rights Act 2015 from:

- [Youtube.com/watch?v=781v8vfGvTQ](https://www.youtube.com/watch?v=781v8vfGvTQ)
- [Youtube.com/watch?v=XikOwjuU1kY](https://www.youtube.com/watch?v=XikOwjuU1kY)
- [Youtube.com/watch?v=Ulz-RRbByWs](https://www.youtube.com/watch?v=Ulz-RRbByWs)



## Websites

[www.citizensadvice.org.uk/consumer](http://www.citizensadvice.org.uk/consumer) – Advice network from Citizens Advice, including online, by phone and in person.

[www.gov.uk](http://www.gov.uk) – The government portal for government departments and policies.

[www.legislation.gov.uk](http://www.legislation.gov.uk) – The official home of UK legislation, including associated regulations. All Acts of Parliament and statutory instruments mentioned in either the unit specifications or this guide can be found here.

[www.which.co.uk](http://www.which.co.uk) – General access advice site with information on a wide variety of individual actions and possible claims.

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# Unit 6: Contract Law

## Delivery guidance

### Approaching the unit

Contracts are a vital, if often underestimated, part of everyday life. Aside from their importance in controlling legal relationships, they are a vital part of even the most basic transaction between individuals. A basic understanding of contract law is essential not only for learners who wish to pursue a career in law or study the subject further at a higher level but it is also an essential requirement for functioning in modern society. This unit will give you and your learners the chance to develop an understanding of this vital area of law and interact with case law and statutes, which govern the operation of contracts. This unit has wider application beyond the study of law and has far-reaching impact in areas of business and commerce.

Through the study of this unit, learners will develop an understanding of the stages in forming a contract, what elements are found in a contract, the ways that a contract may be undermined and the remedies that are available or the ways in which a contract can be completed.

This unit will give you an opportunity to introduce learners to the basic concepts of contract formation (including offer and acceptance, consideration and intention to create legal relations). Alongside this, you will get the chance to discuss other areas, which affect contract formation such as invitations to treat and how these affect the formation of contracts.

After establishing how a contract has been formed, you will present learners with information on the terms that are found in a standard contract. This will focus on the express terms (conditions, warranties and innominate terms), implied terms (either by the courts or by statute) and exclusion clauses (with consideration of how effective they are).

Following on from discussion of what terms will be found in a contract, there will be a chance to look at issues that will undermine the validity of a contract (such as misrepresentation, illegality and frustration) as well as the ways in which other parties may try to prove they have privity to a contract.

As a final area of consideration, it will be important for learners to know how a contract may be legally ended (such as through performance, breach of contract or by rejection of the contract) and what damages and remedies may be available in law for the breach of a contract.

To complete this unit and prepare learners for the internal assessments, your learners will need to demonstrate and apply an understanding of all the elements in forming and disputing a contract. This will also require an understanding of the modern context that contracts operate in (such as online and distance contracts and how these are governed by domestic and international law).



You could use a range of delivery methods in this unit, such as:

- A range of case studies and investigations into current UK and EU legislation, looking at how leading cases and statutes have built upon each other and developed the law of contract into a system of rules, which govern the operation of UK contract law
- Engaging in discussions of the important issues, such as whether the Postal Rule should still have legal effect or whether the UK should maintain EU regulations on online and distance selling after leaving the EU
- Presentations to show contract law from a range of perspectives (e.g., looking at the 'contracts' learners have entered into to get to their lesson).

This unit provides a number of opportunities for you to draw upon legal and industrial expertise from local lawyers and those involved in drafting and maintaining contracts to develop the understanding of your learners:

- Inviting local solicitors and barristers into sessions to speak to learners about contracts they have drafted for clients and the importance of contract law in their jobs
- Inviting a member of staff from your centre's HR department or Finance department to speak to learners about the types of contract that the centre enters into and how contracts are drafted
- Asking providers of work experience (such as law firms and chambers) to give learners opportunities to deal with contract law on a practical basis by carrying out work experience with lawyers dealing with drafting contracts for clients.

## **Delivering the learning aims**

### **Learning aim A**

Learning aim A is an introduction to the basic requirements involved in the formation of a valid contract. Contracts have a major impact on our everyday lives (from our contracts of employment in a particular job to a contract with a shop for the purchase of goods). A good way of introducing this content to learners may be to ask them to produce a list of all the contracts they have entered into in the previous week. This could open up into a general discussion about what a contract is.

Ask your learners to consider the steps that must be taken by the parties in the formation of a contract. You could begin with an initial presentation, which begins with simple definitions of offer and acceptance, consideration and intention to create legal relations and the relevant case law, which applies to each. After an initial presentation, you can give learners an opportunity for research by asking them to research the difference between offer and acceptance and invitation to treat. It may be useful to display their research in a comparative table. You could issue a further extension task by asking learners to research and write a question for other learners to look at how contracts are formed online and over long distances, and the relevant EU legislation which affects this. Learners could compose their own mark schemes and then peer mark the essays that they each complete. This might provide a useful



opportunity for learners to develop an understanding of the standards expected in their writing for an internal assessment.

