

# Statement of legal knowledge

Updated February 2021

## About the statement of legal knowledge

The Statement of Legal Knowledge sets out the knowledge that solicitors are required to demonstrate at the point of qualification. This matches the Solicitors Qualifying Examination (SQE) [Assessment Specification for SQE1](https://upgrade.sra.org.uk/sra/policy/solicitors-qualifying-examination/archive/sqe1-functioning-legal-knowledge-assessment-specification/1) [https://upgrade.sra.org.uk/sra/policy/solicitors-qualifying-examination/archive/sqe1-functioning-legal-knowledge-assessment-specification/1], and covers the following areas, as well as Ethics and professional conduct.

1. Business Law and Practice; Dispute Resolution; Contract; Tort; Legal System of England and Wales; Constitutional and Administrative Law and EU Law and Legal Services.
2. Property Practice; Wills and the Administration of Estates; Solicitors Accounts; Land Law; Trusts; Criminal Law and Practice.

## Ethics and professional conduct

The ability to act honestly and with integrity, and in accordance with the SRA Standards and Regulations as follows:

The purpose, scope and content of the SRA Principles

- The purpose, scope and content of the:
- SRA Code of Conduct for Solicitors, RELs and RFLs
- SRA Code of Conduct for Firms in relation to:
  - Managers in authorised firms
  - Compliance Officers.

## 1. Business Law and Practice; Dispute Resolution; Contract; Tort; Legal System of England and Wales; Constitutional and Administrative Law and EU Law and Legal Services

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### Business Law and Practice

Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in



practice, to realistic client-based and ethical problems and situations in the following areas:

1. Starting a new business through the vehicle of a company, partnership, LLP or as a sole trader.
2. The management of a business and company decision making to ensure compliance with statutory and other legal requirements.
3. The interests, rights, obligations and powers of stakeholders in a business.
4. Financing a business.
5. Taxation of a business and its stakeholders.
6. The termination of a solvent business, corporate insolvency and personal bankruptcy.

## **Dispute Resolution**

Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:

1. Analysis of merits of claim or defence.
2. Arbitration, mediation and litigation as an appropriate mechanism to resolve a dispute.
3. Pre-action considerations and steps.
4. Commencing, responding to or progressing a claim.
5. Case management and any interim applications relevant to a claim.
6. The evidence needed and disclosure steps required in commencing, responding to, progressing or defending a claim.
7. Preparation of a case for a trial, the trial and any post trial steps.
8. Procedures and processes relevant to costs involved in dispute resolution.

## **Contract**

Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:

1. Existence/formation of a contract.
2. Contents of a contract.
3. Causation and remoteness.
4. Vitiating elements.
5. Discharge of contract and remedies.
6. Unjust enrichment.

## **Tort**



Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:

1. Negligence.
2. Remedies and defences.
3. Occupiers' liability.
4. Product liability.
5. Nuisance and the rule in *Rylands v Fletcher*.

## **The Legal System**

Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:

1. The Legal System of England and Wales and Sources of law.
2. Constitutional and Administrative law and EU law.
3. Legal services.

## **Legal Knowledge: Business Law and Practice; Dispute Resolution; Contract; Tort; Legal System of England and Wales; Constitutional and Administrative Law and EU Law and Legal Services**

### **Business organisations, rules and procedures**

(Excluding the Listing, Prospectus, Disclosure Guidance and Transparency Rules and any other FCA, London Stock Exchange, market rules or codes)

Business and organisational characteristics (sole trader/partnership/LLP/private and unlisted public companies).

Legal personality and limited liability.

Procedures and documentation required to incorporate a company/form a partnership/LLP and other steps required under companies and partnerships legislation to enable the entity to commence operating:

- constitutional documents
- Companies House filing requirements.

Finance:

- funding options: debt and equity
- types of security
- distribution of profits and gains
- financial records, information and accounting requirements.



#### Corporate governance and compliance:

- rights, duties and powers of directors and shareholders of companies
- company decision-making and meetings: procedural, disclosure and approval requirements
- documentary, record-keeping, statutory filing and disclosure requirements
- appointment and removal of directors
- minority shareholder protection.

#### Partnership decision-making and authority of partners:

- procedures and authority under the Partnership Act 1890
- common provisions in partnership agreements.

