

LEVEL 5 ASSESSMENT SPECIFICATION

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Module:	Contract law		
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Lecturer:	Laura Knight	Internal Verifier:	Sian Turvey
Assignment Title:	Intention to create legal relations	Word count (or equivalent):	2000
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Contract law says that both parties must want to get into a legal relationship. This is done to sort out cases that are not really good for legal action. It's not like every agreement turns into a legally binding contract that can be enforced through the courts. For example, you might have made a plan with a friend to meet up at their birthday party. You might have a moral obligation to follow the terms of that agreement, but there is no law that says you have to. This is because most of the time, the people making these kinds of agreements don't want to be legally bound, and the law tries to work with what the people want. The law makes a distinction between social and domestic agreements and business agreements to figure out which agreements are legally binding and want to make legal relationships. (All Answers Ltd, 2022)

When it comes to social and domestic agreements, it is generally assumed that the parties involved do not want to form any legal links. The notion can be refuted by presenting evidence that demonstrates the opposite. If reliance has been put on the agreement, When a married/cohabiting couple separates and a separation agreement is formalized in writing or in a commercial situation when there is proof to demonstrate, for example, purpose to split prizes In gaming scenarios with evidence of, The assumption may be overcome in social and domestic agreements if the agreement has been relied on. When there has been a split When two parties join into a commercial partnership, there is a strong expectation that they want to develop legal relations. This notion can be debunked by presenting evidence that demonstrates the opposite. When it comes to business contracts, the assumption can be overturned in a few different scenarios, including when the agreement contains the phrase "subject to contract," when letters of comfort and honor clauses were utilized, and when the agreement was the subject of collective bargaining. (All Answers Ltd, 2022) (Hepple, 1970)

1.0 Agreements made within a social or domestic context:

The number of cases filed in court to address disputes involving agreements made between relatives and friends would skyrocket if such agreements were legally binding. Legal systems are hesitant to become involved in family disputes. 'The little Courts of this nation would have to be expanded by a hundred if these agreements were judged to result in legal responsibilities,' said Lord Atkin L.J. in *Balfour v. Balfour*. (Saprai, 2017)

Balfour v. Balfour [1919]. A spouse who was working abroad was supposed to provide monthly support for his wife. A happy marriage existed between them at the time of the contract. The marriage eventually broke down, and the husband stopped paying. The spouse hoped to uphold the terms of the contract. It was determined that the agreement was not intended to create any legal obligations between the parties

since it was a purely social and domestic arrangement. It's not that the parties are cowards who won't stand up for their rights if they're violated; rather, it's because they never planned to be sued in the first place. (Saprai, 2017) (*Intention to Create Legal Relations on JSTOR*, 2023a)

In *Merritt v. Merritt*, A man left his wife for another woman and moved in with her. The couple owned the house together, and they still had to pay £180 on it. The husband signed a contract that said he would give his wife £40 a month to help her pay the mortgage. If she paid all of the fees related to the mortgage until it was paid off, he would give her his share of the house. When the mortgage was paid off in full, she went to court to prove that the house was hers. (McKendrick, 1997) (Web & Aspect2016, 2022)

It was determined that the arrangement between the two parties resembled more of a commercial deal than a social or personal one. As Lord Denning put it, "the circumstances in *Merritt* were such that the parties do not depend on honorable understandings but negotiate intensely," therefore it is reasonable to assume that any agreement between them was meant to be legally enforceable. The agreement had to be kept. The Court of Appeal set *Balfour v. Balfour* apart because the two sides were no longer together. Most of the time, when a couple has split up, it is assumed that they still want to be bound by their agreements. The written agreement signed was another sign that they meant to be bound by it. (Saprai, 2017)

There is no presumption that the broad norms of social buddy connections are binding in a legal sense. If this is not the case, the assumption may be challenged using the exception. There was a legal dispute that took place in the year 1955 and it was named *Simpkins v. Pays*. This scenario illustrates the concept of mutuality. In this particular instance, the plaintiff (who was staying at the defendant's home as a paid lodger) participated often in newspaper contests with the defendant and her granddaughter. Each and every donation was made in the name of the defendant. There is no predetermined set of guidelines controlling the manner in which postage and other fees are to be paid. In spite of the fact that the plaintiff's entry into the competition was successful, the defendant refused to share. The plaintiff initiated legal action to get his share of the pie. The judge ruled that the parties' agreements had sufficient reciprocity when they included a legally obligated relationship. (*Intention to Create Legal Relations on JSTOR*, 2023) (Web & Aspect2016, 2022)

