

Common law reasoning and institutions

[2690030 (Diploma); 2650030 (LLB)]

(formerly known as 'English legal system')

- (a) The nature of the common law tradition
- (b) Sources of law and principles of legal research
- (c) The role and operation of courts
- (d) Judicial reasoning in relation to (i) cases, and (ii) statutes
- (e) The judiciary and magistracy
- (f) The criminal process (in outline) and the role of rights in the process with particular attention to the operation of PACE and the jury
- (g) The civil justice process (in outline) with particular attention to reform
- (h) Legal services and access to justice with particular attention to the legal profession and legal aid

Elements of the law of contract

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- (a) *The formation of contracts.* Offer and acceptance. Consideration. Certainty of agreement. Intention to create legal relations. **[Note:** Questions will not be set on requirements as to the form of contracts].
 - (b) *The content of the contract.* Conditions, warranties and intermediate terms. Exemption clauses. Implied terms at common law. Collateral contracts. Statutory implied terms with regard to the quality of goods sold and goods or services supplied.
 - (c) *Vitiating factors.* Mistake. Misrepresentation. Duress and undue influence
 - (d) *Illegality and public policy (excluding gaming and wagering).* Contracts illegal at common law. Consequences of illegality. Contracts in restraint of trade.
 - (e) *Capacity to contract, with particular reference to the capacity of minors.*
 - (f) *Privity of contract (excluding agency and assignment).*
 - (g) *Performance and breach.* Substantial performance. Repudiation and anticipatory breach. Discharge by breach. Discharge under the doctrine of frustration.
 - (h) *Remedies for breach of contract.* General principles governing the assessment of damages. Remoteness of damage. Damages for non-financial loss. Mitigation. Restitutionary remedies. Liquidated damages and penalties. Specific performance.
- [Note:** The subject will also take account of relevant European Union legislation and how this is applied in the UK].