

GCE

LAW: RESTRICTIONS, INCLUDING THOSE RESTRICTIONS PERMITTED BY THE EUROPEAN CONVENTION ON HUMAN RIGHTS

OFFICIAL SECRETS LEGISLATION SUGGESTED IDEAS FOR TEACHING AND LEARNING



SUGGESTED IDEAS FOR TEACHING AND LEARNING

Teacher /Lecturer:	
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Course:	A Level Law
Topic:	Restrictions, including those restrictions permitted by the European Convention on Human Rights
Session:	Duty of confidentiality Official secrets legislation

Component:	A Level Components 2 and 3
Ref. to specification:	Human Rights Law
Suggested time allocation:	2-4 hours

Aims and Objectives: At the end of these sessions the student will be able to:

- Explain the history of official secrets legislation
- Explain and discuss the Official Secrets Act 1911, with particular reference to section 2 and cases
- Explain and apply the Official Secrets Act 1989 to given cases

Main Teaching and Learning Activities

Teacher/Lecturer Activities:

- Introduce topic, PowerPoint presentation can be used to introduce the topic, state the objectives and for the topic area.
- Organise the class into small groups and ask them the following questions: What categories of information do you think are classed as official secrets? Who do you think the law covers? Can you think of any famous cases where official secrets laws have been broken? Feedback answers to class and facilitate a discussion of cases like Peter Wright; David Shayler; Clive Ponting etc. Students should be encouraged to weigh up the law in this area and the right to freedom of expression
- Explain official secrets is found at criminal law - Go through brief history of official secrets legislation – 1889 OSA ; and detailed discussion of 1911 OSA & section 2 with reference to the Cases of ***Aitken (1970);Tisdall (1984);Ponting (1985)***
- Refer back to the categories of information identified by the students in the opening part of the lesson and explain sections 1 to 4 of the OSA 1989 with reference to harm tests and cases e.g. ***R v Shayler (2002)***
- Put students into groups and use past paper scenario questions to test levels of understanding of the 4 sections ensuring that they can identify the category of information leaked and the appropriate section, and whether a harm test applies- feedback to class
- Discuss and explain sections 5 to 8 of the OSA 1989 - with particular reference to editors and journalists under section 5

- Explain possible defences that arise under the OSA 1989 - Defendant did not know information fell into a protected category; No reason to believe the information would cause harm; and Belief in lawful authorisation. N.B. No defence of acting in the public interest; N.B. A civil action for breach of confidence could also arise
- Again in their groups students to apply the defences to the given scenarios

Student Activities:

- Students in small groups discuss what types of information are covered by official secrets law, and to whom the law applies and whether they have read or heard of any famous cases e.g. discuss cases like David Shayler ; Peter Wright.
- Students in small groups - apply the sections of the OSA 1989 and the defences available to given scenarios (either use past paper questions or own scenarios) – feedback findings to class. This exercise should form a substantial part of the teaching of the topic, students should advise the client they have been given and, during feedback against other groups, put forward their legal arguments
- Class discussion of whether official secrets laws infringe too heavily on the right to freedom of expression, or does the law strike a fair balance between the two competing interests?

Suggested links/ resources:

- PowerPoint
- Past paper scenario questions
- Internet
- Cases
- Handout

Assessment

During the lesson	Group exercises and direct questioning illustrate how well the students have understood official secrets legislation
Subsequent to lesson	Homework – past paper problem question on Official secrets

TOPIC: Official Secrets

Questions:		Expected answers:
1.	What categories of information do you think are classed as official secrets?	Students usually when asked this question say things like: <ul style="list-style-type: none"> • Information about the monarchy • Police information • Army information • Government information
2.	Who do you think the law covers?	Students usually believe that the law only covers those who have signed the Official Secrets Act - whilst this is true it is a criminal Act that affects us all
3.	Can you think of any famous cases where official secrets laws have been broken?	David Shayler is the usual answer to this question. Some students will cite the Ponting case from having studied it whilst doing juries at AS level
4.	What defences do you think there are available to a defendant?	Students tend to answer - A public interest defence
5.	Do official secrets laws infringe too heavily on the right to freedom of expression, or does the law strike a fair balance between the two competing interests?	A discussion could take place here of Article 10 and the right to freedom of expression, section 2 of the 1911 OSA and the current Act and whether it has improved the right to freedom of expression. Whistle-blowers could also be discussed and whether there should be a public interest defence