



PAPER C05

Fundamentals of Ethics, Corporate Governance and Business Law

Acorn chapters

- 1 English law and other legal systems
- 2 Establishing contractual obligations
- 3 Legislation and performance of the contract
- 4 Contractual breakdown
- 5 The law of employment
- 6 Company formation
- 7 Company constitution and administration
- 8 Corporate finance
- 9 Corporate management
- 10 Ethics and business
- 11 Ethical conflict
- 12 Corporate governance

Learning aims

The learning outcomes in this paper reflect the legal framework for business and provide the underpinning for commercial activity. It includes the areas of contract law, employment law, financing, administration and management of companies. The globalisation of business is recognised by the inclusion of alternative legal systems, as well as the English legal system. Judicial precedent is included in relation to professional negligence. Wherever business is conducted, the highest professional standards must be demonstrated for the benefit of all stakeholders. With this in mind, the place of ethics and ethical conflict is considered, as well as the role of corporate governance and its increasing impact in the management of organisations.

Assessment strategy

There will be a two hour computer based assessment, comprising 75 compulsory questions, each with one or more parts.

A variety of objective test question styles and types will be used within the assessment

Syllabus structure

The syllabus comprises the following topics and study weightings:

A	Ethics and business	15%
B	Ethical conflict	10%
C	Corporate governance	10%
D	Comparison of English Law with alternative legal systems	10%
E	The law of contract	20%
F	The law of employment	10%
G	Company administration and finance	25%

Learning outcomes and syllabus content

A - Ethics and business (15%)

On completion of their studies students should be able to:

- (i) apply the values and attitudes that provide professional accountants with a commitment to act in the public interest and with social responsibility
- (ii) explain the need for a framework of laws, regulations and standards in business, and their application
- (iii) explain the nature of ethics and its application to business and the accountancy profession
- (iv) distinguish between detailed rules based and framework approaches to ethics
- (v) explain the need for continual personal improvement and lifelong learning
- (vi) explain the need to develop the virtues of reliability, responsibility, timeliness, courtesy and respect
- (vii) explain the ethical principles of integrity, objectivity, professional competence, due care and confidentiality
- (viii) identify concepts of independence, scepticism, accountability and social responsibility
- (ix) explain the reasons why CIMA and IFAC each have a “Code of Ethics for Professional Accountants”

Indicative syllabus content

- the importance of ethics
- values and attitudes for professional accountants
- legal frameworks, regulations and standards for business
- the role of national “Professional Oversight Boards for Accountancy” and “Auditing Practices Boards”
- the role of international accounting bodies, e.g. IFAC
- the nature of ethics and its relevance to business and the accountancy profession
- rules based and framework approaches to ethics
- the “Seven Principles of Public Life” – selflessness, integrity, objectivity, accountability, openness, honesty and leadership
- personal development and lifelong learning
- the personal qualities of reliability, responsibility, timeliness, courtesy and respect
- the ethical principles of integrity and objectivity
- professional competence, due care and confidentiality
- disclosure required by law
- the concepts of independence, scepticism, accountability and social responsibility
- the CIMA and IFAC “Code of Ethics for Professional Accountants”

B - Ethical conflict (10%)

On completion of their studies students should be able to:

- (i) explain the relationship between ethics, governance, the law and social responsibility
- (ii) describe the consequences of unethical behaviour to the individual, the profession and society
- (iii) identify situations where ethical dilemmas and conflicts of interest occur
- (iv) explain how ethical dilemmas and conflicts of interest can be resolved.

Indicative syllabus content

- the relationship between ethics and the law
- the distinction between ethical codes and contracts
- corporate governance and social responsibility
- unethical behaviour
- the consequences of unethical behaviour
- the nature of ethical dilemmas
- conflicts of interest and how they arise
- ethical conflict resolution
- the 2010 CIMA code of ethics for professional accountants – fundamental principles

C - Corporate governance (10%)

On completion of their studies students should be able to:

- (i) define corporate governance
- (ii) explain the interaction of corporate governance with business ethics and company law
- (iii) describe the history of corporate governance internationally
- (iv) distinguish between detailed rules based and principles based approaches to governance
- (v) explain the effects of corporate governance on directors' powers and duties
- (vi) describe different board structures, the role of the board and corporate social responsibility
- (vii) describe the types of policies and procedures that constitute 'best practice'
- (viii) explain the regulatory governance framework for companies and benefits to stakeholders.

Indicative syllabus content

- the role and key objectives of corporate governance
- the interaction of corporate governance, ethics and the law
- the development of corporate governance internationally, e.g. in the UK, Europe, South Africa and the USA
- rules and principles based approaches to governance
- the impact of corporate governance on directors' powers and duties
- types of board structures, the role of the board and corporate social responsibility (CSR)
- the role of the board in establishing corporate governance standards
- corporate governance codes, e.g. the UK corporate governance code
- policies and procedures for 'best practice' companies
- the regulatory governance framework for companies
- stakeholder benefits.

D - Comparison of English law with alternative legal systems (10%)

On completion of their studies students should be able to:

- (i) explain the manner in which behaviour within society is regulated by the civil and the criminal law
- (ii) explain the sources of English law
- (iii) illustrate the operation of the doctrine of precedent by reference to the essential elements of the tort of negligence and its application to professional advisers
- (iv) describe the characteristics of the legal systems found in other countries
- (v) describe elements of Shari'ah law
- (vi) describe the role of international regulations.