When looking at intention to create legal relations, you can begin this by asking learners to produce a series of spider diagrams that outline the social and business settings in which it might be beneficial to create a contract. Once this area has been studied, you could produce a number of scenarios (based on leading cases) and ask learners to decide if a contract would be appropriate.

### **Learning aim B**

Learning aim B will build on learners' understanding of the formation of a contract and will get them to consider the elements that are found within a contract. To develop an appreciation of the terms found in a contract, learners will need to look at three main areas.

First, they will need to be able to clearly explain and identify conditions, warranties and innominate terms. Developing your learners' knowledge of these key terms is vital in supporting them as they grow in confidence in using contracts. Once learners have discussed the meanings of these terms and the appropriate case law, you could give them a sorting exercise, which requires them to divide a series of sticky notes with cases and definitions written on them into a relevant pile on their desk (e.g., conditions, warranties and innominate terms). Learners could be asked to go around the room and look at the responses of other learners to see how they responded to the task and to provide general feedback.

Second, learners will need to have a working understanding of implied terms and how these are imposed into a contract. It may be useful to produce a concise presentation looking at the ways in which implied terms have been introduced into a contract by the courts (through case studies of leading cases and their impact) and by statutes (by producing a summary poster of the main statutes that impose implied duties into contracts).

Finally, learners will need to understand what an exclusion clause is and identify whether these are valid within a contract. The learner should be able to explain different methods of imposing exclusion clauses and their effectiveness. Once learners have covered all the types of contractual terms that may be found, this would be a useful opportunity for an activity that could prepare them for the type of internal assessment they will be expected to produce. You could give learners a series of shorter contract templates (or a larger contract) and ask them to work in pairs to assess the validity of the terms found within the contract. This could take the form of initially identifying the types of term in the contract and moving onto using case studies to suggest if these are valid. As an extension task, learners could be asked to draft improvements or additions to the contract to further demonstrate their ability to identify problems and solutions when drafting contracts.

As a final activity before looking at a sample internal assessment, learners could be asked to draft their own contract in response to a scenario and produce a number of specific clauses. Using a standardised mark scheme, either devised by you or the learners themselves, learners could be asked in groups to grade the contracts and give feedback to show a critical understanding of the application of these principles.



### Learning aim C

Learning aim C requires learners to identify the factors that will undermine the validity of a contract. These are divided into broad headings that involve a number of specific areas of law. This could provide a good opportunity for learners to develop presentations on misrepresentation, illegality, frustration and the remedies available in a contract when these issues arise. For learners to effectively produce useful presentations on these complex areas of law, it may be appropriate to give smaller groups of learners a brief to work to and some template questions around which to craft their presentations. In addition to a presentation, learners could be asked to produce their own revision resource for each topic and to give this to the class after their presentation. This encourages learners to invest in producing their own bespoke resources and to produce revision aids that are relevant to the assignments they will be undertaking.

In this topic, you will need to explain to learners how the concept of privity to a contract operates and to identify the exceptions to this and when this may be challenged in court. In particular, ensure that learners are familiar with the relevant legislation regarding the rights of third parties to a contract and how their privity rights are asserted. You could give a short presentation and initiate a discussion into how the learners believe this area of law should operate. Consideration of the leading cases and statutes could lead into a more critical discussion of whether this area of law operates effectively or not.

### Learning aim D

Learning aim D, which is the final topic on this unit, requires learners to explain the situations in which a contract may be discharged and what remedies are available in law for a breach of contract.

When dealing with the situations in which a contract may be discharged (performance, breach or rejection), it may be useful to begin with a presentation and discussion of what these concepts mean and the relevant common law rules that have emerged for each, and how these are applied in relevant cases. To build on this, give learners a number of problem scenarios that share common elements with some of the leading cases. Ask learners to produce a legal opinion in relation to the scenarios, advising the parties on which area of discharge their scenario falls under.

After discussion of the remedies available in civil law for a breach of contract, as an extension task to the original scenario learners could give further advice as to the remedies that would be suitable for the parties in the original scenario.

As a preliminary activity before the final summative assignment, you could give learners an essay-style question asking them to evaluate the structure of contract law in relation to vitiating factors in a contract, reasons for discharge of a contract and the remedies available.

There is a maximum of three summative internal assessments that can be set for your learners to demonstrate a clear understanding of contract law. To prepare your learners for their assignments, you will need to give them practice questions and scenarios that deal with the relevant cases and statutes for



learning aims A,B,C and D. These preparatory assessments should ask them to think and apply the principles of contract law to a range of scenarios. As an extension, learners will need to be able to evaluate the key principles in contract law and assess how these rules and principles are applied in modern society as well as how effective they are in a number of challenging scenarios. It is important for learners not to focus on just one single issue in an assignment, but to consider the bigger picture and how all the elements of contract law that they have discussed in lessons are applicable to the scenarios and questions that they will be undertaking in their assignments.