2.0 Agreements made within a commercial/business context:

There is a presumption or intention to be legally binding in terms of general principles of commercial or business connections. These principles may also be thought of as business relationship guidelines. A rebuttable alternative to the exceptions made by the assumption is also available. *Kleinwort Benson Ltd. v. Malaysia Mining Company Bhd* in the year 1989 is cited as an exemplary case. The comforting letters are shown in the case. The plaintiff in this case is a bank, and they agreed to provide MMC Metals, a subsidiary of MMC, with a loan. The bank approached MMC with the request to guarantee the loan. MMC said that it is not their policy to guarantee loans to subsidiaries, but they did give a letter of comfort which read as follows: "It is our intention to ensure that the business of MMC (Metals) is at all times in a position to satisfy its responsibilities under the arrangements." (*About | HeinOnline*, 2021) The bank agreed to the terms but increased the interest rate, which led to the collapse of the market and the eventual bankruptcy of MMC. The plaintiffs tried to file a claim for balance with MMC. First instance, the court ruled in favor of the plaintiff, relying on a judgement from *Skyways* (1964) that was rejected on appeal. The judge said that the *Skyways* case did not include a promise backed by consideration, and so it was not relevant here. As a result, it was decided that there was no aim in making a legally enforceable agreement. The remark in question was not intended to serve as a promise and instead stated the currently held viewpoint rather than any future intentions. (*About | HeinOnline*, 2021) (*Legal Intent in Contract Law - Claims.co.uk* TM, 2018)

In the case of *Edwards v Skyways* [1964]. The claimant worked for the defendant as a pilot for an airline. He was going to be fired. The defendants told him that if he stopped putting money into the company pension fund, they would give him an ex-gratia payment equal to the amount the company would have put in. The claimant agreed to this, so he took back his money. After that, the company ran into more money problems and broke their promise about the ex-gratia payment. The agreement was made in a business setting, which makes it likely that it is legally binding. So, the claimant could follow through on the agreement and get the money. (*Legal Intent in Contract Law - Claims.co.uk* TM, 2018) (LexisNexis Dispute Resolution expert, 2019)

In *Esso Petroleum v. Customs & Excise* (1976), Esso started a campaign where customers who bought four gallons of gas could get a free coin from their World Cup Coins Collection. The judge ruled that Esso should win. The court had to decide if these coins were "made in large quantities to be sold to the public." If this was true, then the coins should have been taxed, and Esso would have to pay a £200,000 fine. Esso said that the coins were just something they were giving away for free, that the campaign was never meant to have any legal consequences, and that the coins were never for sale to anyone else. The creation of legal relations was intended to take place. The coins were presented in a business environment, raising the possibility that they did

plan to be bound. Coins weren't on sale since they weren't exchanged for cash and were not for sale in the first place. (*Intention to Create Legal Relations on JSTOR*, 2023) (*Legal Intent in Contract Law - Claims.co.uk* TM, 2018)

3.0 Agreements made with public bodies or those which affect public interest:

There is a possibility that the courts may reach the conclusion that there was no purpose in establishing legal connections. Even though a contract seems to be enforceable, a court may conclude, for reasons of public policy, that there is no contractual connection between the parties involved, even if the contract meets all of the requirements to be enforced. This may take place in a variety of different ways, including the following: - Cause uncalled-for expenses to be paid by the public, frustrate the intent of Parliament, and disrupt the normal functioning of a public service. (McKendrick, 1997) (Web & Aspect2016, 2022)

Willmore v South Eastern Electricity Board [1957]. C wanted to set up infra-red electric lighting in their home so that they could successfully raise chicks. To accomplish this goal, constant heat was required. C sought the advice of D's engineer, who informed them that the electric current that C would be supplying would be enough. C purchased the lights from D, who subsequently gave permission for their installation. The lighting went out on many times, which resulted in the death of the chicks. C filed a lawsuit against B for violation of contract. It was decided that D delivered power in compliance with the statutory responsibility, and as a result, there was no purpose to establish any legal contacts between the parties. (LexisNexis Dispute Resolution expert, 2019) (McKendrick, 1997)

Triefus v Post Office 1957, the plaintiff filed a claim for damages after the defendant was responsible for the loss of two postal packets. The acceptance of a postal package for transmission to the addressee by the Post Office does not give rise to any contractual rights on either party's part. The court conducted an investigation into the evolution of the laws governing postal delivery. The culpability of the defendant was capped at two pounds and eighteen pence per package. (McKendrick, 1997)

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