

## Example essay questions with suggestions for a good answer

### Chapter 4 – Adverse possession

**The significance of the law of adverse possession in registered land has been dramatically diluted as a result of the provisions of the LRA 2002. This is to be welcomed, but should the legislation not have gone further and abolished adverse possession altogether as a means of acquiring title to another's land?**

- Begin by exploring what adverse possession is and, briefly, how it is demonstrated. This will involve analysis of the essential elements of an adverse possession claim: factual possession and intention to possess as confirmed in *J. A. Pye (Oxford) Ltd v Graham* (2002).
- Examine how a claim to adverse possession has changed since the coming into force of the LRA 2002. Explain the role of the Limitation Act 1980 in unregistered land and the new regime under Sch. 8 of the LRA 2002.
- Unpack what makes the new regime distinct, i.e. why it has 'dramatically diluted' the role for the law of adverse possession. Examine the steps in a claim to adverse possession under Sch. 8 – noting that now a claimant must take positive steps to actively apply to be registered as the new owner, and the opportunity for the true owner to object and challenge the application.
- As to whether the law has gone far enough, reflect on whether the law of adverse possession should be retained. Consider the four key justifications for adverse possession offered by the Law Commission and the concept of 'land theft' which is often raised when assessing this area of the law. How far are these arguments convincing and which wins out?
- Consider Cooke's view that the effect of the LRA 2002 scheme is to render registered land 'virtually squatter proof' and Dixon's assertion that the LRA 2002 represents the 'emasculatation of adverse possession.' Do you agree? Or, is the new system a welcome affirmation that registration sits at the heart of modern land law?
- Is the law of adverse possession ECHR-compliant? Consider the *Pye* litigation from the House of Lords to the Grand Chamber of the European Court of Human Rights.
- Draw together your thoughts into conclusions and return to the title set.