1. **Title of the module**

LAWS5980 (LW598): Equity and Trusts

1. **School or partner institution which will be responsible for management of the module**

Kent Law School

1. **The level of the module (e.g. Level 4, Level 5, Level 6 or Level 7)**

Level 6

1. **The number of credits and the ECTS value which the module represents**

15 credits (7.5 ECTS Credits)

1. **Which term(s) the module is to be taught in (or other teaching pattern)**

Autumn or Spring

1. **Prerequisite and co-requisite modules**

Either, LAWS3160 Foundations of Property or LAWS5316 Foundations of Property are pre-requisites.

LAWS5990 Land Law is a co-requisite and, depending on the programme of study, LAWS6500 Law of Contract is either a pre- or co-requisite.

1. **The programmes of study to which the module contributes**

All single and joint honours Law programmes

1. **The intended subject specific learning outcomes.  
   On successfully completing the module students will be able to:**
   1. Demonstrate an understanding of the concepts, principles and rules relating to equity and trusts;
   2. Apply detailed knowledge and understanding of the jurisprudence of equity, the interaction between the common law and equity and the contributions equity has made, and continues to make, to English law;
   3. Demonstrate detailed knowledge and understanding of the historical development of Equity and Trusts in a social, political, and economic context;
   4. Communicate an appreciation of the evolution of the key themes in equity and trusts in terms of their use in specific historical and contemporary developments;
   5. Demonstrate an understanding of the development, and current state, of the law of equity and trusts from a comparative perspective (e.g. with other common law jurisdictions);
   6. Engage in a critical discussion and evaluation of the benefits of using equity and trusts as legal strategies (in the context of other legal strategies e.g. restitution).
2. **The intended generic learning outcomes.  
   On successfully completing the module students will be able to:**
   1. Present relevant knowledge and understanding in the form of reasoned argument;
   2. Critically evaluate an area of law both doctrinally and in terms of its socio-economic and other consequences and from an historical perspective.
   3. Undertake further research from a variety of sources informing a sustained and detailed argument.
   4. Recognise potential alternative solutions to particular problems and make a reasoned choice between them.
   5. Independently acquire knowledge and understanding in areas, both legal and non-legal.
   6. Demonstrate an independence of mind and an ability to critically challenge received understandings and conclusions in their writing.
3. **A synopsis of the curriculum**

This module introduces the student to the jurisprudence of equity and trusts. Building on knowledge and understanding developed in LAWS3160/LAWS5316 Introduction to Property Law and LAWS5990 Land Law, but also LAWS6500 Law of Contract and private law more generally, the module examines equity’s contributions to private law and jurisprudence. The module is designed to challenge the somewhat dull image of this area of law and to encourage a critical and imaginative understanding of the subject. Departing from conventional approaches, this module does not study equity merely in regards to its role as originator of the trust. Equity is instead acknowledged to be what it really is a vital component of the English legal system, a distinct legal tradition possessing its own principles and method of legal reasoning, and an original and continuing source of legal development in the sphere of remedies. The law of equity and trusts is contextualised within a historical and jurisprudential inquiry, providing a wider range of possible interpretations of its development and application. What then becomes central to the module’s approach is the complex interrelation of law with ethical, political, economic and jurisprudential considerations, and of that between legal outcomes, pragmatic concerns and policy objectives.

The module begins with the problem of equity as a problem of definition, of jurisprudence, and of jurisdiction – and identifies a set of questions that will animate the course, before turning to the nature and range of equitable remedies. Students will then examine equitable remedies concerned with reviewing intentions so as to undo or unwind transactions, such as gifts and contracts, and remedies concerned with enforcing informally expressed intentions. The course then turns to the trust and fiduciary obligations, looking at the transformation of the trust, both in terms of its functions and its management, and the remedies available to enforce trust and fiduciary obligations. The course ends by returning to the problem of equity and asking, in the context of restitution and contemporary understandings of the role of law, the extent to which equity continues to have a role in modern law.

