

COURSE SYLLABUS

Law of Torts

Course code: LEG216/B

Semester and year: Spring 2024

Day and time: Mondays; 18:30 – 21:15

Instructor: Ido Mashinsky

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Consultation hours: By Appointment

London credits AAU credits	30 UK/15 ECTS 12 ECTS/6 US (whole year)	Level	5
Length	Semester (Academic Year)	Contact Hours	44 Hours (88 Hours)
Contact hours	88 Hours	Course type	University of London LLB/CertHE/EMFSS

1. Course Description

This module introduces students to various sectors of liability in tort, with primary emphasis on the tort of negligence.

MODULE PURPOSE AND OVERVIEW

Tort law is one of the seven foundation modules required for a qualifying law degree in England and Wales and is a core requirement of the University of London LLB. Students on a QLD pathway must pass an examination in the module in order to meet the requirements of their programme.

The module guide was prepared by Vera Bermingham; Carol Brennan; Mary McLaughlin; Patricia Tuitt

MODULE AIM

Students are introduced to organising principles of tort law, such as damage, fault and vicarious liability. For the majority of the module, students will explore each element of the cause of action in a negligence claim, with particular emphasis on the duty of care concept. The module builds on the duty of care concept to develop students' knowledge and understanding of principles liability governing pure economic loss, psychiatric harm, and liability of public authorities. The module also explores these torts aimed at the safe and quiet enjoyment of land, freedom from trespass, and protection of privacy.

MODULE SYLLABUS

- (a) *The nature and function of tort law.* The scope of tort, historical development and relation to other branches of the common law, human rights principles and European law.
- (b) *Organising themes.* Damage and fault.
- (c) *The principles of duty, breach and damage components of negligence.*
- (d) *Elements of the duty test in the context of liability for psychiatric injury, pure economic loss and on liability of public bodies.*
- (e) *Defences to negligence.*
- (f) *Vicarious liability.*
- (g) *Defective premises and the law.*
- (h) *Trespass to the person and to land.*
- (i) *The tort of nuisance and the rule in Rylands v Fletcher.*
- (j) *Privacy and misuse of private information.*

STUDENT LEARNING OUTCOME

The primary outcome is an enhancement of knowledge, critical thinking and capacity to achieve a successful assessment.

LEARNING OUTCOMES: KNOWLEDGE

Students completing this module are expected to have knowledge and understanding of the main concepts and principles of Tort law. In particular they should be able to:

1. Demonstrate a critical awareness of the relationship between policy and principle in common law and legislative provisions in the tort of negligence;
2. Explain the way in which the duty concept is used as a device to control liability for pure economic loss, psychiatric injury and the liability of public bodies;
3. Identify and demonstrate the application of the defences to the torts studied, with particular attention to those pertaining to negligence: contributory negligence, consent and illegality;
4. Understand and apply the legal principles, statutes and case law governing liability of occupiers of premises;
5. Explain and apply both statute and case law regarding the negligence liability of employers;
6. Contextualise and analyse the legal principles and case law governing vicarious liability, including the most recent developments in this area;
7. Summarise the law governing trespass to the person, trespass to land and the tort in *Wilkinson v Downton*;
8. Explain the law of nuisance, including the specific attributes of private, public and statutory nuisance, as well as the rule in *Rylands v Fletcher*;
9. Contextualise and analyse the elements of claims regarding invasion of privacy and misuse of private information.

LEARNING OUTCOMES: SKILLS

Students completing this module should be able to demonstrate:

10. A developed capacity to evaluate and access legal analysis and argument;
11. Enhanced reasoning skills in relation to moderately complex legal questions and problems, and to reach reasoned conclusions;

12. The ability to evaluate and critique standard legal materials and arguments, including case law, statutes and academic writing;
13. The ability to conduct moderately complex research exercises and use research evidence.

2. Reading Material

Core reading/Essential reading

!!! MODULE (SUBJECT) GUIDE posted at London & NEO page – absolutely indispensable !!!

