

GCE

LAW: Torts connected to land Public Nuisance

SUGGESTED IDEAS FOR TEACHING AND LEARNING



Teacher /Lecturer:	
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Course:	A Level Law
Topic:	Torts connected to land
Session:	Public Nuisance

Component:	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:

- Define public nuisance
- Explain the main difference between public and private nuisance
- Explain the fault element for a public nuisance
- Explain a 'class of Her Majesty's subjects'
- Explain the main criticisms of public nuisance
- Explain suggestions for reform
- Explain the bringing of civil actions for public nuisance
- Identify realtor actions for public nuisance
- Identify the specific defence to public nuisance
- Identify the main civil remedies to a public nuisance

Main Teaching and Learning Activities

Teacher/Lecturer Activities:

- Introduce the topic with reference to the aims and objectives set out above.
- Define the meaning of a public nuisance: **A public nuisance is a nuisance "which materially affects the reasonable comfort and convenience of life of a class of Her Majesty's subjects"**. Learners should be clear that a public nuisance is a crime triable either way, whereas private nuisance is a civil action. Explain the definitions outlined in *Attorney-General v PYA Quarries (1958)* and *Archbold: Criminal Pleading, Evidence and Practice (2015)*.

Activity: Board work: what can you see as the immediate differences between a private nuisance and a public nuisance?

- Explain that for a behaviour to be regarded as a public nuisance, there is no fault element – that means there is no requirement for intention or recklessness – no mens rea – it is a strict liability offence. The defendant is liable if he or she knew or ought to have known of the risk of the type or kind of nuisance that in fact occurred, as established in *Wagon Mound (No1)* and reiterated in *Cambridge Water Co v Eastern Counties Leather (1994)* – NB: this is the same test of foreseeability as in private nuisance.
- A public nuisance has to affect a class of people and be a widespread and indiscriminate nuisance – explain this concept using the case *Attorney Geberak v PYA Quarries (1958)* and the quotes from Romer, LJ and Denning, LJ.
- Learners should work their way through the key cases in the PowerPoint: *R v Ong (2001)*, *R v Lowrie (2004)*, *R v Rimmington (2006)*, *R v Johnson (1997)*

Activity: Learners can use these cases to create a factsheet on the requirements for a public nuisance, using the judgments in the key cases as a basis for establishing what requirements are necessary.

- Learners should now start exploring the evaluative aspects of public nuisance; a starting point for this is the Law Commission report published in 2015. This report will provide an insight into the law on public nuisance and areas that maybe need to be reformed.

Activity: Learners should consider the following questions after reading the Law Commission report: a) What criticisms does the Law Commission make of the law on public nuisance? and b) How does the Law Commission suggest that the law on public nuisance be reformed?

- Explain that although public nuisance is usually a crime, there can be civil actions also taken. There are **three ways** that this can be done:

a) by a realtor action

b) by a local authority

c) an action for tort by a private subject who can show that he has suffered special damage beyond that experienced by the others of 'Her Majesty's subjects'.

Explore these three ways and consider any defences that may be available.

- Reconsider the overlap between actions for nuisance and those for negligence. It is important that learners can identify the differences between them, and answer the question appropriately.

Activity: Continue the big wall display that was started with the lessons on private nuisance with three columns; private nuisance, public nuisance and negligence with some key headings so learners can see a comparison of the law. This can be added to as learners work their way through the various categories of nuisance.

Student Activities:

- Group work – explaining and illustrating what is meant by 'public nuisance'.
- Research – Law Commission 2015 report on the reform of the law on public nuisance.
- Factsheet – use the cases to produce a fact sheet of the requirements of a public nuisance.
- Wall display – illustrating difference between the key torts of private nuisance, public nuisance and negligence.

Suggested links / resources:

- PowerPoint presentation
- Teacher Guide
- Case summaries:

Law Commission, Simplification of Criminal Law: Public Nuisance and Outraging Public Decency (Law Com No 358, 2015)

http://www.lawcom.gov.uk/wp-content/uploads/2015/06/lc358_public_nuisance.pdf

- Flip chart paper (optional)

Assessment of Learning

During the lesson

Group exercises and direct questioning show how much the students have understood the law relating to public nuisance.

Subsequent to lesson