## Assessment guidance

This unit is internally assessed and will consist of a maximum of three summative assessments (which should deal with all four of the learning aims in this unit). You will have the option of writing your own assignments that learners can respond to; however, you must ensure that the assignments effectively cover all of the learning aims (and the individual Pass, Merit and Distinction criteria within each). It is important that assessment is not simply a box-ticking exercise and that learners can progress from each criteria within a learning aim. With this in mind, it is essential that you produce assignments that are accurate and give learners the opportunity to produce the relevant evidence to support all the criteria within all the learning aims.

To support you in this, Pearson offers an assignment checking service that can be used to ensure that your assignments are appropriate before teaching. Alternatively, template assignments are available to use from the Applied Law section of the Pearson website.

To support your learners in preparation for their internal assessments, you will need to help them develop their own research and evaluation skills alongside classroom teaching into the relevant areas of law covered in the learning aims of this unit. This will allow them to respond to their assignments in a confident and legally accurate manner and to draw upon a range of resources in their discussion. In preparation for their assignments, it would be useful to set learners mock assignments that require them to demonstrate similar skills in explaining, applying and evaluating the impact of contract law in scenarios. However, this will only be effective at key points once certain topics and learning aims have been completed, and you as the tutor are confident that the learner can undertake the assignment on their own.



## Getting Started

**This provides you with a starting place for one way of delivering the unit, based around the recommended assessment approach in the specification.**

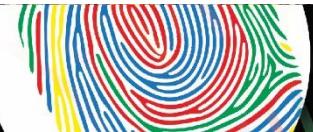
### Unit 6: Contract Law

#### Introduction

Contract law is an important part of our everyday lives. In teaching this unit, you will be giving your learners a vital insight into an area of law that affects nearly everything they do, whether it is how they get to your lesson, what rights they have in their job or simply buying their lunch in a shop. All these areas are governed by contract law. This is an area of law that has grown steadily through the development of case law and statute up to the present day. Throughout this unit, learners will deal with a range of cases and statutes and consider the implication they have on their lives. This unit will encourage learners to display a critical approach to the law and consider the problems with the current structure of contract law and how this might be improved in certain areas.

#### Learning aim A – Examine the necessary legal requirements to form a valid contract

- As an introduction to this unit and the concept of contracts, it would be useful as an introduction exercise to ask learners to individually compile a list of all the contracts they think they have signed in the last week (this period could be extended at the tutor's discretion). You could then combine the lists and ask learners to think about the contracts they might have missed (such as travel arrangements). Learners could be asked in pairs or small groups to go back to these lists and expand them. Learners could be asked in pairs to produce their own definition of what a contract is and share this with the class as part of a broad discussion of contracts before you begin the teaching of this topic.
- The next step might be to deliver a number of taught sessions looking at the key elements in the formation of a contract. You could devise a series of short lectures, each looking at one key element (e.g., offer, acceptance, consideration and intention to create legal relations). After each short lecture, ask learners to produce a revision resource (such as a poster) on each topic, which defines what each term meant and any key legal rules or cases that are relevant.
- It may be appropriate, once learners have developed an academic understanding of the concepts of contract law, to engage them with those involved in the drafting of contracts on a day-to-day basis. This is a good opportunity to get a contract specialist solicitor in to speak to learners about the kinds of contracts that they have drafted and the specific requirements for each based on their clients. This could be used to give learners working examples, which they could integrate into their assignments.
- You could extend this by engaging learners in a short research task looking at the difference between offer and acceptance and invitation to treat. Learners could produce a comparative table that defines these terms and compares the leading cases and rulings on each to show how they differ. As an extension task, learners could be given a case study (a real-life case, but one they have not looked at in lessons) to analyse and discuss whether they think this case is covered by the law of offer and acceptance or invitation to treat. Learners could attempt this task individually or in pairs and be asked to justify their position.
- As a final activity looking at contract formation, give learners a number of scenarios looking at individuals or organisations involved in forming a contract. Ask learners



specific questions about whether a contract has been formed or not, and then ask them to apply their knowledge in a broader sense of offer and acceptance, consideration and intention to create legal relations to the scenarios and provide concise legal opinions. Learners could then be asked to swap their responses with another learner, or within small groups, and then grade the responses given. It might be useful to issue learners with some general guidance on how to mark the work for this sort of activity.