#### Insolvency (corporate and personal):

- options and procedures - CVA/IVA, bankruptcy, administration, fixed asset receivership, voluntary and compulsory liquidation
- claw-back of assets for creditors – preferences, transactions at an undervalue, fraudulent and wrongful trading, setting aside a floating charge
- order of priority for distribution to creditors.

### **Taxation - business**

#### Income Tax:

- chargeable persons/entities (employees, sole traders, partners, shareholders, lenders and debenture holders)
- basis of charge (types of income/main reliefs and exemptions)
- the charge to tax: calculation and collection
- the scope of anti-avoidance provisions.

#### Capital Gains Tax:

- chargeable persons/entities (sole traders, partners, and shareholders)
- basis of charge (calculation of gains/allowable deductions/main reliefs and exemptions)
- the charge to tax: calculation and collection
- the scope of anti-avoidance provisions.

#### Corporation Tax:

- basis of charge
- calculation, payment and collection of tax
- tax treatment of company distributions or deemed distributions to shareholders



- outline of anti-avoidance legislation.
- Value Added Tax:
- key principles relating to scope, supply, input and output tax
- registration requirements and issue of VAT invoices
- returns/payment of VAT and record keeping.

Inheritance Tax:

- business property relief.

## **The principles, procedures and processes involved in dispute resolution**

Different options for dispute resolution:

- The characteristics of arbitration, mediation and litigation which make them an appropriate mechanism to resolve a dispute.
- Resolving a dispute through a civil claim:
- preliminary considerations: limitation, pre-action protocols:
- parties and causes of action
- calculating limitation periods for claims in contract and tort
- Practice Direction – pre-action conduct
- principles and purpose of pre-action protocols governing particular claims and consequences for failure to follow their terms
- applicable law: mechanisms to determine which country's laws apply to a contractual or tortious claim issued in the courts of England and Wales
- jurisdiction: mechanisms to determine jurisdiction over an international contractual or tortious claim.

Where to start proceedings:

- allocation of business between the High Court and the county court
- jurisdiction of the specialist courts.

Issuing and serving proceedings:

- issuing a claim form
- adding, removing or substituting parties
- service of a claim form within the jurisdiction
- procedure for service of a claim form outside the jurisdiction (with or without the court's permission) and mechanisms for effecting valid service in another jurisdiction
- deemed dates of service and time limits for serving proceedings
- service by an alternative method.

Responding to a claim:

- admitting the claim
- acknowledging service and filing a defence and/or counterclaim



- disputing the court's jurisdiction
- entering and setting aside judgment in default
- discontinuance and settlement
- time limits for responding to a claim.

#### Statements of case:

- purpose, structure and content of a claim form, particulars of claim, or defence relating to a claim in contract or tort
- purpose, structure and content of a reply, Part 20 claim, or defence to Part 20 claim
- requests for further information about statements of case
- amendments.

#### Interim applications:

- procedure for making an application
- purpose, procedure and evidence required for particular applications:
  - summary judgment
  - interim payments
  - interim injunctions.

#### Case management:

- the overriding objective
- track allocation
- case management directions for cases proceeding on the fast or multi-tracks
- non-compliance with orders, sanctions and relief
- costs and case management conferences.

#### Evidence:

- relevance, hearsay and admissibility
- the burden and standard of proof
- expert evidence -
  - opinion evidence
  - duties of experts
  - single joint experts
  - discussion between experts
- witness evidence -
  - witness statements
  - affidavits.

#### Disclosure and inspection:

- standard disclosure
- orders for disclosure
- specific disclosure



- pre-action and non-party disclosure
- electronic disclosure
- privilege and without prejudice communications
- waiver of privilege.

#### Trial:

- summoning witnesses
- preparations for trial -
  - purpose of pre-trial checklists and hearings
  - purpose of trial bundles.
- trial procedure
- the nature and effect of judgment.

#### Costs:

- costs management and budgeting
- inter-partes costs orders (interim and final)
- non-party costs
- qualified one-way costs shifting
- Part 36 and other offers
- security for costs
- fixed and assessed costs.

#### Appeals:

- permission
- destination of appeals
- grounds for appeals.

