

# Principles of Equity

## Unit Outline - Semester 1 2011

<b>QUT code:</b>	LWB240
<b>Credit points:</b>	12
<b>Date:</b>	Semester 1 2011
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### Rationale

The principles of equity were originally developed to ameliorate the harshness of the common law and have since become a fundamental component of our legal system. A knowledge and understanding of the major principles of equity is necessary for you to have an appreciation of how the Australian legal system operates and this unit is therefore located early in the LLB degree.

### Aims

The aim of this unit is to provide you with a coherent knowledge and understanding of equitable obligations - duties, defences and remedies - as well as develop skills relevant to your future studies in law and your work in professional legal practice. You will learn how to apply equitable principles in a real world context by participating in a team legal letter writing exercise.

### Objectives

At the completion of this unit you should be able to:

1. Apply your knowledge of the major principles of equity to real world problems and understand the underlying historical, social and policy rationales and how comparative and international perspectives may impact on the development of Equity as a component of Australian common law;
2. Critically analyse the manner in which the principles of Equity have and should evolve in response to changing social contexts
3. Recognise and describe equitable and ethical problems;
4. Identify, extract and evaluate equitable and ethical principles and policy and apply these to resolve real world problems;
5. Communicate legal and policy arguments and solutions to legal problems clearly and logically using the appropriate level and style of communication for the context;
6. Manage time and work with others to identify ethical and equitable issues in a real world problem; and
7. Reflect on and document your skill performance and development, using QUT Student ePortfolio, so as to better prepare you for the transition to the workplace and understand the real world relevance of your studies.

### Content

The material covered in this unit includes:

- the nature and history of Equity and its relationship with the common law;
- fiduciary relationships and the ethical and the arising equitable obligations;
- other equitable doctrines including the obligation of confidence, equitable estoppel, undue influence, unconscionable transactions and relief against forfeiture of proprietary interests;
- the liability of third parties for breach of equitable obligations; and
- equitable remedies including specific performance, account, injunctions, declarations, compensation, equitable damages and the constructive trust.

As you progress through the material you will be required to consider not only the substantive law, but also the various historical, socio-economic, political and international factors which have influenced the manner in which the law of equity has developed and the way in which it may develop in the future.

This unit is also concerned with ensuring that students have achieved an acceptable level of skill development building on skills acquired in earlier course units. Particular emphasis will be placed on teamwork, written communication and ethical knowledge.

### Skills

This unit is also concerned with ensuring that you have achieved an acceptable level of skill development, building on skills acquired in earlier course units. Skills theory and practice will be incorporated at various stages in the lecture, tutorial and study program

In this unit you will further develop the following skills:

- Critical thinking and legal analysis;
- Problem solving;
- Oral and written communication; and
- Time management and teamwork; and
- Ethical orientation.

You will reflect on and document your skill performance and development, using QUT Student ePortfolio, so as to better prepare you for the transition to the workplace and understand the real world relevance of your studies.

### Graduate Capabilities

Your understanding of the unit content and the further development of these skills will assist you to acquire the following law graduate capabilities:

- 1 Discipline Knowledge;
- 2 Problem Solving, Reasoning and Research;
- 3 Effective Communication;
- 4 Life long learning;
- 5 Work Independently and Collaboratively; and
- 6 Professional, Social and Ethical Responsibility.

### Approaches to Teaching and Learning

#### Lectures

There is a two-hour lecture timetabled for 13 weeks, commencing in week one. In the lectures you will be given information which further develops your understanding of the areas of the law set down in the study guide for that week and highlights the more important areas, in order that you may focus your learning. You should be familiar with the material specified for each week before you attend the lecture. Where the material being covered permits, the lectures will incorporate Socratic discussions of principal cases and practical problems, the aim of which is to encourage you to develop your understanding of the unit by the extrapolation of the existing principles to new situations.

In some weeks, as an alternative to a face to face lecture, materials may be posted to the online site for you to consider and to assist you to work through the prescribed readings and materials.

#### Tutorials

One-hour tutorials have been timetabled for each week commencing in week 2. In tutorials you will be asked to consider a range of academic and practical issues relating to the material covered in the previous week's lecture. You will be required to prepare for the tutorials and be ready to discuss the issues raised. Preparation will include reading the prescribed materials and principal cases and attempting the tutorial questions set down in the study guide for that week.