### **Learning aim B – Explore the types of terms that are found in a contract**

- When introducing learners to learning aim B, it may be appropriate to begin with a brief presentation and discussion of what the three main types of terms are (express, implied and exclusion clauses). Once you are confident learners have an understanding of the types of term (and categories within each), there are a number of activities that you can use to develop your learners' understanding of this topic.
- When looking at the three main types of express terms in a contract, learners could be given a preliminary sorting task. Using large sheets of paper divided into three columns (Conditions, Warranties and Innominate terms), learners could then be given a series of cards with statements, cases and quotes from judicial authorities on and asked to assign each card to one of the three columns. You could use this as a stretching activity starting with a number of straightforward answers, which progressively get more difficult. Learners could then be asked to move around the room and look at the answers given by their classmates. Bring everyone back for a general feedback activity in which learners feed back to the tutor on the common strengths and areas for improvement on this topic.
- To introduce implied terms, give a concise presentation describing the types of terms that the courts and statute will impose into a contract and the reasons that this may be done. In response to this, you could then ask learners to produce two revision posters, one for terms implied by the courts and one for terms implied by statute and complete these with accurate definitions and use of cases and key sections from statutes.
- You could describe the types of exclusion clause and their effectiveness, and then set a short test asking learners to define what these key terms mean under timed conditions to ensure they are able to briefly and accurately explain the law in their own words.
- With the consent of your Human Resources department, this could be an appropriate point to bring in an HR specialist from within your college to talk about the basic features of employment contracts – perhaps ask them to bring in a template example for new staff. This could form the basis of a discussion with your internal guest speaker about what elements are vital to include in such contracts. This would provide an excellent synoptic overview of employment rights. Your HR specialist may want to talk about what both parties to the contract should get out of this arrangement. It may be useful to get learners to look at what your HR department does and how important employment contracts are before the speaker discusses these issues with the class.
- Once learners have finished looking at the types of term in a contract, in small groups (or pairs) give them a series of short template contracts, or a larger contract to look at. These contracts should be deliberately drafted or edited to have some major and some subtle errors in for learners to assess. Ask learners to initially simply identify the types of term in the contract, and then ask them to look further to identify what flaws there are with the terms in the contract. As a further extension task, learners could be asked to evaluate the problems with the contractual terms and to fix the terminology in the contract so that it is legally



accurate.

- A good summary task on this section before learners undertake an internal assessment may be for the learners to draft their own contracts and to insert deliberate errors in relation to the terms within. They could then swap their contract with another learner and ask them to remedy the inaccuracies within.

### **Learning aim C – Investigate the validity of a contract to determine contractual rights**

- In relation to the factors that may undermine the validity of a contract, you have an opportunity to engage learners in a constructive research and presentation task. Divide learners into pairs or small groups (possibly no more than four in a group) and ask them to research either a broad topic (such as misrepresentation, illegality, frustration or remedies) or one of the sub-topics within each section from the specification. In groups, ask learners to complete and deliver a concise presentation to the class on their topic. You could also ask groups to produce a revision resource on their topic, which could be used by the rest of the class as part of their preparation for their internal assignment. To ensure that each group remains focused on their key topic and that they produce appropriate resources, you could give learners a series of questions around which to build their research; these could then form the basis of their presentation. This could be used as an opportunity for peer assessment and learners could be encouraged to give feedback on the presentations.
- Learners will also need to understand how parties would declare privy to a contract and the rights that they would have in connection with this. After a presentation on this topic, you could engage learners in a constructive discussion about how third parties would become privy to a contract. This could be used then as the basis for a critical evaluation and asking learners to discuss whether the current legislation on privy to contracts is effective and why.

### **Learning aim D – Review the ways in which a contract may end and the remedies available**

- This final learning aim requires learners to demonstrate an understanding of the ways in which a contract may be discharged (ended). As a starting point for this learning aim, it would benefit learners for you to give an introduction and outline of the ways in which a contract may be ended (performance, breach and rejection of goods). This presentation, along with relevant case studies, could feed into a discussion about what these concepts mean and when they may be relevant in particular settings (e.g., partial-performance in relation to services provided by a tradesperson). Ask learners to produce summary tables for each area, with a focus on the common law rules and key cases for each area.
- Once they have completed this initial task, you could give learners a number of problem scenarios looking at individuals or organisations looking to end a contract. Individually or in small groups, encourage learners to discuss the scenarios and provide their own legal opinions on these scenarios, drawing on the leading cases and statutes they have studied. Learners could be asked as part of considering these legal opinions to decide which of the possibilities of ending a contract the particular scenario falls into.
- As a contrasting viewpoint to the earlier guest speaker, a solicitor, you may want to contact a local chambers and ask a barrister specialising in contract law and disputes to speak to learners. At this point, learners could potentially prepare and research their own questions to ask about contract law and use this as an



opportunity to gain extra information for their evaluation of this content.

- As this is the final learning aim, this provides a good chance to consolidate prior learning and encourage learners to link their knowledge of the previous learning aims within this unit.