#### Enforcement of money judgments:

- oral examination
- methods of enforcement
- procedure and mechanisms for effecting valid enforcement in another jurisdiction.

## **Core principles of contract law**

#### Formation:

- offer and acceptance
- consideration
- intention to create legal relations
- certainty
- capacity.

#### Parties:

- privity of contract



- rights of third parties.

#### Contract terms:

- express terms
- incorporation of terms
- terms implied by common law and statute
- exemption clauses
- the interpretation of contract terms (conditions, warranties and innominate terms)
- variation.

#### Vitiating factors:

- misrepresentation
- mistake
- unfair contract terms
- duress and undue influence
- illegality.

#### Termination:

- expiry or other specified event
- breach
- frustration
- basic principles of restitution and unjust enrichment in the context of termination of contract.

#### Remedies:

- damages
- liquidated sums and penalties
- specific performance
- injunctions
- duty to mitigate
- indemnities
- guarantees.

#### Causation and remoteness

### **Core principles of tort**

#### Negligence:

- duty of care (standard (general and professional)) and breach
- causation (single and multiple)
- remoteness and loss
- principles of remedies for personal injury and death claims
- claims for pure economic loss arising from either a negligent act or misstatement





- claims for psychiatric harm
- employers' primary liability (operation and effect of the common law principles).

Defences:

- consent
- contributory negligence
- illegality
- necessity.

Principles of vicarious liability

Occupiers' Liability:

- legal requirements for a claim under the Occupiers' Liability Act 1957 (in relation to visitors) and the Occupiers' Liability Act 1984 (in relation to non-visitors)
- defences
- exclusion of liability.

Product liability:

- principles in negligence
- principles of the Consumer Protection Act 1987.

Nuisance:

- public and private nuisance
- the rule in *Rylands v Fletcher*
- remedies (damages and injunctions) and defences.

## **The legal system of England and Wales and sources of law**

The courts:

- the judiciary
- court hierarchy, the appeal system and jurisdiction
- rights of audience.

Development of case law: the doctrine of precedent

Primary legislation: the structure of an act of Parliament

Statutory interpretation:

- the literal rule
- the golden rule
- the mischief rule
- the purposive approach



- presumptions
- aids to statutory interpretation and construction.

## **Constitutional and administrative law and EU law**

Core institutions of the state and how they interrelate:

- parliament and parliamentary sovereignty
- central government and accountability
- status of the devolved institutions and their relationship with Westminster
- the monarch and the Crown
- the role of constitutional conventions
- prerogative power: relationship with legislation and constitutional conventions
- parliamentary privilege.

Legitimacy, separation of powers and the rule of law:

- powers and procedures for the enactment, implementation and repeal of primary and secondary legislation
- Public Order law
  - Processions
  - Assemblies
  - Breach of the peace
- judicial review
  - the nature, process and limits of judicial review
  - supervisory nature
  - remedies
  - decisions which may be challenged
  - standing
  - time limits
  - grounds:
    - illegality
    - irrationality
    - procedural impropriety
    - legitimate expectation.

Human Rights Act 1998 and the European Convention on Human Rights:

- ss.2, 3, 4, 6, 7, 8, 10 Human Rights Act 1998
- Schedule 1 HRA 1998 the "Convention Rights".

The place of EU law in the UK constitution:

- Sources of retained EU law
- Categories/status/interpretation of retained EU law
- Modification/withdrawal of retained EU law
- Parliamentary sovereignty and retained EU law.

## Legal Services

The regulatory role of the SRA:

- principles and risk-based regulation
  - reserved legal activities
  - professional indemnity insurance
  - other regulated providers of legal services
- overriding legal obligations
  - The Equality Act 2010
  - money laundering
    - purpose and scope of anti-money laundering legislation including the international context
    - circumstances encountered in the course of practice where suspicion of money laundering should be reported in accordance with the legislation
    - the appropriate person or body to whom suspicions should be reported, the appropriate time for such reports to be made and the appropriate procedure to be followed
    - direct involvement and non-direct involvement offences, and defences to those offences under Proceeds of Crime Act 2002
    - due diligence requirements
- Financial services
  - the financial services regulatory framework including authorisation, and how it applies to solicitors' firms
  - recognition of relevant financial services issues, including the identification of specified investments, specified activities and relevant exemptions
  - application of the Financial Services and Markets Act 2000 and related secondary legislation to the work of a solicitor
  - appropriate sources of information on financial services.

