

Unit 25: Property Law in Construction

NQF Level 3: BTEC National

Guided learning hours: 60

Unit abstract

This unit will enable learners to develop their knowledge and understanding of the legal aspects of the property market, as an initial step in working with property. Employment opportunities for learners will include working as an estate agent or estate manager, compiling Home Information Packs (HIPs), buying and selling property (conveyancing), working for developers, local authorities or housing associations or other social landlords.

The unit looks at the development of property law, the current framework and its application. From the original system based on feudal law, the unit traces the development into the current system of freehold and leasehold ownership. Freehold aspects deal with ownership and the relevant restrictions, the role of Her Majesty's Land Registry and the legal requirements surrounding conveyancing, including compilation of HIPs and the various surveys required. The relevant Acts of Parliament are also considered.

Leasehold is introduced to examine the relationships between owners and tenants, both residential and business. A study of contracts and the relevance of conditions and covenants supplement the outline of the various types of lease. Aspects such as insurance, fixtures, eviction, renewal and repairs are fundamental to understanding the work involved.

There is also a section concerning dealing with neighbour disputes, which is becoming a major source of work for those conversant with property law.

Learning outcomes

On completion of this unit a learner should:

- 1 Understand the development of land law and the current system of land ownership in the United Kingdom
- 2 Understand the rights of freeholders and their interests in landed property
- 3 Know the role of Her Majesty's Land Registry (HMLR) and local authorities in property ownership
- 4 Understand the system of conveyancing of property in England and Wales
- 5 Know the legal relationship between landlord and tenant and be able to analyse disputes between neighbours.

Unit content

- 1 Understand the development of land law and the current system of land ownership in the United Kingdom**

Land law: property; ownership; possession; occupation

History of land law: the feudal system; common law; Law of Property Act 1925; Land Registration

Legal interests in property: Fee Simple Absolute in Possession; Term of Years; Equitable Interests; Fee Tails; the Crown Estates; licenses

- 2 Understand the rights of freeholders and their interests in landed property**

Freehold: Title Deeds; Fee Simple Absolute in Possession

Restrictions on ownership: Town and Country Planning Acts; Civil Aviation Acts; mineral deposits; Treasure Trove; wild animals; Third Party Rights; Over-riding Interests; mortgages

Servitudes: Profits a Prendre; Easements; Dominant and Serviant; rights of light; rights of way; wayleaves

Occupiers liabilities: negligence; nuisance

- 3 Know the role of Her Majesty's Land Registry (HMLR) and local authorities in property ownership**

Her Majesty's Land Registry: process of land registration; the Land Certificate; property description; proprietor; charges register; map

Offices: contact details; structure; progress of registration of all UK properties; how to register

Open register: advantages; computerisation; how to obtain information from the register; costs involved

- 4 Understand the system of conveyancing of property in England and Wales**

Essentials of a contract: offer and acceptance; intention to create legal relations; consent must be genuine; capacity; consideration; legality; possibility; applied to buying and selling property

Conditions of contract: standard conditions; express and implied conditions; small print; remedies for breach of contract

Contract: forms; procedure; termination of a contract; exchanging; deposits; signing

Searches: local authority; Preliminary Enquiries of Vendor; Land Registry; home information packs (HIPs)

5 Know the legal relationship between landlord and tenant and be able to analyse disputes between neighbours

Leasehold: terms of years absolute; tenancy agreements

Types of lease: long lease (> 21 years); shorthold lease; periodic leases; residential leases; social housing leases; business leases

Landlord and tenant obligations: contracts for leases; implied and express covenants; breach of covenant; rent, repairs and other obligations; service charges

Statutory requirements: Rent Acts; Landlord and Tenants Acts; Housing Acts; Tenant's Charter; Right to Buy; enfranchisement; fixtures and improvements

Boundaries: definitions; fixed and general cadastral systems

Disputes: procedures; use of expert witnesses; the requirement for accurate surveys; case studies; legal requirements

Grading grid

In order to pass this unit, the evidence that the learner presents for assessment needs to demonstrate that they can meet all of the learning outcomes for the unit. The criteria for a pass grade describes the level of achievement required to pass this unit.

