



Unit 42: Aspects of UK Civil Liability Affecting Business

Delivery guidance

Approaching the unit

This unit will probably be learners' first venture into the world of UK civil liability. It has elements of both common law (as in the tort of negligence and contract formation) and statute law (as with consumer protection legislation). It is an introductory unit to the subject, and you will wish to have a reasonable amount of informational delivery, as well as in-class tasks, for learners, in order to ensure a basic understanding of the subject. UK law changes and is updated continuously. Centres are always advised to use the most up-to-date law whenever possible.

Following an initial taught session on the various components of UK civil liability affecting business, learners should be encouraged to research and explore the topics, using some of the resources suggested at the end of this guide, and/or any others you have available.

Learners should look at the fundamentals of UK business liability – what negligence is in law and the various tests required for a duty of care, together with available remedies if a breach of the duty is proved. Protections available to UK employees through vicarious liability and their limitations should also be considered. The basic rules for the formation of a contract and the additional protections available to customers via consumer protection legislation are also required content for the unit.

By setting tasks in class and giving formative feedback, you will be able to gauge learners' understanding of these topics. This guide contains some suggested activities for you to consider.

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

- informational delivery (tutor-led instruction), particularly at the beginning of each learning aim
- discussions – class and small group discussions on topics such as who is liable to whom and for what, and the remedies available
- individual or group presentations – for example on problems arising from the sale and supply of goods and services, and the protection of consumers in UK statute law
- UK case studies – excellent for illustrating cases in negligence, vicarious liability and occupier's liability and the formation of contracts
- videos – there is some material available online (on video-sharing websites), although it tends to be presented from an insurance point of view. Nevertheless, it can be useful for learners to become aware of the range of products available to meet the various liabilities that employers can be exposed to. There is a link to one of them (*Hiscox*) on the resources page.

Group work is an acceptable form of delivery, but you must ensure that learners individually produce evidence that is sufficient for assessment.

You can involve local employers with knowledge and experience of UK civil liabilities in the delivery of this unit by inviting them as:

- guest speakers
- mentors for learners
- audience members who can give feedback on learner presentations
- providers of business materials as basis for case studies and exemplars
- providers of opportunities for work experience for learners.

Delivering the learning aims

Your learners need to be well prepared for their assignments, and it is important that they compile a folder or portfolio with their notes, activities and research, as these could be useful evidence. Learners may find it helpful to organise these materials in sections relating to each learning aim together with a section for general use. Learners could also compile a glossary of legal terminology as an ongoing activity. You need to show learners how to find facts about cases and statutes by introducing them to law books and tables of cases and statutes (you will need to explain law report abbreviations to them); you also need to stress the importance of using up-to-date resources.

This unit is based on aspects of UK civil liability and must be delivered from a UK perspective.

For learning aim A introduce the topic of the elements of negligence by an initial overview of the aim. This could include, for example, a brief synopsis of the learning aim, followed by a group discussion around key questions. For example, what is the law of tort, the role of the courts in establishing case /common law and the depth of knowledge learners will need to aim for. This should set the scene for some initial research by learners on these topics, perhaps including searching for examples of cases, even if they are not, at this stage, specifically related to the tort of negligence in business. There will inevitably be quite a few questions around such a broad and deep subject, and it might be useful for learners to work in small groups on identifying questions, then pair up with another group to answer them. A guest speaker from a university who has knowledge and experience of UK civil liabilities would help learners to see links between the academic content and the practice of law with businesses.

For learning aim B, the topics of vicarious liability and independent contractors could be linked with *Unit 41: UK Employment Law* (this will be particularly useful if learners have already been introduced to the nature and types of employment). Occupier's liability can be taught within the context, for example, of public liability and employers' liability insurances, and learners should be encouraged to find out about these products online and make the link to the underpinning law and policy. For all three sub-aims, learners should be encouraged to carry out some research themselves, including talking to friends and family about their own experiences as an employee or independent contractor. Relevant and interesting activities will help to embed learning, and examples are available in the next section of this guide.

The topics for learning aim C could be introduced by means of a group discussion on the nature of a contract, with example contracts (of any kind) passed around for learners to examine and comment on again this could be linked with *Unit 41: UK Employment Law* where employment contracts are studied). The point can then be made that all contracts follow similar key characteristics, but that some contracts have additional terms inserted into them by statute, for example to ensure consumer protection. Give an example of how this works, focusing on a specific statute.