Funding options for legal services:

- private retainer
- conditional fee arrangements
- damages based agreements
- fixed fees
- eligibility for criminal and civil legal aid
- third party funding
- legal expenses insurance.

## 2. Property Practice; Wills and the Administration of Estates; Solicitors Accounts; Land Law; Trusts; Criminal Law and Practice



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## **Property Practice**

Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:

1. The key elements of a freehold and/or leasehold residential or commercial property transaction.
2. Investigation of a registered or an unregistered freehold and/or leasehold title.
3. Pre-contract searches and enquiries undertaken when acquiring a freehold and/or leasehold property.
4. Steps in progressing a freehold and/or leasehold property transaction to exchange of contracts.
5. Pre-completion steps relevant to a freehold and/or leasehold property transaction.
6. Completion and post-completion steps relevant to a freehold and/or leasehold property transaction including remedies for delayed completion.
7. The grant and the assignment of a commercial lease and/or underlease.
8. The key lease covenants in a commercial lease and the law relating to their breach.
9. Security of tenure under the Landlord and Tenant Act 1954 Part II.
10. Taxation of property transactions through Stamp Duty Land Tax, Land Transaction Tax, Value Added Tax and Capital Gains Tax.

## **Wills and the Administration of Estates**

Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:

1. The validity of a will and interpretation of the contents of a will. The distribution of testate, intestate and partially intestate estates.
2. The law and practice in connection with an application for a grant of representation.
3. The law and practice of Inheritance Tax in the context of lifetime gifts and transfers on death.
4. The planning, management and progression of the administration of an estate including claims under the Inheritance (Provision for Family and Dependants) Act 1975.
5. The law and practice relating to personal representatives and trustees in the administration of estates and consequent trusts. The



rights, powers and remedies of beneficiaries of wills and consequent trusts.

## **Solicitors Accounts**

Application of relevant core principles of double entry bookkeeping and the SRA Accounts Rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:

1. Transactions involving client money and money belonging to the authorised body.
2. Operation of ledgers and bank accounts; the payment of interest.
3. Breaches of the SRA Accounts Rules.
4. Accounting entries required; bills; obtaining and delivery of accountants' reports; obligations regarding record-keeping.

## **Land Law**

Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:

1. Registered and unregistered land.
2. Freehold and leasehold estates, and legal and equitable interests in land.
3. Landlord and tenant.
4. Co-ownership.

## **Trusts**

Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:

1. Express and implied trusts.
2. The fiduciary relationship.
3. Trustees' duties, powers and liability.
4. Equitable remedies.

## **Criminal Law and Practice**

Application of relevant core legal principles and rules appropriately and effectively, at the level of a competent newly qualified solicitor in practice, to realistic client-based and ethical problems and situations in the following areas:



1. The core principles of criminal liability including actus reus and mens rea, specific and general defences, and participation.
2. The law, procedure and processes involved in advising a client at the police station.
3. The law, procedure and processes involved in pre-trial considerations.
4. The law, procedure and processes involved to meet the client's objectives.
5. The law, procedure and processes involved in magistrates' court and Crown Court trials, including sentencing and appeals.

### **Legal Knowledge: Property Practice, Wills and the Administration of Estates, Solicitors Accounts, Land Law, Trusts, Criminal Law and Practice**

#### **Core knowledge areas of freehold real estate law and practice**

Investigation of a registered and unregistered freehold title:

- key elements and structure of freehold property transactions
- process of analysing Land Registry official copy entries
- process of analysing an epitome of title and deducing ownership
- issues that could arise from an investigation of title and further action required
- purpose and process of reporting to the client.

Pre-contract searches and enquiries:

- range and purpose of making searches and raising enquiries
- who would make the searches and raise enquiries
- results of searches and enquiries.

Law Society Conveyancing Protocol

Finance:

- sources of finance for a property transaction
- types of mortgage.

Acting for a lender:

- lender's requirements
- purpose of a certificate of title.