You could give learners a series of essay-style questions alternating between short answer questions to check understanding of the areas of law, to more developed scenario-style questions in which learners would need to apply the principles of contract law. This would provide a chance to stretch learners with more evaluative style questions to develop the skills needed to complete distinction level activities. You could ask them to look specifically at the advantages and disadvantages of the current law on contract in relation to modern communication methods (such as online contracts or distance selling). Produce a short mark scheme in advance for these questions and get learners to peer mark, or mark the answers yourself, and provide feedback to encourage learners to focus on developing their skills in areas relevant to the internal assessment.



## Details of links to other BTEC units and qualifications, and to other relevant units/qualifications

This unit links to:

- Unit 1: Dispute Solving in Civil Law
- Unit 5: Consumer Law

This unit would benefit from employer involvement in the form of:

- guest speakers such as solicitors, barristers, HR staff and finance officers
- visits to a legal team within a business looking at the contracts they deal with
- work experience in a law firm, Citizen's Advice Bureau.

## Resources

In addition to the resources listed below, publishers are likely to produce Pearson-endorsed textbooks that support this unit of the BTEC Nationals in Applied Law. Check the Pearson website (<http://qualifications.pearson.com/endorsed-resources>) for more information as titles achieve endorsement.

### Textbooks

Bateman E, Blundell G, Smith P, Whelan P, Wilman J and Wortley R, *AQA A2 Law* (Second Edition), Nelson Thornes, 2013 ISBN 1408519712 – While not a specific contract law textbook, this is a useful and accessible textbook that gives a good general overview of the main elements of Unit 6; it is also an extremely useful resource for the externally assessed Unit 3.

Darwent P and Yule I, *AQA A2 Law Student Unit Guide New Edition: Unit 3 Criminal Law (Offences Against the Person) and Contract Law* (First Edition), Philip Allan, 2013 ISBN 1444173731 – Another textbook, which, while not specifically dedicated to contract law, provides a concise and effective overview of the core elements of contract law that learners will need to know for the assignments. Useful for all elements of Unit 6.

Elliot C and Quinn F, *Contract Law* (10th Edition), Pearson, 2015 ISBN 1292064471 – A specialised contract law textbook that provides extended insight into all of the learning aims within this unit. This could be used alongside learner's notes to provide extended discussion and research points in producing assignments.

Finch E and Fafinski S, *Law Express: Contract Law (Revision Guide)* (5th Edition), Pearson, 2016 ISBN 1292086866 – A short revision book that provides a brief summary for all the key areas of contract law. Should be used to support learner's notes and offer a quick revision point on key topics.

McKendrick E, *Contract Law, Text, Cases and Materials* (Seventh Edition), OUP, 2016 ISBN 0198748396 – Considered to be one of the leading textbooks on contract law, this is the definitive resource for those looking to develop a detailed understanding of contract law. This gives extensive coverage and discussion of all the relevant elements of Unit 6. However, this is a University standard text and should only be used for extended research and Distinction standard evaluation.



## Websites

<http://alevellaw.doomby.com/> – Winstanley College – A general A-Level Law site that does have some resources on contract law. While not extensive, it provides a good starting point in understanding the key elements in contract formation.

<http://e-lawresources.co.uk/Contract.php> – A free online resource that gives a brief overview of lots of the content for Unit 6. This could be used as a brief starting point for research and finding key cases.

<http://www.legalmax.info/#t=welcome2.htm> – A dedicated website run by author Max Young that looks at the key elements of contract with dedicated lecture and notes sections, which may be useful as a basic research point for learners in class activities.

<http://www.tutor2u.net/law> – A generally interesting and frequently updated site that gives interesting articles on contract law.

*Pearson is not responsible for the content of any external internet sites. It is essential for tutors to preview each website before using it in class so as to ensure that the URL is still accurate, relevant and appropriate. We suggest that tutors bookmark useful websites and consider enabling learners to access them through the school/college intranet.*



# Unit 7: Aspects of Tort

## Delivery guidance

### Approaching the unit

Your learners need to be well prepared for their assignments, so it is important that they compile a portfolio for this unit with notes, activities and research. You could suggest they organise these materials in sections relating to each learning aim as well as compiling a section for general use. You could also ask learners to compile a glossary of relevant terminology for use in this unit as an ongoing activity. You need to demonstrate how your learners can find facts about different types of tort actions by introducing them to textbooks, specific websites, journals, and local and national news sources, and explain words and key terms. Stress the importance of using up-to-date resources. You should also remind learners that most areas of tort law have been developed through judicial precedent. The glossary should also list relevant precedent cases.

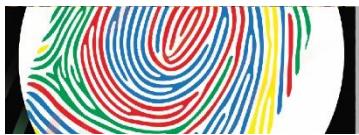
### Delivering the learning aims

Tort law should be an interesting area of study for your learners. They, or someone they know, might have been involved in an accident on the roads or at work or have suffered from noise issues at home, for example. The rules in tort are often decided on case precedents and there are numerous reported cases on each topic even if there are fewer cases reported compared to crime. You could look at a reported case or an extract of a law report to identify the facts, the issues and if there is a precedent that comes from the case. You could also consider with learners possible claims that may arise from major disasters or reported accidents at theme and leisure parks or from more local claims such as road accidents.