In some weeks, as an alternative to a face to face tutorial, materials may be posted to the online site for you to consider and to assist you to work through the prescribed readings and materials.

#### Optional External Attendance School

Mid-way in the semester there is an optional external attendance school.

### Assessment

Assessment in this unit is both formative and summative. Throughout the teaching period your tutor will provide comments in relation to answers given by individual students together with group discussions, and provide you with formative feedback.

You will also be given an opportunity for formative assessment of your skills development during the skills-based tutorials.

#### Assessment name: Discussion Forum

**Description:** You will be assessed on your participation in discussions, including on your analysis and problem solving, and on your performance in skills exercises in tutorials throughout the whole semester.

**Relates to objectives:** 1-6

**Weight:** 10%

**Internal or external:** Internal

**Group or individual:** Individual

**Due date:** Each Week

#### Assessment name: Problem Solving Task

**Description:** You are required to submit a written answer (maximum of 750 words) to a specified problem, which will be made available at the commencement of the semester.

**Relates to objectives:** 1-6

**Weight:** 10%

**Internal or external:** External

**Group or individual:** Individual

**Due date:** Week 7

#### Assessment name: Project (applied)

**Description: Team Letter Writing Exercise and individual ePortfolio entry reflection.**

You are required to work in a team to write and submit a letter of advice in relation to a specified tutorial question/problem. As far as is possible, you will work in teams of four from your tutorial (or as allocated randomly online for external students) when writing and submitting the letter of advice. All team members will receive the same mark for the team letter, which is weighted at 20%.

Following completion of the team letter writing exercise, you are required to document, evaluate and reflect upon your own performance and development during your team letter writing activity, recognise gaps in your knowledge and develop an action plan for future development by making an individual entry into the QUT student ePortfolio. You will receive an individual mark for the ePortfolio reflection, which is weighted at 10%.

**20% team letter writing exercise (max 1000 words)**

**10% individual ePortfolio reflection (max 1200 characters; 400 words)**

**Relates to objectives:** 1-7

**Weight:** 30%

**Internal or external:** Both

**Group or individual:** Group with Individual Component

**Due date:** Week 6

#### Assessment name: Examination (written)

**Description:** The exam will be open book and will be of 2 hours duration with 30 minutes perusal time and it will be open book. All topics of the course may be examinable including the skills components.

**Relates to objectives:** 1-5

**Weight:** 60%

**Internal or external:** Both

**Group or individual:** Individual

**Due date:** Central Exam Period

### Academic Honesty

Academic honesty means that you are expected to exhibit honesty and act responsibly when undertaking assessment. Any action or practice on your part which would defeat the purposes of assessment is regarded as academic dishonesty. The penalties for academic dishonesty are provided in the Student Rules. For more information you should consult the [Academic Integrity Kit](#), and the QUT Library resources for avoiding plagiarism.

### Resource materials

#### Prescribed Materials:

G.Dal Pont and D.Chalmers, *Equity & Trusts in Australia*, 4th ed, Thomson Lawbook Co, 2007.

#### Recommended Reference Materials:

M Cope, *Equitable Obligations: Duties, Defences and Remedies*, Lawbook Co, 2007

G.Dal Pont and D.Chalmers and Maxton, *Equity & Trusts: Commentary and Materials*, 4th Edition, Thomson Lawbook Co, 2007.

T Cockburn, M Shirley and T Carver, *Equity and Trusts Butterworths Question and Answers* 3rd ed, 2009

G Dal Pont and T Cockburn, *Equity and Trusts in Principle*, 2nd ed, Law Book Co, 2008

M Evans *Equity and Trusts* 2nd ed Lexis Nexis Butterworths 2009

#### Blackboard Site

Online resources for this unit are available on the unit Blackboard site.

### Risk assessment statement

There are no out of the ordinary risks associated with this unit.

Disclaimer - Offer of some units is subject to viability, and information in these Unit Outlines is subject to change prior to commencement of semester.

Last modified: 22-Dec-2010