Preparation for and exchange of contracts:

- key conditions contained in the:
  - Standard Conditions of Sale
  - Standard Commercial Property Conditions.
- purpose of, and matters covered by, special conditions



- methods of holding a deposit:
  - stakeholder
  - agent
- insurance and risk
- basics of VAT in a contract
- timing for issuing certificate of title to a lender
- the practice, method and authority to exchange
- consequences of exchange.

Pre-completion:

- form of transfer deed and formalities for execution
- pre-completion searches
- pre-completion steps.

Completion and post-completion:

- methods and effect of completion
- post-completion steps.

Remedies for delayed completion:

- common law damages
- contractual compensation
- notice to complete
- rescission.

## **Core knowledge areas of leasehold real estate law and practice**

Structure and content of a lease:

- repair
- insurance
- alterations
- user and planning
- rent and rent review
- alienation
- options for the term of a lease
- Code for Leasing Business Premises.

Procedural steps for the grant of a lease or underlease:

- drafting the lease
- purpose of an agreement for lease
- deduction of title
- pre-contract enquiries and searches
- pre-completion formalities
- completion and post-completion steps.

Procedural steps for the assignment of a lease:



- deduction of title
- pre-contract enquiries and searches
- landlord's consent
- deed of assignment and covenants for title
- pre-completion formalities
- authorised guarantee agreement
- completion and post-completion steps.

Licence to assign and licence to underlet:

- purpose of and who prepares the draft
- privity of contract and how the licence deals with this
- key provisions in the licence.

Leasehold covenants:

- liability on covenants in leases -
  - leases granted before 1 January 1996
  - leases granted on or after 1 January 1996

Remedies for breach of a leasehold covenant:

- action in debt
- forfeiture
- Commercial Rent Arrears Recovery
- pursue guarantors and/or rent deposit
- specific performance
- damages
- self-help/Jervis v Harris clause.

Termination of a lease:

- effluxion of time
- notice to quit
- surrender
- merger.

Security of tenure under a business lease:

- Landlord and Tenant Act 1954 (Part II) –
  - application of 1954 Act
  - renewal lease by the tenant
  - termination by the landlord
  - landlord's grounds of opposition
  - terms of new lease
  - availability of compensation.

## **Core principles of planning law**

Statutory definition of "Development"





Matters that do not constitute "Development"

Matters that do not require express planning permission

Building regulation control

Enforcement: time limits and the range of local planning authority's enforcement powers

## **Taxation - property**

Stamp Duty Land Tax and Land Transaction Tax:

- basis of charge in both England and Wales for:
  - residential property
- non-residential freehold property.

Value Added Tax:

- basis of charge:
  - what constitutes a taxable supply
  - differences between standard, exempt and zero-rated supplies
- reasons why a client would make an option to tax and the effect that has.

Capital Gains Tax:

- basis of charge
- principal private dwelling-house exemption.

## **Wills and Intestacy**

Validity of wills and codicils:

- testamentary capacity
- duress and undue influence
- formal requirements.

Personal Representatives:

- the appointment of executors
- renunciation and reservation of power.
- Alterations and amendments to wills:
- effect of alterations made to wills both before and after execution
- use of codicils.

Revocation of wills:

- methods of revocation
- effect of marriage and divorce of a testator.



The interpretation of wills:

- effect of different types of gift
- failure of gifts.

The intestacy rules:

- Section 46 of The Administration of Estates Act 1925
- the statutory trusts.

Property passing outside the estate:

- joint property
- life policies
- pension scheme benefits
- trust property.

## **Probate and Administration Practice**

Grants of representation:

- need for grant
- the relevant provisions of the Non-Contentious Probate Rules
- application procedure
- valuation of assets and liabilities
- excepted estates
- methods of funding the initial payment of Inheritance Tax
- burden and incidence of Inheritance Tax.

Administration of estates:

- duties of personal representatives
- liabilities of personal representatives and their protection
- the sale of assets to raise funds to pay funeral expenses, tax, debts and legacies
- distribution of the estate.

Claims against estates under the Inheritance (Provision for Family and Dependents) Act 1975:

- time limit
- applicants
- ground.

## **Taxation - wills and the administration of estates**

Inheritance Tax:

- lifetime transfers that are immediately chargeable and those that are potentially exempt



- transfers on death
- exemptions and reliefs
- the scope of anti-avoidance provisions.