Grading criteria		
To achieve a pass grade the evidence must show that the learner is able to:	To achieve a merit grade the evidence must show that, in addition to the pass criteria, the learner is able to:	To achieve a distinction grade the evidence must show that, in addition to the pass and merit criteria, the learner is able to:
P1 understand the legal system where it concerns property and ownership		
P2 describe the contents of HMLR Land Certificates and the type of data obtained through the local authority searches	M1 compile necessary documentation concerning land registration and searches	D1 produce a home information pack to the standard expected in the industry
P3 understand the sequence required to complete a conveyance, from the initial survey, through HIPs, to exchange and completion of contracts	M2 outline how contract law applies to conveyancing and leases	
P4 determine the rights and obligations of landlords and tenants	M3 compile a lease document with relevant conditions and covenants.	D2 use case studies to evaluate possible outcomes of disputes between landlord and tenant.
P5 identify the causes of disputes between neighbours and suggest possible remedies.		

Essential guidance for tutors

Delivery

Tutors delivering this unit have opportunities to use a wide range of techniques. Lectures, discussions, seminar presentations, site visits, supervised practicals, research using the internet and/or library resources and the use of personal and/or industrial experience are all suitable. Delivery should stimulate, motivate, educate and enthuse learners. Visiting expert speakers could add to the relevance of the subject.

The unit is intended to give learners a wide-ranging introduction to property law. All the learning outcomes are linked and form a logical, consistent and progressive structure, starting with the legal background to property ownership, taking learners through types of legal ownership and the methods used to record and transfer property. The rules and regulations of leasing the property are covered, together with the processes used to deal with bad neighbours.

Teaching and learning strategies designed to support delivery of the learning outcomes should take an integrated learner-centred approach. This would involve learners in applying the theory to their own property and completing (as a simulated exercise) the required forms for that property (HMLR, local authorities searches, HIPs, contracts and leases).

Examples should be used continually to support the delivery process and should always reflect real life and standard practices, so that learners can adapt the information to suit their own circumstances. For example, exercises such as analysis of sample HMLR, searches, HIP, contracts and leases would be studied and then blanks used for the learners own data.

Many of the documents, samples and blanks can now be accessed through the relevant websites, including local authorities and HMLR and many independent solicitors now offer theory on their advice pages.

Group activities are permissible, but tutors will need to ensure that individual learners are provided with equal experiential experience and assessment opportunities.

Health, safety and welfare issues are paramount and should be strictly reinforced through close supervision of all workshops and activity areas, and risk assessments must be undertaken prior to practical activities. Centres are advised to read the *Delivery approach* section on page 24, and *Annexe G: Provision and Use of Work Equipment Regulations 1998 (PUWER)*.

Assessment

Evidence for this unit may be gathered from a variety of sources, including well-planned investigative assignments, case studies or reports of practical assignments.

There are many suitable forms of assessment that could be employed, and tutors are encouraged to consider and adopt these where appropriate. Some examples of

possible assessment approaches are suggested below. However, these are not intended to be prescriptive or restrictive, and are provided as an illustration of the alternative forms of assessment evidence that would be acceptable.

Some criteria can be assessed directly by the tutor during practical activities. If this approach is used suitable evidence would be observation records or witness statements. Guidance on the design of suitable assignments is available on page 19 of this specification and class exercises.

The structure of the unit suggests that the grading criteria may be fully addressed by using three assignments.

Evidence for learning outcomes may be achieved through well-planned assignments and projects. These will usually be undertaken individually, covering the aspects concerning landlord and tenant, and conveyancing. Where available, evidence from the workplace can also be incorporated to enhance the learning outcomes, provided that this evidence is appropriate and authenticated as the learner's own work. The volume of evidence required for each assessment should take into account the overall number of assessments being contemplated within this unit and the design of the overall teaching programme.

The structure of the unit suggests that three main assignments plus one class exercise are needed to produce the evidence required for achievement of all of the grading criteria. The first of the main assignments would cover P2, M1 and D1, the second would cover P3 and M2, and the third would cover P4, M3 and D2. P1 and P5 could be covered by class exercises.

To achieve a pass grade learners must meet the five pass criteria listed in the grading grid.

For P1, learners must be able to understand the legal system where it concerns property and ownership. This must be with reference to the origins in the feudal system and the impact of the 1925 legislation. Evidence for this criterion could be provided in the form of a presentation, a report or through oral questioning.

For P2, learners must be able to describe the contents of HMLR Land Certificates and the type of data obtained through the local authority searches. Examples of suitable evidence approaches are as for P1.