Indicative syllabus content:

- the purpose of the civil and criminal law
- the sources of English law: custom, case law, statute, European law and other sources
- the distinction between the common law and equity
- the system of judicial precedent
- the essential elements of the tort of negligence, including duty, breach and damage / loss / injury and the liability of professionals in respect of negligent advice
- alternative legal systems, including codified (civil law) systems
- the general characteristics of the legal systems of France, Germany, Poland, Italy, Denmark, Greece and Cyprus
- the general characteristics of the legal systems of the USA, Malaysia, China and Sri Lanka
- elements of Shari'ah law, including sources of Shari'ah law and the five pillars of Islam
- the benefits of international regulations for commerce and professional practice through the work of key bodies, e.g. IFAC, ISO and FEE

E - The law of contract (20%)

On completion of their studies students should be able to:

- (i) identify the essential elements of a valid simple contract, and situations where the law requires the contract to be in a particular form
- (ii) explain how the law determines whether negotiating parties have reached agreement and the role of consideration in making that agreement enforceable
- (iii) explain when the parties will be regarded as intending the agreement to be legally binding and how an agreement may be avoided because of misrepresentations
- (iv) explain how the terms of a contract are established and their status determined
- (v) describe the effect of terms implied into contracts by sale of goods and supply of goods and services legislation
- (vi) describe how the law controls the use of excluding, limiting and unfair terms
- (vii) describe the factors which cause a contract to be discharged
- (viii) explain how the law of frustration provides an excuse for non-performance of the contract
- (ix) explain the remedies which are available for serious and minor breaches of contract.

Indicative syllabus content:

- the essential elements of a valid simple contract
- the legal status of statements made by negotiating parties, including offers and acceptances, and the application of the rules to standard form contracts using modern forms of communication
- the principles for establishing that the parties intend their agreement to have contractual force and how a contract is affected by a misrepresentation
- incorporation of express and implied terms, conditions and warranties
- the main provisions of the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982
- excluding and limiting terms; the Unfair Contract Terms Act 1977 and the Unfair Terms in Consumer Contracts Regulations
- discharge of a contract by performance, agreement and breach
- the law relating to frustration
- the law relating to damages
- the remedies of specific performance, injunction, rescission, and requiring a contract party to pay the agreed price.

F - The law of employment (10%)

On completion of their studies students should be able to:

- (i) explain the differences between employees and independent contractors
- (ii) explain how the contents of a contract of employment are established
- (iii) explain the distinction between unfair and wrongful dismissal
- (iv) explain how employers and employees are affected by health and safety legislation
- (v) describe the consequences of a failure to comply with health and safety legislation.

Indicative syllabus content

- the tests used to distinguish an employee from an independent contractor
- the express and implied terms of a contract of employment
- the rights and duties of employers and employees
- notice and dismissal
- unfair and wrongful dismissal
- the main rules relating to health and safety at work, sanctions on employers for non-compliance, and remedies for employees
- social security compensation
- civil liability for occupational injuries.

G - Company administration and finance (25%)

On completion of their studies students should be able to:

- (i) describe the essential characteristics of the different forms of business organisations and the implications of corporate personality
- (ii) explain the differences between public and private companies and establishing a company by registration or purchasing ‘off the shelf’
- (iii) explain the purpose and legal status of the articles of association
- (iv) explain the ability of a company to contract
- (v) explain the main advantages and disadvantages of carrying on business through the medium of a company limited by shares
- (vi) explain the use and procedure of board meetings and general meetings of shareholders
- (vii) explain the voting rights of directors and shareholders
- (viii) identify the various types of shareholder resolutions
- (ix) explain the nature of different types of shares, the procedure for their issue and acceptable forms of payment
- (x) explain the maintenance of capital principle and the reduction of share capital
- (xi) explain the ability of a company to take secured and unsecured loans, the different types of security and the registration procedure
- (xii) explain the procedure for the appointment, retirement, disqualification and removal of directors
- (xiii) explain the powers and duties of directors when in office
- (xiv) explain the rules dealing with the possible imposition of personal liability upon the directors of insolvent companies
- (xv) explain the rights of majority and minority shareholders
- (xvi) explain the division of powers between the board of a company and the shareholders
- (xvii) explain the qualifications, powers and duties of the company secretary.

Indicative syllabus content

- the essential characteristics of sole traderships / practitionerships, partnerships, companies limited by shares and corporate personality
- ‘lifting the corporate veil’ both at common law and by statute
- the distinction between public and private companies
- company registration and the advantages of purchasing a company ‘off the shelf’
- the purpose and contents of the articles of association
- corporate capacity to contract
- the advantages and disadvantages of the company limited by shares
- board meetings: when they are used and the procedure at a meeting
- general meetings of shareholders: when they are used and the procedure at a meeting
- the voting rights of directors and shareholders
- ordinary, special and written resolutions and their uses
- the rights attached to different types of shares
- the procedures for issuing shares
- the issue of shares for an improper purpose
- payment for shares
- the maintenance of capital principle: the purposes for which shares may be issued, redeemed or purchased, and the provision of financial assistance for the purchase of the company’s own shares
- the reduction of capital
- the ability of a company to borrow money and the procedure to be followed
- unsecured loans, and the nature and effect of fixed and floating charges
- the appointment, retirement and removal of directors and their powers and duties during office
- fraudulent and wrongful trading, preferences and transactions at an under-value
- the rights of majority and minority shareholders
- the division of powers between the board and the shareholders
- the qualifications, powers and duties of the company secretary.