

# ASPECTS OF CONTRACT AND NEGLIGENCE FOR BUSINESS



Lecturer: Judith Robb-Walters  
Lesson 4



- **ASPECTS OF CONTRACT AND NEGLIGENCE FOR BUSINESS**

- LO 2: Be able to apply the elements of a contract in business situations

- September – November 2014

# The Basic Syllabus



Understand the essential elements of a valid contract in a business context.

- Be able to apply the elements of a contract in business situations.
- Understand principles of liability in negligence in business activities
- Be able to apply principles of liability in negligence in business situations.

# LEARNING OBJECTIVES



- At the end of the class, students should be able to:
  - apply the elements of contract in given business scenarios.

# OVERVIEW



Individuals and businesses form contracts all the time. Despite what many people believe, contracts do not all need to be written and signed documents. Many valid contracts involve no written or spoken communication at all, for example where a person buys something from a shop. The first requirement for a valid contract – agreement, which consists of an offer and acceptance of the offer. The rules concerning when offers can be terminated and how acceptance should be communicated are vital knowledge as to whether or not a valid contract exists.

ACCA F4 Corporate and Business Law

# OFFER AND ACCEPTANCE



- At 9:00 am on Monday September 8, 2014 Maurice, a car dealer, sends a telex to Austin offering to sell him a rare vintage car for \$50,000.00. Austin receives the telex at 9:15 am and telexes his acceptance at 1:00pm. Austin is aware that Maurice's office is closed for lunch between 1:00 and 2:00 pm. On his return to the office, Maurice does not bother to check whether he has received a telex from Austin and at 2:30pm receives an offer for the car from Ford, which she accepts. At 4:00pm Austin hears from another car dealer that Maurice has sold the car to Ford. He is advised that it will cost him an additional \$2,000.00 to buy a similar car and he immediately sends Maurice another telex demanding that the original car be sold to him. Maurice receives this telex at 5:00pm, at the same time as he reads the acceptance telex.
- Advise Austin of his legal position and what remedies, if any are open to him.

# INTENTION TO CREATE LEGAL RELATIONS



- Michelle and Mark are planning to divorce. They have spent their married life in an apartment which they bought in their joint names, with the help of a mortgage which has six years still to run. Michelle and Mark agree that Mark will move out of the house, and if Michelle meets the mortgage payments repayments for the next six years, Mark will, at the end of the time, transfer sole ownership of the house to her. Michelle pays the mortgage for a year, at which point Mark says he has changed his mind, and does not intend to transfer his share of the house to her.
- Advise Michelle. How, if at all, would your advice differ if Mark had changed his mind before Michelle had started paying the mortgage.



# CONSIDERATION



Pauline has bought herself a new car. Rohan had been her gardener for many years. She told him that as he had done such a good job in the garden that summer he could have her old car. Rohan was delighted and sold his old car. Using the money from the sale of his old car he orally agreed to take out a four lease on a flat. The next week Pauline changed her mind and refused to give Rohan the car.

## Discuss



# CAPACITY



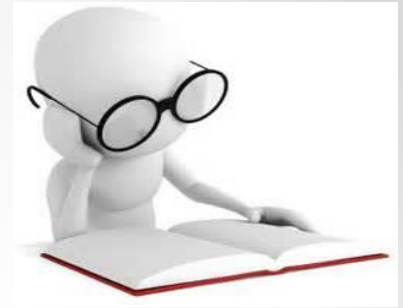
- Nadine and Olivia , both aged 17, are keen on dancing and singing and both decide to pursue a career in this field.
- Nadine gains a place at The College of the Performing arts, and begins her course with enthusiasm. However, she soon becomes annoyed at some terms to which she finds she has agreed, in particular one which prevents her from taking part in any professional productions during the school vacation, without permission from the school, and another which obliges her to hand over 30 percent of any earnings from such production, during her time at the School. Nadine has been invited to take part in a professional play during the summer, and would like to avoid the said obligations.
- Olivia's career takes a different course. She borrows from Nation Commercial Bank to set up her own small successful business selling dance and stage clothing and equipment, the proceeds of which pay for singing and dancing lessons. After a few months, Olivia's main supplier finds out that she is only 17 and refuses to trade with her. This leaves Olivia without enough business to pay for this month's lessons, and her teacher is pressing her to meet her obligations. She is also behind with the payments on her mobile telephone account, and has received a demand for payment.
- Advise both Nadine and Olivia's regarding the enforceability of any contracts which they have made.

# PRIVITY OF CONTRACT



- In relation to the law of contract explain the meaning and effect of:-
  - (a) The doctrine of privity
  - (b) The intention to create legal relations

# Further readings



- **The law of obligations 4: Formation of contracts I  
ACCA BPP F4**
- **Contract Law - Catherine Elliott and Frances Quinn**