Learning aim	Key content areas	Recommended assessment approach
<p>A Examine the elements of negligence in order to establish liability</p>	<p>A1 Elements of the tort of negligence</p> <p>A2 Remedies in the event of liability</p>	<p>One or more of:</p> <p>A presentation applying the principles of negligence in given case scenarios to conclude on liability. Also to include the potential amounts of damages, both pecuniary and non-pecuniary.</p>
<p>B Examine the elements of vicarious and occupiers' liability in order to establish liability</p>	<p>B1 Vicarious liability</p> <p>B2 Independent contractors</p> <p>B3 Occupiers' liability</p>	<p>A briefing sheet for a new business on rights and duties in vicarious liability and occupiers' liability.</p> <p>A fully justified report, or brief, providing advice on the impact of negligence in given situations, for both businesses and individuals.</p>
<p>C Explore the responsibilities that a business has for the products and services it provides</p>	<p>C1 Formation of contracts</p> <p>C2 Sale of goods and supply of goods</p> <p>C3 Consumer protection and the safety of products</p>	<p>Presentation advising on liability in contract, sale and supply of goods scenarios.</p> <p>Leaflet on consumer protection issues.</p> <p>Leaflet on advisory bodies.</p> <p>A fully justified report, or brief, on the effectiveness of the law in protecting consumers from faulty products, contract formation, or sale and supply of goods disputes.</p>

Assessment guidance

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

An assignment is a distinct activity, completed independently by learners, that is separate from teaching, practice, exploration and other activities that learners complete with direction from tutors. All learners must independently generate individual evidence that can be authenticated.

The unit specification suggests a presentation, two leaflets and a report for learning aims A and B, and a presentation, a briefing sheet and a report for learning aim C.

Suitable forms of evidence for a presentation include slides, preparation notes, script, cue cards, peer assessment records and records of activity. BTEC assessors can complete observation records and learners' colleagues in placements or part-time work can complete witness statements. Records of activity alone are not sufficient sources of learner evidence; the original learner-generated evidence must also support them. Assessors should remember that they are assessing the content of the presentation against the learning aim and not the skill with which the presentation was delivered.

Learners should ensure that all research is fully referenced with a bibliography.



Getting started

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

Unit 42: Aspects of UK Civil Liability Affecting Business

Introduction

This unit considers the relationship that businesses have with consumers and employees, the United Kingdom (UK) civil legal obligations placed on them, and how they are required to respond by law.

All delivery must therefore be from a UK perspective.

Begin by introducing the unit to learners through a group discussion exploring what learners understand by liability. Ask learners to give examples, including, for example, hypothetical ones around liability for faulty products sold to consumers, or negligent driving of a bus on the way to class. Explore who is liable and for what, and what sorts of remedies might be available in UK law. This sets the scene for some initial instruction on the legal status of businesses and the liabilities in UK law of its owner or director, and the limits on the liability of employees. Conclude by a group discussion on the content of the three learning aims, and the requirements for assessment.

Learning aim A – Examine the elements of negligence in order to establish liability

- Begin by giving a presentation on the elements of the tort of negligence explaining the concept of negligence in UK law, and how it differs from people's common understanding of the word. A good case to explore is *Donoghue v Stevenson* [1932] AC 562 House of Lords, not least, as it established the tort, and centres on the liability of a business for the quality of its goods. Ask learners to research this case online – there are many reliable sources – and lead a class discussion on the tests and remedies flowing from it.
- Ask learners work in pairs to consider, research and discuss the following key terms in negligence: (1) duty of care (including acts and omissions, and proximity), (2) breach of duty (3) causation and (4) foreseeability. A basic text of tort will give definitions to all these terms, as will an online research session. *Donoghue v Stevenson* (1932) will be helpful for learners here.
- Using the definitions of the various components of the tort of negligence they have found, learners work in small groups to consider situations involving businesses where the tort of negligence might apply. The results of this activity could be presented by each group via an illustrated flip chart (or PowerPoint) presentation.
- Give a presentation on the remedies available to the courts, including pecuniary and non-pecuniary damages, and how these, as compensation, differ from punishments such as fines.
- Ask learners to consider how these sums may be arrived at, using their answers as a basis for a class discussion.

Learning aim B – Examine the elements of vicarious and occupiers' liability in order to establish liability

- Ask learners to discuss, in small groups, what they think the word 'employee' actually means, perhaps using their own examples, and then to go on to consider the amount of control an employee has in what they do in their employment.
- Give a presentation on the liabilities of independent contractors. This leads onto an explanation of vicarious liability, perhaps using a decided UK case such as *Lister v Helsey Hall Ltd* [2001] UKHL 22.
- Lead a group discussion around occupiers' liability, starting with an explanation of who an occupier might be, the relevant acts, and how these might apply to UK business.
- Give learners two decided UK cases to explore online for example *Wheat v E Lacon & Co Ltd* [1966] AC 552 and *Harris v Birkenhead Corp* [1976] 1 WLR 279. Both cases are available to read online in summary form. Ask learners to work in small groups to create a succinct synopsis of the facts and judgment of each case, explaining how it might apply to other forms of UK businesses (i.e. those with premises at which business activities are carried out, and those owned by the business but not actively used).
- Ask each group to prepare and deliver a PowerPoint presentation to share their synopses with the class.
- Give out short case studies on vicarious liability, and occupiers' liability, and ask learners to individually consider responses and potential remedies in each case. Ask learners to share their responses and remedies with the class.
- Ensure all learners are prepared before providing them with the assignment brief for the assessment of learning aims A and B.