Your learners will have already studied *Unit 1: Dispute Solving in Civil Law* in which the basic rules of negligence claims were covered, so the introduction to this unit will be a recap. Following on from this, a further step will be to encourage learners to identify the specific rules that relate to psychiatric injuries and negligent misstatement and to consider why there are additional hurdles for claimants in these areas to overcome.

Provide opportunities for your learners to consider actions based on the ownership of land. These will include occupier's liability, which can be thought of as a branch of negligence. Demonstrate that duty of care is owed to visitors and if there is injury or damage to the visitor, the duty has been broken. After this, you can compare non-fault based liability of property claims in nuisance and *Rylands v Fletcher*. Encourage your learners to consider another practical aspect of strict liability, the reasons for the existence of vicarious liability, and provide opportunities for comparing those who are self-employed with learners' own situation in the workplace.

It is important to use a range of delivery methods, including discussions, role plays, case studies and presentations, as well as research exercises on aspects of law and decided cases.



Learners will benefit from a range of different approaches. Most mock trials concentrate on criminal cases, but there is no reason why an accident claim could not be the basis of a mock trial or role play. Discussing and setting up role plays about nuisance cases gives an opportunity for learners to engage in negotiation or mediation about their situation. Ask learners to carry out research into the amount of damages that might be awarded in an accident claim and organise a competition to see who can find the most amount of damages awarded in real-life cases.

You could add some variety by inviting guest speakers and highlighting links to career options and employability skills. It might be interesting to get a representative from an insurance company to discuss their approach to defending claims and hear their views on alternatives to the current fault-based system. If possible, invite a local landowner or developer to hear their views on the law of occupier's liability, especially the law as it applies to trespassers.

You can involve local employers in the delivery of this unit by inviting them as:

- guest speakers
- audience members who can feed back on learner presentations
- mentors.

Local employers could offer work experience or work placements, cooperate in the setting of assignments or act as judges for mock trials and/or awards of damages.

### Assessment model (in internally assessed units)

Learning aim	Key content areas	Recommended assessment approach
<b>A</b> Examine the principles of tort and liability in negligence for psychiatric harm	<b>A1</b> Objectives of the law of tort <b>A2</b> Law relating to duty of care, breach and damage <b>A3</b> Psychiatric harm <b>A4</b> Aim and calculation of damages	Provision of legal advice to case study problems Presentation of advice to a client or to a professional audience to conclude on liability. Also to include the potential amounts of damages
<b>B</b> Explore liability for economic loss and negligent misstatement	<b>B1</b> Economic loss <b>B2</b> Negligent misstatement	Evaluation of the current law
<b>C</b> Investigate the law on occupiers' liability and vicarious liability	<b>C1</b> Occupiers' liability <b>C2</b> Vicarious liability	
<b>D</b> Explore liability for private nuisance and <i>Rylands v Fletcher</i> liability	<b>D1</b> Private nuisance <b>D2</b> <i>Rylands v Fletcher</i> liability	



## Assessment guidance

This unit is internally assessed through a maximum of three summative assignments: one for learning aims A and B, one for learning aim C and one for learning aim D.

Summative assignments can each include a number of tasks, although each task should be related directly to the assignment as a whole. It is important that you give learners a realistic and achievable number of tasks for each assignment.

You should set an assignment that is a scenario. It should include clear signals to learners to enable them to identify the possible claims and to give advice to named claimants. When answering the problems in the scenario, learners should be encouraged to explain the rules of law that apply and support their explanation by reference to relevant precedent cases. Once they have set out the rules, the learners should apply the rules to the problems in the scenario. Encourage your learners to conclude their assignments by giving clear advice to those involved.

To help learners deal with evaluative issues effectively, encourage your learners to clearly explain the problem and to make valid suggestions for reform. These suggestions do not have to be novel, but should be realistic. You should encourage your learners to comment on the effectiveness of the suggested reform.

BTEC assessors should complete observation records, while others such as mentors and observers can complete witness statements. Observation records alone are not sufficient sources of learner evidence; the original learner-generated evidence must support them.

All learners must independently generate individual evidence that can be authenticated. The main sources of evidence for this unit are likely to be letters, written briefs, file notes, emails or reports providing advice and, where appropriate, evaluating current law. Learners should incorporate in-depth research that is corroborated by a fully referenced bibliography.



## Getting started

This provides you with a starting place for one way of delivering the unit, based around the recommended assessment approach in the specification.

### Unit 7: Aspects of Tort

#### Introduction

This unit is designed to build on the material in *Unit 1: Dispute Solving in Civil Law*, which will have been completed as part of the Certificate course. In that unit, learners will have been introduced to the basic rules of negligence as well as the structure of the system in which they operate. This will have covered the courts, lawyers, funding, alternatives to the civil courts and the system of judicial precedent. Unit 7 develops that understanding and provides a contrast to the mandatory crime material covered in Unit 3.

