

City University of Hong Kong

Course Syllabus

offered by School of Law  
with effect from Semester B 2023/24

Part I Course Overview

<b>Course Title:</b>	Commercial Application of Equity and Trusts
<b>Course Code:</b>	LW6177E
<b>Course Duration:</b>	One semester
<b>Credit Units:</b>	3
<b>Level:</b>	P6
<b>Medium of Instruction:</b>	English
<b>Medium of Assessment:</b>	English
<b>Prerequisites:</b> <i>(Course Code and Title)</i>	Nil
<b>Precursors:</b> <i>(Course Code and Title)</i>	Nil
<b>Equivalent Courses:</b> <i>(Course Code and Title)</i>	LW5630A/B, LW4630A/B Equity & Trusts
<b>Exclusive Courses:</b> <i>(Course Code and Title)</i>	Nil

## Part II Course Details

### 1. Abstract

This course aims to

- examine the nature, role and significant application of Equity and Trusts in commerce;
- develop a critical knowledge of the vital role that Equity and Trusts have in the modern commercial transactions such as fiduciary duty, relations, following assets, protection of investment account etc.,
- develop the following set of skills in relation to the law of equity, including trusts:
  - research skills
  - analytical and problem-solving skills
  - effective written communication skills
- develop an awareness of the social and commercial contexts in which equity and trusts law operates;
- introduce students to some of the basic practical skills required to advise on the application of trusts law in commerce.

### 2. Course Intended Learning Outcomes (CILOs)

*(CILOs state what the student is expected to be able to do at the end of the course according to a given standard of performance.)*

No.	CILOs	Weighting (if applicable)	Discovery-enriched curriculum related learning outcomes (please tick where appropriate)		
			A1	A2	A3
1.	<b>Identify, describe and explain</b> basic principles of equity and trusts.	40%		√	
2.	<b>Analyse and critically evaluate:</b> <ul style="list-style-type: none"> <li>➤ Issues in equity and trusts of topical interest</li> <li>➤ the operation of the substantive rules of trusts law:               <ul style="list-style-type: none"> <li>○ in terms of the objectives and practical implications of trusts law</li> <li>○ in their social and commercial contexts</li> <li>○ in relation to other branches of law</li> <li>○ as a form of distributive or remedial device.</li> </ul> </li> </ul>	35%	√	√	
3.	<b>Apply</b> principles of equity and trusts to <b>solve legal problems</b> by: <ul style="list-style-type: none"> <li>➤ conducting independent research on issues of equity and trusts</li> <li>➤ communicating their analysis clearly and precisely in their own words and in plain English</li> </ul>	15%		√	√
4.	To <b>communicate</b> ideas, marshal arguments or prepare advice clearly and coherently both in oral and written forms.	10%		√	√
		100%			

- A1: *Attitude*  
Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.
- A2: *Ability*  
Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to self-life problems.
- A3: *Accomplishments*  
Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

### 3. Teaching and Learning Activities (TLAs)

(TLAs designed to facilitate students' achievement of the CILOs.)

TLA	Brief Description	CILO No.				Hours/week (if applicable)
		1	2	3	4	
Lectures	<p>Students will acquire knowledge of principles of trusts law and the role of equity.</p> <p>Students will be introduced to principles of equity and trusts through practical application and case law examples.</p> <p>Students will learn how to solve problems by applying trusts law.</p>	√	√	√		3
Tutorials	<p>Students will, by answering questions and engaging in exercises in relation to principles of equity and trusts, further develop explanatory skills. Tutorial questions will require students to analyse facts and law and critically examine the adequacy and effectiveness of law in its current state, together with its underlying policy objective.</p> <p>Students will be required to analyse fact situation and to apply case law precedents to ascertained facts.</p> <p>Students will be required to analyse fact situations and to</p>	√	√	√	√	

	<p>apply case law precedents to ascertained facts.</p> <p>Students are required to participate in tutorial discussion, particularly by making presentations on pre-assigned tutorial assignments.</p> <p>Students will also be asked to discuss tutorial questions among themselves, with the tutor commenting on strengths and scope for improvement in student contributions.</p>					
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#### 4. Assessment Tasks/Activities (ATs)

