

ANSWER LIKE A PRO!

LAW

LAW: QUESTIONS AND ANSWERS

In this resource, we have chosen eight past-interview questions, and asked an Law graduate, Jonathan, to explain how he would go about answering each of these tricky subject-specific questions.

Four truly tricky questions... how would YOU answer?

1. A father promises to give his daughter £100 a week during her time at university. After the first term, he decides she needs to be more self-reliant and stops paying her. Can she sue him for breach of contract?
2. Basil offers to sell Mohammed his car for £500. They shake on it and Mohammed gives him the money in cash. En route to delivering it, Basil crashes and the car is written-off. He refuses to give Mohammed his money back. What can Mohammed do next?
3. A Company puts an advert in a local newspaper: "Buy our brilliant guide to getting into university and we guarantee you will be offered a place at your first choice or your money back and £1000". James buys the guide, follows its advice but is rejected from everywhere he applies. The Company refuses to give him his money back. Can he sue for breach of contract?
4. What would the English courts make of [Antonio and Shylock's bargain](#) today? Would they enforce it?

We asked Jonathan, our graduate Law expert and blogger, how he would approach these questions...

1. A father promises to give his daughter £100 a week during her time at university. After the first term, he decides she needs to be more self-reliant and stops paying her. Can she sue him for breach of contract?

On the face of it, the father's promise fulfils all the criteria of a contract: a clear offer, which his daughter seems to accept by relying on him paying the money. The contract has a clear length too. The problem is the relationship between the parties. The law tends to treat family relationships as different from other ones. A contract requires an 'intention to create legal relations'. The law presumes that parties who are families do not intend to create legal relations in their domestic arrangements. However, evidence to the contrary can prove otherwise. The facts in our scenario are pretty scant, so why not compare them against these two cases and see which one you think fits our scenario more closely:

- Case 1: Errington v Errington-Woods
 - Case 2: Jones v Padavatton
2. Basil offers to sell Mohammed his car for £500. They shake on it and Mohammed gives him the money in cash. En route to delivering it, Basil crashes and the car is written-off. He refuses to give Mohammed his money back. What can Mohammed do next?

Another difficult one: the deal is done, Mohammed has paid and the fact that Basil is driving the car to Mohammed shows that he recognises the existence of the contract. However, can there be a contract if the subject of the contract doesn't exist? If a party to a contract cannot perform it because performance becomes more difficult or even impossible, that party is liable to pay the other damages.

An exception to this is the doctrine of frustration. Frustration causes the contract to be automatically discharged when certain events occur. Consequently, the parties are no longer bound to perform their obligations. Destruction of the subject matter of the contract constitutes a frustrating event. In some types of contracts, especially consumer contracts, the Law Reform (Frustrated Contracts) Act 1943 provides for parties who are the victims of frustration to recover money paid before the occurrence of the frustrating event.

For frustration to work, Basil must not be at fault for the crash. We don't know that if that's the case on the brief facts provided above. However, it seems that Mohammed will get his money back either way, whether through damages or through a refund.

- 3. A Company puts an advert in a local newspaper: "Buy our brilliant guide to getting into university and we guarantee you will be offered a place at your first choice or your money back and £1000". James buys the guide, follows its advice but is rejected from everywhere he applies. The Company refuses to give him his money back. Can he sue for breach of contract?**

The issue here is whether the claim in the advert is an offer or not. Adverts are usually considered 'invitations to treat'; that is an invitation to make an offer. If James had approached the Company to buy its book but the book had sold out, then the Company would be under no obligation to sell one to him. James would only be making an offer to the Company which it could reject. Moreover, the extravagant banter which surrounds many adverts is described in the law as mere sales 'puff': a chocolate bar which describes itself as "the most delicious chocolate in the world" is not holding itself out to be sued if someone buys it and concludes that it is not.

However, things are complicated by the language the advert uses: 'guarantee' suggests that getting a place at university will be a term of the contract. In the famous case of *Carlill v Carbolic Smoke Ball Co* [1], a promise to pay £100 if purchasers of the Carbolic Smoke Ball were not cured of their flu was held as an offer, and the buying of the Smoke Ball as its acceptance. The judgement in this case is a good introduction to the law of contract so do read it, and consider James's rights in light of it.

- 4. What would the English courts make of Antonio and Shylock's bargain today? Would they enforce it?**

Quite simply, they would not. Courts in any area of law will not sanction an agreement for someone to be physically harmed, unless there is a good reason: e.g. a medical reason (e.g. a doctor performing surgery); or in the context of a contact sport.

In contract law, courts will not uphold a contract which offends the law or morality (the latter is admittedly a vague term but this area of law is 'notoriously knotty'). In the *Merchant of Venice*, Shylock would not be able to enforce his contract, nor would he be able to reclaim the money lent to Antonio because of the abhorrent subject matter of the contract. Can you think of any modern contracts which might offend morality or the law?