

## Part 2: Crossing and dotting makes for clear contracts

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### Making a case study of an enforceable contract: the judgement in the case of [Blue v Ashley](#)

The basic requirements of a contract are that both sides have reached an **agreement**, which is intended to be **legally binding**, is supported by **consideration**, and is sufficiently **certain and complete** to be enforceable.

Looking at those components in turn, in the case of *Blue v Ashley*, Judge Leggatt revisited the evidence against each of the textbook requirements for a binding contract:

- **Agreement when an offer is made and accepted:** The necessary agreement is reached either by the parties signing a document containing agreed terms or by one party making an offer which the other accepts, by words or conduct. Typically, acceptance is at the point of promising to do something, except in 'unilateral contracts' where the contract is established when the recipient of an offer starts to perform the action required to earn the reward. In this case it was argued that this was a unilateral contract and the acceptance took place when he started work directed towards increasing the share price value. But the judge highlighted that an offer may not always be intended: "There can be circumstances in which a person uses the language of offer without expressing a genuine willingness to be bound" giving the example of someone saying at a party they will give you a million pounds if you can speak for a minute on a topic, in which circumstances no-one would reasonably think the words were meant to be taken seriously, or to be legally binding.
- **Intention to create a legally binding contract:** Even when a person makes a real offer which is accepted, it does not necessarily follow that a legally enforceable

contract is created. It is a further requirement of such a contract that the offer, and the agreement resulting from its acceptance, must be intended to create legal rights and obligations which are enforceable in the courts, and not merely moral obligations.

Factors which may tend to show that an agreement was not intended to be legally binding include where it is made in a social context, if it was expressed in vague language or that the promise was made in anger or jest. As an example, Justice Leggatt said: "if two people agree to meet for a drink at an appointed place and time and one does not turn up, no one supposes that the other could sue to receive his wasted travel expenses." There must be the intention for a legally binding contract to be created.

- **Consideration:** To be legally binding, an agreement must traditionally be supported by consideration as English law will not enforce a promise for which nothing has to be done in return. So, if the offer to pay £15 million on the Sports Direct share price reaching £8 per share was simply accepted by Mr Blue, and he did not need to commit to do anything to achieve the outcome, it would not give rise to a legally binding contract. But to qualify for the payment, Mr Blue had to "get" the Sports Direct share price to £8, undertaking work which was aimed at increasing the share price to that level, so the requirement of consideration could be demonstrated.
- **Certainty and completeness of terms:** Even if there is an agreement and an intention to create legal relations, a contract will be unenforceable if its terms are too vague and uncertain, another ground on which Mr Ashley disputed Mr Blue's claim.

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