Income and Capital Gains Tax in respect of the period of the administration of an estate:

- the personal representatives' liability to Income Tax and Capital Gains Tax
- the beneficiaries' liability to Capital Gains Tax on inherited assets.

## **Solicitors Accounts**

Client money:

- definition
- requirement to pay client money into a client account
- circumstances in which client money may be withheld from a client account
- repayment
- accounting entries required.

Client account:

- meaning and name of account
- obligation not to use client account to provide banking facilities
- withdrawals and accounting entries required.

Requirement to keep client money separate from money belonging to the authorised body

Interest:

- requirement to pay interest on client money
- accounting entries required.

Breach of the SRA Accounts Rules:

- duty to correct breaches of SRA Accounts Rules promptly on discovery
- accounting entries required.

Requirement to keep and maintain accurate records in client ledgers, including requirement to carry out reconciliation of client accounts and to keep a record of bills to include:

- disbursements using the agency and principal methods
- transfers
- submission, reduction and payment of bills including the VAT element



- accounting entries required.

Operation of joint account; operation of a client's own account

Third-party managed accounts

Obtaining and delivery of accountants' reports; storage and retention of accounting records

## **Core principles of land law**

Nature of Land:

- distinction between real property and personal property
- how to acquire and transfer legal and equitable estates
- how to acquire and dispose of legal and equitable interests in land
- methods to protect and enforce third party interests
- different ways in which land can be held
- legal formalities required to create and transfer interests and estates in land.

Title to Land:

- registration of title to land:
  - estates that can be substantively registered
  - how to protect interests
  - interests that override registration and interests that need to be protected on the register
- core principles of unregistered title to land:
  - role of title deeds
  - Land Charges
  - continuing role of doctrine of notice.

## **Co-ownership and Trusts**

- differences between joint tenants and tenants in common in law and in equity
- rule of survivorship
- severance of joint tenancies
- solving disagreements between co-owners by reference to sections 14 and 15 of Trusts of Land & Appointment of Trustees Act 1996.

Proprietary Rights:

- essential characteristics of easements
- methods for creation of easements
- rules for the passing of the benefit and burden of freehold covenants



- mortgages, including enforceability of terms, priority of mortgages, lender's powers and duties, and protection of mortgagors and other third parties with an interest in the land.

Leases:

- relationship between landlord and tenant in a lease
- essential characteristics of a lease including the difference between a lease and a licence
- privity of contract and privity of estate
- rules for the passing of the benefit and burden of leasehold covenants and enforceability
- purpose and effect of an alienation covenant
- remedies for breach of leasehold covenants (including forfeiture)
- different ways a lease can be terminated.

## Core principles of trust law

Creation and requirements of express trusts:

- the three certainties of intention, subject matter and objects:
  - fixed interest trusts
  - discretionary trusts
- formalities to create express inter vivos trusts
- constitution of express inter vivos trusts and exceptions to the rule that equity will not assist a volunteer.

Beneficial entitlement:

- fixed, discretionary, vested, contingent interests
- the rule in *Saunders v Vautier*.

The distinction between charitable trusts and non-charitable purpose trusts

Resulting trusts:

- how they arise and when they are (or are not) presumed.

Trusts of the family home:

- establishment of a common intention constructive trust:
  - legal title in the name of both parties/sole party
  - express declaration or agreement as to equitable ownership
  - direct and indirect contributions
- requirements to establish proprietary estoppel.

Liability of strangers to the trust:

- establishing recipient liability



- establishing accessory liability.

The fiduciary relationship and its obligations:

- duty not to profit from fiduciary position
- trustees not to purchase trust property
- fiduciary not to put himself in a position where his interest and duty conflict.

Trustees:

- who can be a trustee; appointment, removal and retirement of trustees
- trustees' duty of care
- trustees' duty to invest (and powers in relation to investment)
- trustees' statutory powers of maintenance and advancement.

Trustees' liability:

- breach of trust
- measure of liability
- protection of trustees
- limitation period.

The nature of equitable remedies and the availability of tracing in equity.