Learning aim C – Explore the responsibilities that a business has for the products and services it provides

- You could begin by asking learners to think about occasions where they have returned goods or complained about services. What was the response, and was the learner satisfied? What do they think their rights in UK law might be, and where might these rights come from?
- Give a presentation on the sale and supply of goods to include the Sale of Goods Act (SOGA) 1979 as amended by Consumer Rights Act 2015.
- Lead a discussion by asking learners to consider what constitutes a contract in UK law (agreement, intention to create legal relations and valuable consideration). Ask learners to list what contracts they can think of, first generally and then in relation to businesses selling goods or supplying services and share these with the class.
- Follow this activity by explaining that some contracts have additional terms and conditions inserted into them by UK legislation, and that a prime example of this is for contracts involving a business and a consumer. Ask learners to write an individual report on the importance of these contracts to UK businesses.
- Give a presentation of the role of UK advisory bodies when making a complaint, e.g. Citizens Advice consumer service, Trading Standards, The Consumers Association (Which?), the Office of Fair Trading (OFT) and the ombudsman.
- Ask learners, in the light of what they have learned so far, to work in small groups and produce a briefing sheet for UK businesses (one per group) on the protection available to consumers for (1) faulty goods bought in a shop (2) goods bought online and (3) services (e.g. plumber or car mechanic) bought and supplied, when the customer is dissatisfied with the quality of the service. At the end of the briefing sheet, learners should give examples of where UK consumers can get advice on these matters.
- Give a presentation on consumer protection and the safety of products, to include the Consumer Safety Act 1987 which is concerned with defective / unsafe consumer products.
- You could conclude this learning aim by bringing together this topic with the previous one on negligence, explaining the importance of redress where products are found to be unsafe.
- Lead a class discussion on the role of the courts in enforcing the Consumer Protection Act 1987.
- Ensure all learners are prepared before providing them with the assignment brief for the assessment of learning aim C.

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

Pearson BTEC International Level 3 Qualifications in Business:

- Unit 40: The English Legal System.
- Unit 41: UK Employment Law.
- Unit 43: Aspects of UK Criminal Law Impacting on Business and Individuals.

Chartered Institute of Legal Executives Level 3 Diploma:

- Unit 2: Contract Law.
- Unit 5: The Law of Tort.

Institute of Leadership and Management Level 3 Diploma:

- Unit 335: Understand How to Manage Contracts and Contractors in the Workplace.
- Unit 206: Working within Organisational and Legal Guidelines.

Resources

In addition to the resources listed below, publishers are likely to produce Pearson endorsed textbooks that support this unit of the BTEC International Level 3 Qualifications in Business. Check the Pearson website (<http://qualifications.pearson.com/endorsed-resources>) for more information as titles achieve endorsement.

Journals

- *The Economist* (EconomistGroup)
The Economist print edition is a weekly economics and business journal that has regular articles and features about issues related to employment-related matters, including occasional reports on high profile court cases. It has an extensive archive of relevant materials. An online subscription (www.economist.com) is also available which contains an archive of articles about the UK economy.
- *The 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 contract law and the law of tort.

Videos

- www.youtube.com/watch?v=kuwVFiq-D2U
This is a guide by the insurance company *Hiscox* (www.hiscox.co.uk) to the various types of insurance available to small businesses, which can give learners an understanding of the types of liabilities UK employers can be exposed to.



Websites

- www.citizensadvice.org.uk/consumer
General access advice site with information on a wide variety of UK consumer protections.
- www.gov.uk
The UK government portal for government departments and policies.
- www.gov.uk/browse/business/sale-goods-services-data
Search page from the UK government on the sale of goods and services, written for businesses. Includes basic information on unfair terms in contracts.
- www.gov.uk/browse/business/setting-up
Search page from the UK government on setting up a business, including material on liabilities and on the legal structures of various types of business.
- 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.
- www.thetimes.co.uk/topic/law?page=1
The Times Law is a supplement to The Times newspaper contains a wide range of articles on law and publishes law reports on a regular basis.

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.