Each of the areas in this unit needs to be understood, applied to problem situations and evaluated in the light of the changing nature of the law. The principles involved behind court decisions need to be explained and considered as these will help learners understand the effect of the decisions.

#### Learning aim A – Examine the principles of tort and liability in negligence for psychiatric harm

- Begin by reminding learners of the concept of negligence in law. A good case to explore is *Donoghue v Stevenson [1932]* as it established the concept of a duty of care and the liability of a business for the quality of its goods. Learners can look this case up online – there are many reliable sources – and the class can discuss the tests and remedies flowing from it. The three-stage test of the existence of a duty of care from *Caparo v Dickman 1990* can then be investigated, together with cases that explain the reasoning for each of the stages.
- Divide learners into pairs and ask them to consider, discuss and research the following key terms in negligence: duty of care, breach of duty, causation and foreseeability. You could give each group a key term and ask each group to present their findings to the whole class. Provide a basic text of tort to the groups, which will give definitions to all these terms, as will a period of time dedicated to online research.
- As a group, explore remedies available to the courts, including pecuniary and non-pecuniary damages, and how these differ from criminal punishments. Consider case studies to see how damages can be calculated. Set up time for learners to role play and act as lawyers for claimants and defendants to argue the amount of damages that should be awarded. Can they convince an independent employer or judge of their arguments?
- Using the components of the tort of negligence that they have investigated, learners can now form groups to consider claims for psychiatric, as opposed to physical, injury looking at the types of injury that can be claimed for, the development of the law and the possible remedies. Each group can be given a different case to research in the development of the rules. The results of this activity could be presented by each group via an illustrated flipchart or presentation. Watching a video about the events of Hillsborough is a powerful illustration of the background to claims of nervous shock. You can then lead a detailed discussion of the Alcock criteria – from *Alcock v Chief Constable of South Yorkshire 1991* – and their application to primary and secondary victims, bystanders and rescuers. Explain the reasons for these criteria and ask learners to evaluate them, which could lead on to a discussion on the merits of the floodgates argument.



- Again, learners can role play to present arguments about the right to compensation and the amount of damages that should be awarded to victims of psychiatric injury.
- Distribute short case studies on claims for personal and psychiatric injury, asking learners to consider liability and potential remedies in each case. An evaluation of the current law should be covered, perhaps in the form of a short report.

### **Learning aim B – Explore liability for economic loss and negligent misstatements**

- Using the components of the tort of negligence, duty, breach and damage, learners can now form groups to consider claims for financial, as opposed to physical, loss, looking at the types of loss that can be claimed, the development of the law and the possible remedies. Give each group a different scenario to illustrate the operation of the special relationship. The results of this activity could be presented by each group via an illustrated flipchart or presentation.
- You can then lead on to a detailed discussion of the requirements of a 'special relationship' from *Hedley Byrne v Heller and Partners 1964* and *Caparo v Dickman 1990* and their application to certain situations. Present to learners the reasons for these criteria and ask learners to evaluate these. Again, the discussion on the merits of the floodgates argument could be undertaken to illustrate this.
- Distribute short case studies on economic loss and negligent misstatement, asking learners to consider liability and potential remedies in each case. Learners' findings can then be discussed as a group. An evaluation of the current law should also be covered, perhaps in the form of a short report.

### **Learning aim C – Investigate the law on occupiers' liability and vicarious liability**

- Initiate a group discussion around occupiers' liability, starting with an explanation of who an occupier might be using the case study of *Wheat v E Lacon & Co Ltd 1966* to illustrate this. Different groups of learners can be given a category of lawful visitor to investigate (adult, children and professionals, independent contractors) to explore how the rules on the existence of the common duty of care and any defences apply to that particular type of visitor. Role plays arguing the merits of potential claims and possible remedies for successful claimants could be performed.
- The initial discussion can then be developed further by looking at the different rules that apply to lawful visitors and trespassers and the reasons for those rules. Possible remedies for both categories of successful claimants could also be covered.
- Again role plays of lawyers arguing the merits of the claim could be countered by judges defending policy approaches.
- For vicarious liability, ask learners to discuss, in small groups, what they think the words 'employee' and 'independent contractor' actually mean, perhaps using their own experiences and those of members of their family. Consider as a group the amount of control an employee or independent contractor has in what they do in their work and how they do it. Many learners will be able to understand the reasons behind this form of liability because of their own part-time work experiences. Set up a quiz for learners on the characteristics of employment.
- This will lead onto an investigation of 'acting in the course of employment' using decided cases such as *Lister v Hesley Hall Ltd 2001*, *Century Insurance v N. Ireland Road Transport 1942*, *Rose v Plenty 1976* and *Hilton v Thomas Burton (Rhodes) Ltd 1961*. The reasons for the existence of vicarious liability can be discussed from both the employer's view and the injured victim.
- Give out short case studies on occupiers' liability and vicarious liability, asking



learners to consider responses and potential remedies in each case. An evaluation of the current law should also be covered, perhaps in the form of a short report.