- Giliker, P. Tort (London: Sweet & Maxwell, 2020) seventh edition [ISBN 9780441077751]

Academic articles

Core statutes & cases on property law

Legal journals

In addition to the essential texts, you should consult a range of legal journals to keep yourself up to date with academic writing on the subject:

- *Law Quarterly Review*
- *Modern Law Review*
- *New Law Journal*
- *Estates Gazette*
- *Conveyancer and Property Lawyer.*

Recommended Materials

- VLN Study pack readings + VIDEO lectures
- NEO Study pack readings + VIDEO Lectures

3. Teaching methodology

- The lectures will be interactive and strongly oriented towards the discussion of the reading materials and other sources of information suggested by the VLN/London. They will be complemented by case studies, group work and presentations initiated by the students and reviewed by a class analysis. Considering the abundance of materials and the need to interweave information, great organization, active participation, and at-home preparation is absolutely essential for success. Regular attendance, on-time completion of homework, and ongoing work with the VLE page is required.

Module guide

Module guides are students' primary learning resource. The module guide covers the entire syllabus and provides students with the grounding to complete the module successfully. It sets out the learning outcomes that must be achieved as well as providing advice on how to study the module. It also includes the essential reading and a series of self-test activities together with sample examination questions, designed to enable students to test their understanding. The module guide is supplemented each year with the pre-exam update, made available on the VLE.

The Laws virtual learning environment (VLE)

The Laws VLE provides one centralised location where the following resources are provided:

- a module page with news and updates, provided by legal academics associated with the Laws Programme;
- a complete version of the module guides;
- pre-exam updates;
- past examination papers and reports;
- discussion forums where students can debate and interact with other students;

Computer Marked Assessments – multiple-choice questions with feedback are available for some modules allowing students to test their knowledge and understanding of the key topics.

The Online Library

The Online Library provides access to:

- the professional legal databases LexisLibrary and Westlaw;
- cases and up-to-date statutes;
- key academic law journals;
- law reports;
- links to important websites.

4. Course Schedule

2024

Date	Class Agenda
Jan. 15	<p>Topic: Defences to negligence Description: General Defences which have particular relevance to claims in negligence are the topic of this chapter. Reading: Gilker, Chapter 16 'Defences to negligence', Sections 16-001 to 16-028 Assignments/deadlines: See SG.</p>
Jan. 22	<p>Topic: Employers' liability + Vicarious liability Description: demonstrate an understanding of the distinction between and employer's liability for harm caused to their employees (personal liability) and an employer's liability for harm caused by their employees (vicarious liability); understand the meaning of the 'non-delegable' employers' duty and its implications; explain the difference between the common law and statutory employers' duties; understand the basic nature of breach of statutory duty; evaluate the developments in respect of an employer's liability for occupational stress. Suggest reasons why the law should hold employers liable for certain torts committed by their employees; distinguish between an employer and an independent contractor ; identify relationships 'akin to employment' ; identify when an employee is acting in the course of employment Reading: Gilker, Chapter 7 'Employers' liability', Sections 7-001 to 7-024 + 7-025 to 7-041. Assignments/deadlines: See SG.</p>
Jan. 29	<p>Topic: Defective premises: pure economic loss + Defective premises: occupiers' liability Description: explain the legal significance of distinguishing between claims based on damage to property and claims arising from a defect in property; evaluate the 'complex structure' approach; analyse the leading</p>