*(ATs are designed to assess how well the students achieve the CILOs.)*

Assessment Tasks/Activities	CILO No.				Weighting	Remarks
	1	2	3	4		
Continuous Assessment: 50%						
Group Assignments: Students' ability to identify and explain the relevant principles and components of the law of equity and trusts will be tested.	√	√	√	√	40%	The use of Generative AI tools is not allowed.
Class Participation:	√	√		√	10%	
Examination: 50% (duration: 2 hours)						
Students' ability to apply legal rules and principles to particular sets of hypothetical circumstances will be tested.		√	√			The use of Generative AI tools is not allowed.
					100%	

Applicable to students admitted in Semester A 2022/23 and thereafter

Students must obtain a minimum mark of 50% in both coursework and examination and an overall mark of 50% in order to pass the course.

Applicable to students admitted before Semester A 2022/23

Students must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass the course.

## 5. Assessment Rubrics

*(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)*

Applicable to students admitted in Semester A 2022/23 and thereafter

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B)	Marginal (B-, C+, C)	Failure (F)
Group Assignments:	Demonstration of skills in recognising legal issues, identifying applicable rules, and resolving the issues through an application of the relevant rules; Demonstration of a high level of legal research and analytical skills.	High	Significant	Moderate	Inadequate
Classwork	Demonstration of legal argument construction skills, oral communication skills, and willingness/ability to answer questions in class.	High	Significant	Moderate	Inadequate
Examination	Demonstration of understanding of principles, theories and concepts.  Demonstration of ability to recognise issues, identifying applicable legal rules, and resolving problems by applying applicable rules.  Ability to engage in argument-based analysis.  Aptitude for formulating innovative solutions to designated fact-based questions.	High	Significant	Moderate	Inadequate

Applicable to students admitted before Semester A 2022/23

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B, B-)	Fair (C+, C, C-)	Marginal (D)	Failure (F)
Group Assignments:	Demonstration of skills in recognising legal issues, identifying applicable rules, and resolving the issues through an application of the relevant rules; Demonstration of a high level of legal research and analytical skills.	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.
Classwork	Demonstration of legal argument construction skills, oral communication skills, and willingness/ability to answer questions in class.	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.
Examination	Demonstration of understanding of principles, theories and concepts.  Demonstration of ability to recognise issues, identifying applicable legal rules, and resolving problems by applying applicable rules.  Ability to engage in argument-based analysis.  Aptitude for formulating innovative solutions to designated fact-based questions.	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

## **Part III Other Information** (more details can be provided separately in the teaching plan)

### **1. Syllabus**

- nature and role of equity in English Common Law (equitable remedies)
- the nature of trusts (allocation of legal and equitable title)
- Trusts in purchase transaction, commercial context, securitisation, bonds, banking and investment context
- Statutory Trust on Subject Matter: Lehman Brothers Client's Account
- purpose clause in lending to give rise to resulting Quistclose trust vs securities' interest
- Directors' fiduciary duties and general duties
- tracing and following the assets under Equity
- third party liabilities: knowing assistance and unconscionable receipt
- equitable assignment in asset sales.

### **2. Reading List**

#### **Recommended Readings**

##### Text (Required)

Virgo, *The Principles of Equity & Trusts*, (5<sup>th</sup> edn OUP Oxford 2023) 2018).

##### Recommended Readings

McGhee, *Snell's Equity* (Sweet & Maxwell)

Mowbray et al, *Lewin on Trusts* (Sweet & Maxwell)

Haley and McMurtry, *Equity and Trusts* (Sweet & Maxwell)

Glistler and Lee, *Hanbury & Martin: Modern Equity* (Sweet & Maxwell)

McFarlane and Mitchell, *Hayton & Mitchell: Law of Trusts and Equitable Remedies: Texts, Cases & Materials* (Sweet & Maxwell)

Penner, *The Law of Trusts (Core Texts)* (Oxford University Press)

### **2.3 Online Resources**

Westlaw and Lexis.com. Several of the books recommended above come with online resources.