

GCE

LAW:

Express and implied terms,
conditions, warranties and
innominate terms, exclusion and
limitation clauses

SUGGESTED IDEAS FOR
TEACHING/LEARNING



SUGGESTED IDEAS FOR TEACHING AND LEARNING

Teacher /Lecturer:	
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Course:	A Level Law
Topic:	Express and implied terms
Session:	Express and implied terms

Unit:	Unit 2 and 3
Ref. to specification:	Law of Contract
Suggested time allocation:	4 – 8 hours

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

- **Explain** the difference between representations and terms.
- **Explain** the concept of express terms.
- **Understand** implied terms, including those implied by fact and by statute.
- **Explain** the incorporation of exclusion clauses and the provisions of the Unfair Contract Terms Act 1977.
- **Explain** other terms, including conditions, warranties and innominate terms.

Main Teaching and Learning Activities

Teacher/Lecturer Activities:

- Introduce the topic with reference to the aims and objectives set out above.
 - Explain the difference between *representations* and *terms* as explained in PowerPoint presentation.
 - Explain there are different types of terms: conditions, warranties and innominate terms.
- Activity:** divide students into three groups and allocate one term per group. Each group should explain their allocated term and the relevant cases to the rest of the class, using flipchart paper and poster materials.
- Introduce the concept of **express** and **implied** terms – discuss with students what they perceive as the differences between these.
- Activity:** add all these key terms to Glossary of key legal terminology.
- Explain how **express** terms can be incorporated and discuss key cases: *Bannerman v White (1861)*, *Oscar Chess Ltd v Williams (1957)* and *Routledge v McKay (1954)*.
 - Explain that **implied** terms can be implied **by fact** or **by law**. Explain how facts can be implied **by fact** using the *officious bystander* and *business efficacy* tests as a basis for discussion.
 - Explain how facts can be implied **by law**, discussing the relevant sections of the *Consumer Rights Act 2015* which replaced the *Sale of Goods Act 1979*, the *Unfair Terms in Consumer Contracts Regulations 1999* and the *Supply of Goods and Services Act 1982*. Students should be aware that the statute provides for the supply of goods, services and unfair contract terms with a particular focus on the fact that the new statute provides for the sale of digital content.
- Activity:** create a card sort activity where students have to match the statute section to the rule of law provided for by that section.

Activity: look at the scenarios in the PowerPoint presentation and discuss how the statute would apply to these scenarios – these are mini exam type problem questions which will get students well versed in the explanation and application of the relevant law.

Activity: give students past paper question in relation to terms and with whole group participation, get students to detail how they would go about answering the question and the details and case illustrations they would need to include – this will consolidate their learning in relation to this topic. This can be done as a homework exercise and peer marked.

- Explain that exclusion clauses can be incorporated via common law or by statute through the *Unfair Contract Terms Act 1977*, discussing the key cases signposted in the PowerPoint.

Activity: using the scenarios in the PowerPoint, establish whether the exclusion clauses have been lawfully incorporated.

Student Activities:

- Group work – explaining and illustrating different types of terms.
- Group discussion – what is the difference between express and implied terms?
- Card Sort Activity – match the statute section to the rule of law provided for by that section.
- Past Paper Questions
- Scenarios – application of the *Consumer Rights Act 2015* and the *Unfair Contract Terms Act 1977*.
- Research Activity: pretend to buy something from Amazon or elsewhere on the Internet and signpost the relevant legal requirements under the common law and statute.

Suggested links / resources:

- PowerPoint presentation
- Cases
- Flip chart paper (optional)
- Record cards to create glossary/flashcards
- Past Paper Question on Express and Implied Terms.

Assessment

During the lesson

Group exercises and direct questioning show how much the students have understood express and implied terms and exclusion clauses.