	<p>authorities: D&F Estates v Church Commissioners (1989), Anns v Merton (1978) and Murphy v Brentwood (1990); explain the position concerning preventative expenditure for a defective structure to avoid damage to persons or property. + explain which entrants into private premises are lawful visitors and which are not; define who is to be treated as an occupier of premises; demonstrate a detailed knowledge of the duty of care owed by occupiers to lawful visitors under the Occupiers' Liability Act 1957; describe and explain the nature and extent of the occupiers' duty to trespassers under the Occupiers' Liability Act 1984.</p> <p>Reading: Giliker, Chapter 3 'Negligence: economic loss', Sections 3-001 to 3-022 + Chapter 8 'Occupiers' liability'.</p> <p>Assignments/deadlines: See SG.</p>
Feb. 5	<p>Topic: The law of nuisance</p> <p>Description: explain the difference between various forms of nuisance and when each form is applicable; apply the rule relating to the tort of private nuisance and, in particular, be able to identify: who can sue, when a court is likely to find liability, what defences exist, what remedies exist; outline the basic rules of the tort of public nuisance; understand the potential for overlap between nuisance and the torts of Rylands v Fletcher and negligence; identify the influence of the Human Rights Act 1998 on this area of tort.</p> <p>Reading: Giliker, Chapter 10 'Nuisance and the rule in Rylands v Fletcher'.</p> <p>Assignments/deadline: See SG</p>
Feb. 12	<p>Topic: The rule in Rylands v Fletcher</p> <p>Description: explain the nature of the rule in Rylands v Fletcher and where it fits in the context of other torts; analyse the circumstances in which a claim under Rylands v Fletcher is likely to arise; identify who can sue whom under the rule; explain the defences which exist and the remedies available.</p> <p>Reading: Giliker, Chapter 10 'Nuisance and the rule in Rylands v Fletcher', Sections 10-048 to 10-073.</p> <p>Assignments/deadlines: See SG.</p>
Feb. 19	<p>Topic: Privacy and misuse of private information</p> <p>Description: understand the history of the protection of privacy in English law; describe the range of current legal approaches to privacy; understand how the courts now recognise the separate tort of misuse of private information; appreciate the impact of the Human Rights Act 1998 on this developing area of law.</p> <p>Reading: Giliker, Chapter 15 'Privacy (or misuse of private information)'.</p> <p>Assignments/deadlines: See SG.</p>
Feb. 26	<p>Topic: Review class</p> <p>Description: Review session for the main completed chapters thus far</p> <p>Reading: TBD dependent on student comprehension and areas needing improvement</p> <p>Assignments/deadline: See SG + VLE</p>
Mar. 4	<p>Topic: Tort Lecture Plus</p> <p>Description: Review Modernising the tort of Wilkinson v Downton' Rachael Mulheron, J.P.I. Law 2023, 1, 13-35</p> <p>Reading: Modernising the tort of Wilkinson v Downton' Rachael Mulheron, J.P.I. Law 2023, 1, 13-35 + VLE presentation</p> <p>Assignments/deadlines: See VLE</p>

Mar. 11	<p>Topic: Review of previous exam questions Description: Review previous years exam questions and analyze the structure of each answer Reading: May 2021 Zone A Exam Paper; May 2021 Zone A Report; May 2021 Zone B Exam Paper; May 2021 Zone B Report Assignments/deadlines: See VLE.</p>
Mar. 18	<p>Topic: Review Previous Classes Description: Review session for the main completed chapters thus far Reading: TBD dependent on student comprehension and areas needing improvement Assignments/deadlines: See SG + VLE</p>
--- MID TERM BREAK --- March 25 – March 29	
Apr. 1	Holiday (Easter Monday)
TBD	<p>Make up class for Apr. 1 Topic: Review of previous exam questions Description: Review previous years exam questions and analyze the structure of each answer Reading: May 2022 Zone A Exam Paper; May 2022 Zone A Report; May 2022 Zone B Exam Paper; May 2022 Zone B Report Assignments/deadlines: See VLE.</p>
Apr. 8	<p>Topic: Review of all questions from SG Description: Review all questions from all chapters in SG Reading: SG Assignments/deadlines: See SG.</p>
Apr. 15	<p>Topic: Review of previous exam questions Description: Review previous years exam questions and analyze the structure of each answer Reading: May 2022 Zone A Exam Paper; May 2022 Zone A Report; May 2022 Zone B Exam Paper; May 2022 Zone B Report Assignments/deadlines: See VLE.</p>
Apr. 22	Topic: Mock Exams + Extra Material

5. Course Requirements and Assessment (with estimated workloads)

There are 88 hours of contact time and additional hours of notional study time. In sum, students should study no less than 300 hours for this course (considering the whole year), and this predominantly by reading and critical thinking and discussing.

ASSESSMENT

Learning is supported through tasks in the module guide online activities. The formative assessment will prepare students to reach the module learning outcomes tested in the summative assessment.

Summative assessment is through a three-hour and 15 minute unseen examination, which includes a choice of essay and problem questions. Students are required to answer three questions out of six. Please be aware that the format and mode of assessment may need to change in light of extraordinary events beyond our control, for example, an outbreak such as the coronavirus (COVID-19) pandemic. In the event of any change, students will be informed of any new assessment arrangements via the VLE.

