



LLBQLD013D

Equity and Trusts

Time-Constrained Assessment

Date for Submission: Please refer to the timetable on ilearn

(The submission portal on ilearn will close at 14:00 UK time on the date of submission)



Assignment Brief

As part of the formal assessment for the programme, you are required to submit an **Equity, Trusts and Wills** time-constrained assessment. Please refer to your Student Handbook for full details of the programme assessment scheme and general information on preparing and submitting assignments

Learning Outcomes:

After completing the module you should be able to:

1. Analyse the rules, principles and remedies of Equity, Trusts and Wills, drawing upon a range of primary and secondary source material to draft effective clauses.
2. Examine in detail and explain judicial decisions in the area of Equity and trusts.
3. Critically analyse and evaluate rules and principles, demonstrating awareness of their social and practical context.
4. Apply equitable rules, principles and remedies to case studies.

This assignment assesses all learning outcomes

NOTE: Your assignment should include: a title page containing your student number, the module name, the submission deadline and a word count; the appendices if relevant; and a reference list in OSCOLA format. You should address all the elements of the assignment task listed below. Please note that tutors will use the assessment criteria set out below in assessing your work.

Maximum word count: 4,000 words

Please note that exceeding the word count by over 10% will result in a reduction in grade by the same percentage that the word count is exceeded.

NOTE: Referencing for this assignment does not count as part of the word-count (as below notes).

Warning:

QLD Regulations require that unfair practice findings are referred to the SRA (Solicitors Regulation Authority) and BSB (Bar Standards Board) and can prevent admission as a barrister or a solicitor. Take your referencing seriously. Do not risk your career.



Assignment Task

This assignment consists of **FOUR** questions. You must answer all **FOUR** questions.

This is a time-constrained assessment. This means you have **24 HOURS** to answer the **FOUR** questions in the assignment. The 24-hour period starts at the time and date given on page one of this assessment and ends at the time and date given on page one of this assessment paper.

Each question carries equal marks.

Marks will be awarded for referring to supporting case law and statutes where appropriate, in your answer.

Question One

Critically evaluate the statement that:

“...constructive trusts...operate randomly and incoherently...”

(Hudson A *Great Debates in Equity and Trusts* (Palgrave, 2014))

Your answer must be supported by reference to relevant case law and legislation

25 Marks

Question Two

Aristotle described equity as both superior to law and just. Critically analyse the extent to which the proposition that equity is superior to common law remains true.

Your answer must be supported by reference to relevant case law and legislation.

25 Marks



Question Three

Eric died in February 2017, leaving the following gift in his will:

"£500,000 to the Flaubert Appreciation Society (the 'FAS') to be used to enable members to go on study visits to Paris, France".

The FAS was a non-charitable unincorporated association founded in 2004 and Eric was a keen supporter of its activities. During his lifetime he had donated £45,000 towards the purchase of a club house for them out of a total cost of £64,000. He had also been to every Flaubert themed social event that they had held to raise funds. Eric was not, however, a member of FAS.

The FAS's funds had also been raised by membership subscriptions, street collections and by fund raising events such as concerts and raffles.

In March 2017, FAS decided to sell all their assets and to disband the club. It is understood that a considerable surplus remained after FAS's debts had been paid off.

Advise the FAS's treasurer on the proper disposition of the surplus funds.

25 Marks

Question Four

You are a lawyer at Arden LLP. You represent Yvonne who has asked you to draft her will. Read the attendance note provided on the next page. The attendance note includes Yvonne's personal details and instructions. Then draft Yvonne's will.

Your will should comply with the formalities required by the Wills Act 1837.

25 Marks



**ARDEN LLP
ATTENDANCE NOTE**

CLIENT: Yvonne Castle

MATTER: Will

DATE: Last week

TIME SPENT: 30 minutes

NOTE

A Solicitor (AS) attending Yvonne Castle (YC). Yvonne would like me to draft her will. The details are as follows.

Full name: Yvonne Cherry Castle

Address: Ash House, Oak Avenue, Arden Town, Arden, AT56 8HN

DOB: 18/8/1975

Immediate family: Husband, Monk Castle, daughters Sally and Kelly Castle. Sally is an adult but Kelly is still a minor. The family live together at Ash House.

There is a previous will and codicil which require revoking.

Executor: Sister, Calente Castle of 8, Low Street, Arden Town, Arden AT57 9LH. Substitution A Solicitor, Arden LLB, Law Court House, Arden Town, AT78 8KN

Bequests

1. Ash House, Oak Avenue, Arden Town, Arden, AT56 8HN or any property YC owns at the date of her death to Sally Castle (DOB 1.1.2000).
2. YC's car, a VW Beetle Convertible (2017 reg AYP 667W), or any car YC owns at the date of her death to YC's friend Eva Play (DOB 23.10.1975) who lives in a village, five miles away from Arden town, at Town Hall Villas, Council Road, Lovely Village, Arden PT56 10BH
3. YC would like her daughter, Sally, to have the contents of Ash House.
4. YC would like to give her £10,000 to her brother, Paul (DOB 14.5.1971), who lives at Valley View House, Arden Town, Arden AT67 3TH
5. YC would like to give £300,000.00 to her other daughter Kelly Castle (DOB 6.7 2008). YC knows that Kelly is not old enough to inherit the money yet and would like Monk to look after the money for Kelly until Kelly reaches the age of 18.