1. **Reading list (Indicative list, current at time of publication. Reading lists will be published annually)**
   * + - M. Bryan and V. Vann, *Equity and Trusts in Australia* (Cambridge University Press, 2012)
       - S. Degeling and J. Edelman (eds.), *Equity in Commercial Law* (Lawbook Co, 2005)
       - M. Fortier, *The Culture of Equity in Early Modern Law* (Ashgate, 2005)
       - J. Garton, *Moffat’s Trusts Law* (Cambridge University Press, 6th ed., 2015)
       - M. Halliwell, *Equity and Good Conscience* (Old Bailey Press, 2nd ed., 2004)
       - A. Hudson, *Understanding Equity & Trusts* (Routledge, 5th ed., 2014)
       - D. Klinck, *Conscience, Equity and the Court of Chancery in Early Modern Law* (Ashgate, 2010)
       - F. Maitland, *Equity, also the Forms of Action at Common Law: Two Courses of Lectures* (Cambridge University Press, 1929)
       - C. Mitchell and P. Mitchell (eds.), *Landmark Cases in Equity* (Hart Publishing, 2012)
       - C. Stebbings, *The Private Trustee in Victorian England* (Cambridge University Press, 2002)
       - S. Waddams, *Dimensions of Private Law: Categories and Concepts in Anglo-American Legal Reasoning* (Cambridge University Press, 2003)
       - G. Watt, *Equity Stirring: The Story of Justice Beyond Law* (Hart Publishing, 2009)
       - S. Worthington, *Equity* (Oxford University Press, 2nd ed., 2006)
2. **Learning and teaching methods**

Total study hours: 150

Contact hours: 29

Private study hours: 121

1. **Assessment methods.**

13.1 Main assessment methods

The module is assessed by 30% coursework and 70% examination, as follows:

Essay – 2500 words

Exam – 2 hours

13.2 Reassessment methods

The module will be reassessed by like-for-like reassessment of failed individual component(s) of assessment.

1. **Map of module learning outcomes (sections 8 & 9) to learning and teaching methods (section 12) and methods of assessment (section 13)**

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Module learning outcome** | 8.1 | 8.2 | 8.3 | 8.4 | 8.5 | 8.6 | 9.1 | 9.2 | 9.3 | 9.4 | 9.5 | 9.6 |
| **Learning / teaching method** |  |  |  |  |  |  |  |  |  |  |  |  |
| Lectures | X | X | X | X | X | X |  |  |  |  |  |  |
| Seminars | X | X | X | X | X | X | X | X |  | X | X | X |
| Private Study | X | X | X | X | X |  | X | X | X | X | X |  |
| **Assessment method** |  |  |  |  |  |  |  |  |  |  |  |  |
| Essay (30%) | X | X | X | X | X | X | X | X | X | X | X | X |
| Exam (70%) | X | X | X | X | X | X | X | X | X | X | X | X |

1. The School recognises and has embedded the expectations of current equality legislation, by ensuring that the module is as accessible as possible by design. Additional alternative arrangements for students with Inclusive Learning Plans (ILPs)/declared disabilities will be made on an individual basis, in consultation with the relevant policies and support services.

The inclusive practices in the guidance (see Annex B Appendix A) have been considered in order to support all students in the following areas:

**a) Accessible resources and curriculum**

* 1. Preference will be given to electronic resources that meet minimum accessibility standards and support the use of assistive technologies.
  2. Module outlines will be made accessible before the module starts.
  3. Prioritised reading lists will be made available sufficiently in advance to accommodate the provision of alternative formats and support those with a slow reading speed.
  4. Lecture/seminar slides/outlines will be made available in electronic format in advance to allow all students to prepare (particularly students with notetaking difficulties).
  5. Lecture capture will be used to assist notetaking.

**b) Learning, teaching and assessment methods**

The inclusive practices in the guidance (Annex B Appendix A, section b (1) and (2)) have all been considered in order to support all students in their assessments on this module.

1. **Campus(es) or centre(s) where module will be delivered:**

Canterbury

1. **Internationalisation**

There will be some comparative material included in this module however, its content is primarily driven by the requirements of the PSRBs for law.

**FACULTIES SUPPORT OFFICE USE ONLY**

**Revision record – all revisions must be recorded in the grid and full details of the change retained in the appropriate committee records.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Date approved | Major/minor revision | Start date of the delivery of revised version | Section revised | Impacts PLOs (Q6 & 7 cover sheet) |
| 25/01/18 | Major | September 2018 | 6, 8-9, 12, 14-15, 17 | No |
| 30/11/19 | Major | September 2020 | 12 | No |