

GCE

# LAW: Defences

## SUGGESTED IDEAS FOR TEACHING AND LEARNING



Teacher /Lecturer:	
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Course:	A Level Law
Topic:	Defences
Session:	

Unit:	Component 2 and 3
Ref. to specification:	The Law of tort
Suggested time allocation:	2-3 hours

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

- **Explain** the defence of *volenti non fit injuria*.
- **Explain** contributory negligence.
- **Describe** *ex turpi causa non oritur action*.

## **Main Teaching and Learning Activities**

### **Teacher/Lecturer Activities:**

- Introduce the topic with reference to the aims and objectives set out above.
- Explain that there are three main defences to a tort:
  - a) *volenti non fit injuria* – “to a willing person, injury is not done”
  - b) contributory negligence – where part of the damage has been done by the claimant themselves
  - c) *ex turpi causa non oritur action* – “no action arises from a dishonourable claim”.
- ***Volenti non fit injuria*** – explain that this is basically a consent defence; where a person who has willingly exposed himself to possible injury cannot then claim against the defendant. It can be used as a defence to injuries experienced during sporting activities, but not for spectators in sport – see the leading case of *Wooldridge v Sumner* (1962).
- Explore the issues surrounding the reluctance to use this as a defence, particularly in negligent driving.

**Activity: Class Discussion:** why do you think the courts are often reluctant to accept *volenti* as a defence?

- **Contributory Negligence** – this defence is governed by statute, s1(1) *Law Reform (Contributory Negligence) Act 1945*. The effect of a successful defence of contributory negligence means that the damages will be reduced, according to the extent to which the claimant's own carelessness contributed to his/her injuries.
- Discuss the leading case of *Badger v Ministry of Defence* (2006) using the PowerPoint as a resource.

**Activity: Research** – Limits on contributory negligence – learners to research some leading cases where there have been exceptions to the ability to be able to use contributory negligence: *Gough v Thorns* [1966], *Morales v Eccleston* [1991], *Baker v TE Hopkins & Sons* [1959], *Jones v Boyce* [1816]. This can form a big class discussion, or illustrative flashcards.

**Activity: Considering Liability** – Apply the law of contributory negligence to the scenarios in PowerPoint. This could be done as a role play scenario or as a written activity.

- ***Ex turpi causa non oritur action*** – explain that this is basically a defence where a claimant has no action where they make a dishonourable claim. Leading cases in this area are *Vellino v Chief Constable of Greater Manchester Police (2001)* and *Revill v Newberry (1996)*.

### Student Activities:

- Group work – explaining and illustrating what is meant by the three defences.
- Scenarios – application of the law relating to the various defences to given scenarios.
- Research Activity: look at the judgments of key cases and discuss the implications of these.

### Suggested links / resources:

- PowerPoint presentation
- Teacher Guide
- Case summaries:
- Flip chart paper (optional )
- Scenario questions from PowerPoint.

### Assessment of Learning

During the lesson

Group exercises and direct questioning show how much the students have understood the law relating to the defences available in a tort action.

Exam question:

‘To a willing person, injury is not done’.  
Discuss this statement in relation to the law of tort.

Subsequent to lesson

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