For P3, learners must be able to understand the sequence required to complete a conveyance, from the initial survey, through HIPs, to exchange and completion of contracts. Examples of suitable evidencing approaches are as for P1.

For P4, learners must determine the rights and obligations of landlords and tenants. This is as indicated in the implied covenants from the various legislation. Examples of suitable evidence approaches are as for P1.

For P5, learners must be able to identify the causes of disputes between neighbours and suggest possible remedies. Examples of suitable evidence approaches are as for P1.

To achieve a merit grade learners must meet all of the pass grade criteria and the three merit grade criteria.

For M1, learners must show ability to compile necessary documentation concerning land registration and searches. These must include the HMLR Land Certificate and a set of each Local Authority searches and Questions to Vendor. The scenario may be hypothetical but the evidence should be submitted on the appropriate forms.

For M2, learners must outline how contract law applies to conveyancing and leases. This can be achieved by applying aspects of conveyancing to each of the essentials of a contract, the contract documents, standard conditions of contract and methods of termination.

For M3, learners must compile a lease document with relevant conditions and covenants. These must be relevant to their property (either as a lessee or lessor). The scenario may be hypothetical but the evidence should be submitted on the appropriate forms.

To achieve a distinction grade learners must meet all of the pass and merit grade criteria **and** the two distinction grade criteria.

For D1, learners must be able to use the data collected to produce an HIP to the standard expected by industry. The data may come from secondary sources if necessary.

For D2, learners must use case studies to evaluate possible outcomes of disputes between landlord and tenant. These must be based on breaches of covenant. Examples of suitable evidencing approaches are as for P1.

Links to National Occupational Standards, other BTEC units, other BTEC qualifications and other relevant units and qualifications

This unit provides progression to units in property administration and estate management at Higher National and degree level.

This unit may have links to the Edexcel Level 3 Technical and Professional NVQs for Construction and the Built Environment. Updated information on this, and a summary mapping of the unit to the CIC Occupational Standards, is available from Edexcel. See *Annexe D: National Occupational Standards/mapping with NVQs*.

The unit provide provides opportunities to gain Level 3 key skills in communication, information and communication technology and problem solving. Opportunities for satisfying requirements for Wider Curriculum Mapping are summarised in *Annexe F: Wider curriculum mapping*.

Essential resources

There are no special resources required for this unit other than access to the necessary forms from local authorities and HMLR and up-to-date case studies. Much Current information can be obtained from newspapers and journals (such as *Estates Gazette* and *Chartered Surveyor Monthly*) and from various internet sites.

Indicative reading for learners

Textbooks

Card R, Murdoch J and Murdoch S – *Estate Management Law, 6th Edition* (Butterworth, 2006) ISBN 0406963754

Garner and Frith – *A Practical Approach to Landlord and Tenant* (Oxford University Press, 2003) ISBN 0199254524

Keenan and Smith – *Smith's and Keenan's English Law* (Longman, 2001)
ISBN 0582438160

Male J M – *Landlord and Tenant* (FT Prentice Hall, 1998) ISBN 0273634372

Padfield and Barker – *Law Made Simple* (Heinemann Educational Secondary Division,
1998) ISBN 0750639148

Key skills

Achievement of key skills is not a requirement of this qualification but it is encouraged. Suggestions of opportunities for the generation of Level 3 key skill evidence are given here. Tutors should check that learners have produced all the evidence required by part B of the key skills specifications when assessing this evidence. Learners may need to develop additional evidence elsewhere to fully meet the requirements of the key skills specifications.

Communication Level 3	
When learners are:	They should be able to develop the following key skills evidence:
<ul style="list-style-type: none"> discussing case studies concerning bad neighbours considering standard conditions of contract and lease documents. 	C3.1a Take part in a group discussion. C3.2 Read and synthesise information from at least two documents about the same subject. Each document must be a minimum of 1000 words long.
Information and communication technology Level 3	
When learners are:	They should be able to develop the following key skills evidence:
<ul style="list-style-type: none"> finding the relevant documents from the various websites. 	ICT3.1 Search for information using different sources, and multiple search criteria in at least one case.
Problem solving Level 3	
When learners are:	They should be able to develop the following key skills evidence:
<ul style="list-style-type: none"> identifying the causes of neighbour disputes. 	PS3.1 Identify a problem and identify different ways of tackling it.