Permitted materials

Students are permitted to bring into the examination room the following specified document:

- Hart core statutes on property law 2022–23 (Bloomsbury).

TBD – see past exams (London page).

6. General Requirements and School Policies

General requirements

All coursework is governed by AAU's academic rules. Students are expected to be familiar with the academic rules available in the Codex, AAU's Student Handbook, the School of Law Handbook, and the University of London International Programme Student Handbook.

Electronic communication and submission

The university and instructors shall only use students' university email address for communication; students are encouraged to communicate through NEO.

Each e-mail sent to an instructor that is a new topic (not a reply to an original email) shall have the course name and purpose of the email listed in the subject, for example: "Property Law Mid-term Exam Feedback question"; each new matter requires a new subject line, for example "Property Law essay draft question" or "Property Law – review final essay feedback".

A considerable amount of course work will be handwritten; these assignments are to be submitted in person. Electronic documents will be submitted via NEO.

Attendance

Attendance, i.e., presence in class in real-time, at AAU courses is default mandatory; however, it is not graded as such. (Grades may be impacted by missed assignments or lack of participation.) Still, students must attend at least two thirds of classes to complete the course. If they do not meet this condition and most of their absences are excused, they will be administratively withdrawn from the course. If they do not meet this condition and most of their absences are not excused, they will receive a grade of "FW" (Failure to Withdraw). Students may also be marked absent if they miss a significant part of a class (for example by arriving late or leaving early).

LLB students are required to attend a minimum **80%** of courses. Students failing to meet the threshold in dual enrolment courses may be dissociated as representative of AAU. This step removes AAU's access to the student's University of London's records and prevents AAU from advocating on the students behalf. This is an absolute attendance requirement; excused absences do not apply. The handbook should be consulted for further information.

Absence excuse and make-up options

Should a student be absent from classes for relevant reasons (illness, serious family matters), and the student wishes to request that the absence be excused, the student

should submit an Absence Excuse Request Form supplemented with documents providing reasons for the absence to the Dean of Students within one week of the absence. Each student may excuse up to two sick days per term without any supporting documentation; however, an Absence Excuse Request Form must still be submitted for these instances. If possible, it is recommended the instructor be informed of the absence in advance. Should a student be absent during the add/drop period due to a change in registration this will be an excused absence if s/he submits an Absence Excuse Request Form along with the finalized add/drop form.

Students whose absence has been excused by the Dean of Students are entitled to make up assignments and exams provided their nature allows. Assignments missed due to unexcused absences which cannot be made up, may result in a decreased or failing grade as specified in the syllabus.

Students are responsible for contacting their instructor within one week of the date the absence was excused to arrange for make-up options.

Late work: No late submissions will be accepted without prior consultation and agreement with the instructor – please follow the deadlines.

Electronic devices

Electronic devices (e.g. phones, tablets, laptops) may be used only for class-related activities (taking notes, looking up related information, etc.). Any other use will result in the student being marked absent and/or being expelled from the class. No electronic devices may be used during tests or exams unless required by the exam format and the instructor.

Eating is not allowed during classes.

Cheating and disruptive behavior

If a student engages in disruptive conduct unsuitable for a classroom environment, the instructor may require the student to withdraw from the room for the duration of the class and shall report the behavior to the student's Dean.

Students engaging in behavior which is suggestive of cheating will, at a minimum, be warned. In the case of continued misconduct, the student will fail the exam or assignment and be expelled from the exam or class.

Plagiarism

Plagiarism obscures the authorship of a work or the degree of its originality. Students are expected to create and submit works of which they are the author. Plagiarism can apply to all works of authorship – verbal, audiovisual, visual, computer programs, etc. Examples are:

- **Verbatim plagiarism:** verbatim use of another's work or part of it without proper acknowledgement of the source and designation as a verbatim quotation,
- **Paraphrasing plagiarism:** paraphrasing someone else's work or part of it without proper acknowledgement of the source,
- **Data plagiarism:** use of other people's data without proper acknowledgement of the source,
- **False quotation:** publishing a text that is not a verbatim quotation as a verbatim quotation,
- **Fictitious citation:** quoting, paraphrasing, or referring to an incorrect or a non-existent work,

