

LA3C9-15 Contemporary Issues in Trusts Law

24/25

Department

School of Law

Level

Undergraduate Level 3

Module leader

Jonathan Garton

Credit value

15

Module duration

10 weeks

Assessment

100% exam

Study location

University of Warwick main campus, Coventry

Description

Introductory description

This module studies and evaluates the practical application of trusts in a variety of contexts. It builds upon the study of the express private trust in LA3A3 and considers how this device can be used - and abused - for such ends as: tying up family property over generations; tax planning; controlling the investment activities of financial institutions; and facilitating commercial transactions. It also introduces the charitable trust, through which acts of philanthropy are facilitated, and considers some situations in which trusts are created by operation of law, rather than deliberately by the parties involved, in order to prevent injustice.

Module aims

The principal aim of this module is to build upon the foundations of trust law studied in LA3A3 Trusts in Context and enable the student to study and evaluate (a) the application of the express private trust in a range of private client and commercial contexts and (b) other forms of the trust, such as charitable trusts and trusts arising by operation of law.

Outline syllabus

This is an indicative module outline only to give an indication of the sort of topics that may be covered. Actual sessions held may differ.

Particular topics will vary each year depending on staff expertise and interests, but indicative topics include:

1. The Beneficiary Principle Revisited
2. The Settlor Drops Backs In
3. Public Policy and the Express Private Trust
4. The Trust as an Investment Device
5. The Trust as a Security Device
6. Trustee Powers and Duties Revisited
7. Resulting Trusts
8. Constructive Trusts
9. Charitable Trusts

Learning outcomes

By the end of the module, students should be able to:

- Understand the relationship between the settlor, the trustee and the beneficiary, and the various theories explaining their respective rights
- Understand the nature and use of the resulting trust, constructive trust and charitable trust
- Identify the social spheres within which resulting, constructive, and charitable trusts operate
- Understand a range of commercial uses of the express private trust
- Apply, with independent thought, subject knowledge and contextual skills both to unfamiliar legal problems and social contexts
- Understand the relationship between legal, social political and economic influences upon the nature and functions of different trusts in different contexts
- Demonstrate an ability to work independently and to organise time appropriately; to handle information sources with confidence
- Locate and use primary and secondary sources of English and Commonwealth trusts law

Indicative reading list

See the core texts and wider reading listed under the Talis link above, plus:

MacFarlane, *The Structure of Property Law* (Hart, 2008)

MacFarlane and Stevens, 'The Nature of Equitable Property' (2010) 4 *Journal of Equity* 1;

Zaccaria, 'The Nature of the Beneficiary's Right under a Trust: Proprietary Right, Purely Personal Right or Right Against a Right?' (2019) *LQR* 135;

Smith, 'Massively Discretionary Trusts' (2019) 25 *Trusts and Trustees* 397;

Chambers, *The Resulting Trust* (Clarendon Press 1997);

Swadling, 'Explaining Resulting Trusts' (2008) 124 *LQR* 72;

Mee, 'Presumed Resulting Trusts, Intention and Declaration' (2014) 74 *CLJ* 86;

Glister, 'Is there a Presumption of Advancement?' (2011) 33 *Sydney LR* 39;

Garton, *Commercial Trusts Law* (Edward Elgar, forthcoming)

[View reading list on Talis Aspire](#)

Research element

Students will conduct research into legal cases, academic literature and other source material required for analysis of the topics covered within the module

Interdisciplinary

Some consideration of social, economic and political issues related to the module content may be required

International

Some comparison of and reference to other legal jurisdictions may be made within the module.

Subject specific skills

Analysis of factual situations and critical evaluation of issues identified by means of (a) independent judgement; (b) synthesis of other approaches derived from relevant literature and/or expertise

Transferable skills

Problem solving
Critical analysis
Written and oral presentation
Collaborative working

Study

Study time

Type	Required
Lectures	9 sessions of 2 hours (12%)
Seminars	7 sessions of 1 hour (5%)
Private study	123 hours (82%)
Assessment	2 hours (1%)
Total	150 hours

Private study description

Reading and research on topics studied within the module and in preparation for the formative and final assessment

Costs

No further costs have been identified for this module.

Assessment

You must pass all assessment components to pass the module.

Assessment group B

	Weighting	Study time	Eligible for self-certification
Assessment component			
Examination	100%	2 hours	No
2 hour unseen online exam, open book, 2 questions to be answered out of a choice of 4			

- Online examination: No Answerbook required
- Students may use a calculator

Reassessment component is the same

Feedback on assessment

Generic feedback via Moodle, with option for one on one face to face feedback in October by student request

[Past exam papers for LA3C9](#)

Availability

Pre-requisites

To take this module, you must have passed:

- All of
 - [LA3A3-15 Law of Trusts](#)

Courses

This module is Optional for:

- Year 3 of ULAA-M136 Undergraduate Law with Humanities (3 Year)
- Year 3 of UPHA-V7MW Undergraduate Politics, Philosophy and Law
- Year 4 of UPHA-V7MX Undergraduate Politics, Philosophy and Law (with Intercalated Year)

This module is Option list A for:

- Year 3 of ULAA-M131 Undergraduate Law (4 Year)
- Year 3 of ULAA-M135 Undergraduate Law and Sociology

This module is Option list B for:

- Year 3 of ULAA-M130 Undergraduate Law