5. Any residue to YC's husband, Monk Castle (DOB. 13.4.1970).

YC would like gifts to be made so that the recipient of the gift receives the full amount of the gift i.e. the amount of the gift should not be reduced by inheritance tax and instead inheritance tax should be paid by the estate.

If a substitution is required then YC's nephew, Alan Cogata (BOB 14.5.1980) should be used as the substitution.

YC would like a survivorship clause included.

The standard attestation clause should be included.

END OF QUESTIONS



Guidelines

You **MUST** underpin your analysis and evaluation of the key issues with appropriate and wide ranging academic research and ensure this is referenced using the OSCOLA system (See 'Referencing Guide' in the Study Skills Guide in My Resources).

You must use the OSCOLA referencing method in your assignment.

Additional notes:

Students are required to indicate the exact word count on the title page of the assessment.

*The word count excludes the **title page, tables, figures, diagrams, footnotes, reference list and appendices**. Where assessment questions have been reprinted from the assessment brief these will also be excluded from the word count. **ALL other printed words ARE included in the word count** See 'Word Count Policy' on the homepage of this module for more information.*

Assignments submitted late will not be accepted and will be marked as a 0% fail.

Your assessment should be submitted as a single *Word (MS Word) or PDF* file. For more information please see the "Guide to Submitting an Assignment" document available on the module page on iLearn.

You must ensure that the submitted assignment is all your own work and that all sources used are correctly attributed. Penalties apply to assignments which show evidence of academic unfair practice. (See the Student Handbook which is on the homepage of your module and also in the Induction Area).



Assessment Criteria (Learning objectives covered - all)

Level 6 study represents the student's increasing autonomy and independence in relation to their knowledge, understanding and skills. At Level 6, students are expected to demonstrate problem solving skills in both practical and theoretical contexts. This should be supported by an understanding of appropriate theory, creativity in expression and thought based on independent but informed judgments. Students should demonstrate the ability to seek out, invoke, analyse and evaluate competing theories and claims to knowledge and work in a critically constructive manner. Work at this level is articulate, coherent and skilled.

Grade	Mark Bands	Generic Assessment Criteria
First (1)	80%+	An exceptional knowledge base exploring and analysing the discipline, its theory and any associated ethical considerations. The work demonstrates extraordinary independence of thought and originality. There is exceptional management of learning resources and a high degree of autonomy is demonstrated which goes above and beyond the brief. The work demonstrates intellectual originality and creativity. Writing is exceptionally well structured and accurately referenced throughout. Where appropriate, outstanding professional skills are demonstrated. The work is original and with some additional effort could be considered for internal publication.
	70-79%	An excellent information base within which the discipline is explored and analysed. There is considerable originality in the approach and the work demonstrates confidence and autonomy and extends to consider ethical issues. Learning resources have been managed with exceptional confidence and the work exceeds the assessment brief. Writing is exceptionally well structured and accurately referenced throughout. Where appropriate, an excellent level of professional skills are demonstrated and the work demonstrates a high level of intellectual and academic skills.
Upper second (2:1)	60-69%	A very good knowledge base which explores and analyses the discipline, its theory and any associated ethical issues. There is evidence of some originality and independence of thought. A very good range of learning resources underpin the work and there is clear evidence of self-directed research. The work demonstrates the ability to analyse the subject and apply theory with good academic and intellectual skills. Academic writing skills are good, expression is accurate overall and the work is consistently referenced throughout.
Lower second (2:2)	50-59%	A satisfactory understanding of the discipline which supports some analysis, evaluation and problem-solving within the discipline. There may be reference to some of the ethical considerations. The work shows a sound level of competence in managing basic sources and materials. Academic writing skills are good and accurate overall and the work is planned and structured with some thought. Professional skills are satisfactory (where appropriate). The work may lack originality but academic and intellectual skills are moving into the critical domain. The work is referenced throughout.
Third (3)	40-49%	Basic level of performance in which there are some omissions in the understanding of the subject, its underpinning theory and ethical considerations. There is little evidence of independent thought and the work shows a basic use of sources and materials. Academic and intellectual skills are limited. The work may lack structure overall. There are some difficulties in developing professional skills (where appropriate). There is an attempt to reference the work.
Marginal Fail	30-39%	A limited piece of work in which there are clear gaps in understanding the subject, its underpinning theory and ethical considerations. The work shows a limited use of sources and materials. Academic and intellectual skills are weak and there are errors in expression and the work may lack structure overall. There are difficulties in developing professional skills (where appropriate). The work lacks original thought and is largely imitative.



	29% and below	A poor performance in which there are substantial gaps in knowledge and understanding, underpinning theory and ethical considerations. The work shows little evidence in the use of appropriate sources and materials. Academic writing skills are very weak and there are numerous errors in expression. The work lacks structure overall. Professional skills (where appropriate) are not developed. The work is imitative.
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