- **Inaccurate citation:** citing sources in such a way that they cannot be found and verified,
- **Ghostwriting:** commissioning work from others and passing it off as one's own,
- **Patchwriting:** using someone else's work or works (albeit with proper acknowledgement of sources and proper attribution) to such an extent that the output contains almost no original contribution,
- **Self-plagiarism:** unacknowledged reuse of one's own work (or part of it) that has been produced or submitted as part of another course of study or that has been published in the past,
- **Collaborative plagiarism:** delivering the result of collective collaboration as one's own individual output.

At minimum, plagiarism will result in a failing grade for the assignment and shall be reported to the student's Dean. A mitigating circumstance may be the case of novice students, and the benefit of the doubt may be given if it is reasonable to assume that the small-scale plagiarism was the result of ignorance rather than intent. An aggravating circumstance in plagiarism is an act intended to make the plagiarism more difficult to detect. Such conduct includes, for example, the additional modification of individual words or phrases, the creation of typos, the use of machine translation tools or the creation of synonymous text, etc. The Dean may initiate a disciplinary procedure pursuant to the Academic Codex. Intentional or repeated plagiarism always entail disciplinary hearing and may result in expulsion from AAU.

Use of Artificial Intelligence and Academic Tutoring Center

The use of artificial intelligence tools to search sources, to process, analyze and summarize data, and to provide suggestions or feedback in order to improve content, structure, or style, defined here as AI-assisted writing, is not in itself plagiarism. However, it is plagiarism if, as a result, it obscures the authorship of the work produced or the degree of its originality (see the examples above).

AAU acknowledges prudent and honest use of AI-assisted writing, that is, the use of AI for orientation, consultation, and practice is allowed. For some courses and assignments, however, the use of AI is counterproductive to learning outcomes; therefore, the course syllabus may prohibit AI assistance.

A work (text, image, video, sound, code, etc.) generated by artificial intelligence based on a mass of existing data, defined here as AI-generated work, is not considered a work of authorship. Therefore, if an AI-generated work (e.g. text) is part of the author's work, it must be marked as AI-generated. Otherwise, it obscures the authorship and/or the degree of originality, and thus constitutes plagiarism. Unless explicitly permitted by the instructor, submission of AI-generated work is prohibited.

If unsure about technical aspects of writing, and to improve their academic writing, students are encouraged to consult with the tutors of the AAU Academic Tutoring Center. For more information and/or to book a tutor, please contact the ATC at:

<http://atc.simplybook.me/sheduler/manage/event/1/>.

Course accessibility and inclusion

Students with disabilities should contact the Dean of Students to discuss reasonable accommodations. Academic accommodations are not retroactive.

Students who will be absent from course activities due to religious holidays may seek reasonable accommodations by contacting the Dean of Students in writing within the first

two weeks of the term. All requests must include specific dates for which the student requests accommodations.

7. Grading Scale

University of London

The final examination is administered by the University of London. The grades are determined by the University of London based on the examination results.

The criteria of the grading scale are elaborated in the Law School Handbook. Students should review the handbook for a greater understanding of the aspects of each classification. Courses will be marked with a numerical grade while the degree is awarded an honour. Feedback for your formative assessments will indicate an honour level.

Grade Translations Table			
UK Class of Honours LLB	U.K. Numerical Grade	U.K. Class of Honours CertHE	ECTS* Grade
First	70 - 100	Distinction	A
Upper Second	67 - 69	Merit	A
Upper Second	65 - 66	Merit	B
Upper Second	60 - 64	Merit	B
Lower Second	55 - 59	Credit	C
Lower Second	50 - 54	Credit	C
Third	47 - 49	Pass	D
Third	45 - 46	Pass	D
Third	40 - 44	Pass	D
Fail	35 - 39	Fail	E
Fail	Below 35	Fail	F

* European Credit Transfer and Accumulation System

For the exact translation to AAU grades, please see the Grading Policy in AAU Academic Codex.

Prepared by and when: Ido Mashinsky on 12.1.2024

Approved by: Jan Vašenda, Vice Dean, School of Law on 12.1.2024