

GCE

LAW: Vicarious Liability

SUGGESTED IDEAS FOR TEACHING AND LEARNING



Teacher /Lecturer:	
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Course:	A Level Law
Topic:	Vicarious Liability
Session:	

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** 'vicarious liability'
- **Explain** the tests for employee status
- **Explain** the liability of an employer for the torts of employees on a frolic of their own
- **Explain** the liability of an employer for the torts of employees doing an authorised act in an unauthorised manner
- **Explain** the liability of an employer for the torts of employees doing a criminal act

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 vicarious liability: **Vicarious liability is the term used to explain the liability of one person for the torts committed by another.** It usually occurs when an employer might be liable for the torts of their employees.

Activity – Board work – how would you define 'employee'?

- Explain there are three main tests to establish whether someone is an employee: the control test, the organisation test and the economic reality test. Explain each of these tests with the key cases.

Activity: divide students into three groups and allocate one test per group. Each group should create a wall chart for their allocated test.

- Explain that an employer can only be held vicariously liable for torts committed "*during the course of employment*" so long as it is an 'authorised act'. Work through the PowerPoint to discuss the meaning of this, explaining the exceptions to the rule of 'frolic of his own' - *Storey v Ashton [1869]* and 'an authorised act in an unauthorised manner'.

Activity: Research – learners to research the contrasting cases below and discuss why the employer was held to be vicariously liable in *Century Insurance* but not in *Iqbal*?

Answer: In *Century Insurance*, the employee was acting in the course of his employment (i.e. delivering petrol in a tanker) albeit in a negligent manner. However, in *Iqbal*, the employee was acting outside of the scope of his employment (i.e. he was not employed as a driver) and there was an express prohibition forbidding him from driving a bus.

- A further exception is the concept of unlawful acts of employees, and whether employers are vicariously liable for these acts. The general rule is that an employer will only be held to be

vicariously liable for the unlawful acts of his/her employees if there is a closeness of connection between the employment and the unlawful act.

Consider the leading case of *Lister and Others v Helsey Hall Ltd* [2002]. The law in this case was further developed by the Supreme Court in *Catholic Child Welfare Society v Institute of the Brothers of the Christian Schools* (2012).

Activity: Research – Look at the Supreme Court judgment and watch the video of Lady Brenda Hale giving her judgment. Links are below.

- Consider the situation where a player gets injured during the course of his employment playing for a team – e.g. football, rugby etc. Use the case of *Gravil v Carroll & Redruth Rugby Club* [2008] as an appropriate illustration.

Activity: Application of the law – Look at Activity 4 in the Teacher Guide and apply the law of vicarious liability to the two scenarios illustrated there. Learners could be encouraged to design a mark scheme, with all the key components of the tort of vicarious liability.

- Explain how the rules of vicarious liability apply to independent contractors. This is usually covered by the law on occupiers' liability. A person or company may in some circumstances be held liable for the torts committed by an independent contractor to visitors and non-visitors. Please see the presentations on occupiers' liability.

Student Activities:

- Group work – explaining and illustrating what is meant by the key terms of 'vicarious liability' and 'employee'.
- Scenarios – application of the law relating to vicarious liability to given scenarios.
- Research Activity: look at judgments of key cases and discuss the implications of these. Does the law on vicarious liability place too much responsibility on employers?

Suggested links / resources:

- PowerPoint presentation
- Teacher Guide
- Case summaries:

Century Insurance v Northern Ireland Transport Board [1942]:

[http://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKHL/1942/2.html&query=\(Century\)+AND+\(Insurance\)+AND+\(v\)+AND+\(Northern\)+AND+\(Ireland\)+AND+\(Transport\)+AND+\(Board\)+AND+\(\[1942\]\)](http://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKHL/1942/2.html&query=(Century)+AND+(Insurance)+AND+(v)+AND+(Northern)+AND+(Ireland)+AND+(Transport)+AND+(Board)+AND+([1942]))

Iqbal v London Transport Executive [1973]

[http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWCA/Civ/1973/3.html&query=\(Beard\)+AND+\(v\)+AND+\(London\)+AND+\(Omnibus\)+AND+\(Co\)+AND+\(\[1900\]\)](http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWCA/Civ/1973/3.html&query=(Beard)+AND+(v)+AND+(London)+AND+(Omnibus)+AND+(Co)+AND+([1900]))

Lister and Others v Helsey Hall Ltd [2002]

<https://www.publications.parliament.uk/pa/ld200001/ldjudgmt/jd010503/lister-1.htm>

Catholic Child Welfare Society v Institute of the Brothers of the Christian Schools (2012) - full decision here:

<https://www.supremecourt.uk/cases/docs/uksc-2010-0230-judgment.pdf>

You can watch a summary of the judgement read by Lady Hale in the Supreme Court here:

https://www.youtube.com/watch?v=f_xq9WyT2HY

- Flip chart paper (optional)

- Scenario questions from Teacher Guide.

Assessment of Learning

During the lesson	Group exercises and direct questioning show how much the students have understood the law relating to vicarious liability
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