

GCE

LAW: Occupiers' Liability

Liability in relation to trespassers:
Occupiers' Liability Act 1984

SUGGESTED IDEAS FOR TEACHING/LEARNING



SUGGESTED IDEAS FOR TEACHING AND LEARNING

| | |
|--------------------|--|
| Teacher /Lecturer: | |
|--------------------|--|

| | |
|----------|--------------------------------------|
| Course: | AS Level Law |
| Topic: | Occupiers' Liability |
| Session: | Liability in relation to trespassers |

| | |
|----------------------------|-----------------|
| Unit: | Unit 2 |
| Ref. to specification: | The Law of Tort |
| Suggested time allocation: | 2 – 4 hours |

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

- **Explain** who is an occupier under the Occupiers Liability Act 1984.
- **Explain** when a statutory duty of care is owed.
- **Explain** the statutory duty of care that is owed.
- **Explain** the difference in the duty owed under the Occupiers Liability Act 1984 with that owed under the Occupiers Liability Act 1957.

Main Teaching and Learning Activities

Teacher/Lecturer Activities:

- Introduce the topic with reference to the aims and objectives set out above. Recap the fact that there are two statutes that govern this area and they will be dealt with separately: **Occupiers' Liability Act 1957 which covers visitors** (often referred to as 'lawful' visitors to distinguish them from trespassers). This was dealt with in a previous lesson plan.
 - **Occupiers' Liability Act 1984 which covers persons other than visitors** (often referred to as 'unlawful visitors or trespassers')
 - This lesson deals with just the Occupiers' Liability Act 1984 which covers **the duty owed to persons other than visitors**.
- Activity – Board work** – who is an 'occupier'?
- Recap that s1(2) states that common law rules apply as to what is meant by an 'occupier': that is, who has control over the premises?
- Wheat v Lacon & Co (1966)* is the leading case here and the judge outlined **four categories** of occupier. Discuss these categories as per the PowerPoint.
- The common law was very harsh towards trespassers and the leading case of *Addie v Dumbreck (1929)* held that there should be no duty of care to trespassers but this was later overruled in the House of Lords in *British Railways Board v Herrington (1922)*.
 - s1(3) of the Occupiers' Liability Act 1984 now confers a statutory duty of care on occupiers to trespassers to their premises, subject to the guidelines in s1(3)(a), in s1(3)(b) and s1(3)(c).
 - The duty owed by occupiers is found in s1(4) – that is, "to take care as is reasonable in all the circumstances of the case to see that they are not injured on the premises by the danger concerned".

Activity – Discussion – How does the duty imposed under the **Occupiers Liability Act 1984** differ from that imposed under the **Occupiers Liability Act 1957**?

The answers to this discussion question can be found on the PowerPoint resource. Learners should also be directed to the leading case of *Tomlinson v Congleton Borough Council [2003]* and Lord Hoffman’s judgment.

Activity – Discussion – After reading the case facts, answer the following questions:

Was the council liable under the **Occupiers Liability Act 1957**?

Was the council liable under the **Occupiers Liability Act 1984**?

The basic difference is that under the **Occupiers Liability Act 1957**, a duty of care is owed to all visitors whereas under the **Occupiers Liability Act 1984** a duty is owed only if certain conditions are met (e.g. the occupier is aware of the danger, etc.).

- Learners could be encouraged to look at newsworthy cases, and these could be used to facilitate discussion on whether the law on Occupiers’ Liability is adequate, or is in need of reform. There are some examples below:

Matthew Marsden drowned in Greenacres Holiday Park in 2009:

<http://news.bbc.co.uk/1/hi/wales/8116163.stm> - *BBC News*

Kylie Grimes hit her head on the bottom of a swimming pool during a late-night party in Surrey:

<http://www.bbc.co.uk/news/uk-england-surrey-14387945> - *BBC News*

PC Richard Seymour tore his Achilles tendon when he fell down a hole after being called out to a night-time break-in at Maidenhead Aquatics shop.

<http://www.bbc.co.uk/news/uk-england-surrey-22119832> - *BBC News*

Student Activities:

- Discussion – explaining and illustrating what is meant by the key terms of ‘occupier’ and ‘visitor’.
- Scenarios – application of the law relating to Occupiers Liability to unlawful visitors to given scenarios and newsworthy events.
- Research Activity: look at judgments of key cases and discuss the implications of these.

Suggested links / resources:

- PowerPoint presentation
- Teacher Guide
- Case summaries:
Tomlinson v Congleton Borough Council [2003]
<https://www.publications.parliament.uk/pa/ld200203/ldjudgmt/jd030731/tomlin-1.htm>
- 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 the Occupiers’ Liability Act 1984.