## **Core principles of criminal liability**

The core principles of criminal liability relating to the specified criminal offences listed below:

Specified criminal offences:

- offences against the person:
  - assault and battery
  - s. 47 Offences Against the Person Act 1861
  - s. 20 Offences Against the Person Act 1861
  - s. 18 Offences Against the Person Act 1861
- theft offences:
  - s. 1 Theft Act 1968
  - s. 8 Theft Act 1968
  - s. 9 Theft Act 1968
  - s. 10 Theft Act 1968
- criminal damage:
  - simple criminal damage
  - aggravated criminal damage
  - arson
- homicide:
  - murder
  - voluntary manslaughter



- involuntary manslaughter (unlawful act manslaughter, manslaughter by
  - gross negligence)
- fraud:
  - by false representation
  - by abuse of position
  - by failing to disclose.

Definition of the offence:

- actus reus
- mens rea.

General defences:

- intoxication
- self-defence/defence of another.

Partial defences:

- loss of control
- diminished responsibility.

Parties:

- principal offender
- accomplices
- joint enterprise.

Inchoate offences:

- Attempt to commit an offence.

### **Advising clients, including vulnerable clients, about the procedure and processes at the police station**

Rights of a suspect being detained by the police for questioning:

- right to legal advice
- right to have someone informed of arrest
- reviews and detention time limits under PACE 1984, Code C.

Identification procedures:

- when an identification procedure must be held
- different types of identification procedure
- procedure for carrying out an identification procedure PACE 1984, Code D.

Advising a client, including vulnerable clients, whether to answer police questions:



- right to silence
- adverse inferences.

Procedure for interviewing a suspect under PACE 1984:

- role and appropriate conduct by defence legal representative/solicitor including representation of vulnerable client
- role of appropriate adult and who can be an appropriate adult.

## **The procedures and processes involved in criminal litigation**

Bail applications:

- the right to bail and exceptions
- conditional bail
- procedure for applying for bail
- further applications for bail
- appeals against decisions on bail
- absconding and breaches of bail.

First hearings before the magistrates' court:

- classification of offences
- applying for a representation order
- procedural overview – what will happen at the hearing
- the role of the defence solicitor at the hearing.

Plea before Venue:

- procedure on defendant entering plea
- advising the client on trial venue.

Allocation of business between magistrates' court and Crown Court:

- procedure ss. 19–20 and s. 22A Magistrates' Courts Act 1980
- sending without allocation s. 50A Crime and Disorder Act 1998.

Case management and pre-trial hearings:

- Magistrates' court case management directions
- Plea and Trial Preparation Hearing
- disclosure – prosecution, defence and unused material.

Principles and procedures to admit and exclude evidence:

- burden and standard of proof
- visual identification evidence and Turnbull guidance
- inferences from silence ss. 34, 35, 36, 37, 38 Criminal Justice and Public Order Act 1994
- hearsay evidence:
  - definition





- grounds for admitting hearsay evidence
- confession evidence:
  - definition
  - admissibility
  - challenging admissibility ss. 76 and 78 PACE 1984
- character evidence:
  - definition of bad character
  - the 7 gateways s. 101(1) Criminal Justice Act 2003
  - procedure for admitting bad character evidence
  - court's powers to exclude bad character evidence
- exclusion of evidence:
  - scope and application of s. 78 PACE and the right to a fair trial.

#### Trial procedure in magistrates' court and Crown Court:

- burden and standard of proof
- stages of a criminal trial, including submission of no case to answer
- modes of address and Court room etiquette
- difference between leading and non-leading questions
- competence and compellability
- special measures
- solicitor's duty to the court.

#### Sentencing:

- role of sentencing guidelines
- determining seriousness (aggravating and mitigating facts)
- concurrent and consecutive sentences
- mitigation
- types of sentence:
  - custodial sentences
  - suspended sentences
  - community orders
- Newton hearings.

#### Appeals procedure:

- appeals from the magistrates' court:
  - procedure for appeal against conviction and/or sentence
  - powers of the Crown Court
  - appeal to the High Court by way of case stated
- appeals from the Crown Court:
  - grounds of appeal
    - procedure for making the appeal
    - powers of the Court of Appeal.

#### Youth court procedure:

- jurisdiction and grave crimes
- allocation

- youths jointly charged with adult
- sentencing:
  - role of the Sentencing Children and Young People – definitive guidelines
  - referral orders
  - detention and training orders
  - youth rehabilitation orders.