### **Learning aim D – Explore liability for private nuisance and *Rylands v Fletcher***

- Explain to learners that these are different areas of tort as they arise out of the use of land, but in a different way from occupier's liability. The basic concepts of private nuisance are well established, but this area of law is becoming more refined as a result of recent court decisions. Courts are having to balance the use of property in modern life with an increasingly frustrated and litigious society.
- Lead a group discussion around what is a claimable private nuisance, who can claim and against whom and what 'reasonable' might mean. Learners can draw on their own experiences and consider whether their experience, or perhaps an event that they have attended amounted to a nuisance in law. Groups can be given a factor of reasonableness with a relevant case to investigate. Each group could present the results of this investigation. Factors that can be considered include malice, the character of the neighbourhood, duration, social benefit and coming to the nuisance. Practice tasks could be undertaken to consider which factors apply and how the case could be resolved to the satisfaction of both sides.
- You can lead a group discussion of the benefit of a strict liability action in *Rylands v Fletcher* for property damage as opposed to claiming in negligence. The requirements of an action in this tort can be considered – storage, escape and the damage being reasonably foreseeable, together with relevant cases and possible outcomes.
- Distribute short case studies on nuisance and *Rylands v Fletcher* liability, asking learners to consider responses and potential remedies in each case. Provide an evaluation of the current law and ask learners to sum this up in a short report or leaflet.



## Details of links to other BTEC units and qualifications, and to other relevant units/qualifications

Pearson BTEC Level 3 Certificate in Applied Law Unit 1

Pearson BTEC Level 3 Nationals in Business (NQF):

- Unit 23: The English Legal System

Chartered Institute of Legal Executives:

- Level 3 Certificate and Professional Diploma in Law
  - Unit 5: Law of Tort

## Employer involvement

This unit would benefit from employer involvement in the form of:

- guest speakers from solicitors, barristers, judges, magistrates, police
- court visits
- work experience in the legal sector
- law materials as exemplars
- support from local legal staff as mentors.

## Resources

In addition to the resources listed below, publishers are likely to produce Pearson-endorsed textbooks that support this unit of the BTEC Nationals in Applied Law. Check the Pearson website

(<http://qualifications.pearson.com/endorsed-resources>) for more information as titles achieve endorsement.

As with other units, learners should have access to a suitable teaching environment with access to the internet to enable them to carry out research. Library resources for this unit should concentrate on basic legal reference books appropriate to this level.

You may consider developing a bank of resource materials to ensure there is sufficient supply of relevant information.

Learners can generate evidence from work placements or work experience, family businesses and experiences.

### Textbooks

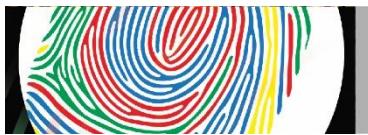
Price, Summerscales and Wortley, *BTEC Applied Law for Business*, Pearson – It has been written specifically for the new BTEC Applied Law specification.

### Journals

*A Level Law Review* (Hodder Education) – Available to subscribing schools, colleges and individual learners, this magazine is directed at Level 3 Law learners and publishes articles on aspects of tort law as well as updates in the law.

*The New Law Journal* (LexisNexis) – Available for reference at many publicly accessible university law libraries, this journal covers all possible areas of law, and regularly features articles and cases on the law of tort.

*The Times Law* (The Times) – This supplement to *The Times* newspaper, contains a wide range of articles on law, including tort law, and publishes law reports on a regular basis.



## Videos

- YouTube – 20th anniversary of Hillsborough disaster – BBC – provides an explanation of the events at Hillsborough, allowing a consideration of the Alcock criteria for claims of psychiatric injury.
- Search for: *Football Focus - 20th anniversary of Hillsborough disaster pt 1.*

## Websites

[www.bailii.org](http://www.bailii.org) – the British and Irish Information Institute – access can be had to many full law reports from appeal courts.

<https://www.citizensadvice.org.uk/consumer/> – General access advice site with information on a wide variety of individual actions and possible claims.

[www.gov.uk](http://www.gov.uk) – The government portal for government departments and policies.

[www.legislation.gov.uk](http://www.legislation.gov.uk) – The official home of UK legislation, including associated regulations. All Acts of Parliament mentioned in either the unit specifications or this guide can be found here.

*Pearson is not responsible for the content of any external internet sites. It is essential for tutors to preview each website before using it in class so as to ensure that the URL is still accurate, relevant and appropriate. We suggest that tutors bookmark useful websites and consider enabling learners to access them through the school/college intranet.*