Acceptance

Acceptance of an offer means unconditional agreement to all the terms of that offer.

Acceptance will often be oral or in writing, but in some cases an offeree may accept an offer by doing something, such as delivering goods in response to an offer to buy.

The Courts will only interpret conduct as indicating acceptance if it seems reasonable to infer that the offeree acted with the intention of accepting the offer.

CASE:
Brogden v Metropolian Rail Co (1877)

Remaining silent cannot amount to acceptance, unless it is absolutely clear that acceptance was intended.

CASE:
Felthouse v Bindley (1862)

Re Selectmove Ltd (1995) – The Court of Appeal pointed out that an acceptance by silence could be sufficient if it was the offeree who suggested that their silence would be sufficient.
Thus in Felthouse, if the nephew had been the one to say that if his uncle heard nothing more he could treat the offer as accepted, there would have been a contract.

Unilateral contracts are usually accepted by conduct. If I offer £100 to anyone who finds my lost dog, finding the dog will be acceptance of the offer, making my promise binding – it is not necessary for anyone to contact me and say that they intend to take up my offer and find the dog.

Acceptance must be unconditional

An acceptance must accept the precise terms of an offer.

CASE:
Tim v Hoffman (1873) – one party offered to sell the other 1200 tons of iron. It was held that the other party's order for 800 tons was not an acceptance.

Negotiation and the battle of the forms

Where parties carry out a long process of negotiation, it maybe difficult to pinpoint when an offer has been made and accepted. In such case the Courts will look at the whole course of negotiations to decide whether the parties have reached an agreement at all, and if so when.

This process can be particularly difficult where the so-called 'battle of the forms' arises. Rather than negotiating terms each time a contract is made, many businesses try to save time and money by contracting on standard term, which will be printed on company stationary, such as order forms and delivery notes. The 'battle of the forms' occurs when one party sends a form stating that the contract is on their standard terms of business, and the other party responds by returning their own form and stating that the contract is on their terms.

The general rule in such cases is that the 'last shot' wins the battle. Each new form issued is treated as a counter offer, so that when one party performs its obligations under the contract (by delivering goods for example), that action (conduct) will be seen as acceptance by conduct of the offer in the last form.

CASE:
British Road Services v Crutchley (Arthur v) Ltd (1968) – The plaintiffs delivered some wiskey to the defendants for storage. The BRS driver handed the defendants employee a delivery note, which listed his company's 'conditions of carriage'. Crutchley's employee stamped the note 'received under our conditions' and handed it back to the driver. The Court held that stamping the delivery note in this way amounted to the counter offer, which BRS accepted by handing over the goods. The contract therefore incorporated Cruthcley's conditions, rather than those of the BRS
However, a more recent case shows that the 'last shot' will not always succeed.
CASE:
Butler Machine Tool Ltd v Ex-Cell-O Corp (1979)

Acceptance of unilateral contracts

It has generally been assumed that there is no acceptance until the act has been completely performed – e.g. If John says to Steve, that he will give Steve £5 if Steve washes his car, Steve would not be entitled to the money until the job is finished, and Steve could not wash half the car and ask for £2.50.

CASE:
Luxor (Eastbourne) Ltd v Cooper (1941) – an owned of land had promised to pay an estate agent £10,000 in commission if the agent was able to find a buyer willing to pay £17,500 for the land. The arrangement was on the terms that are usual between an estate agent and their client, whereby the paid commission if a buyer is found, and nothing if not. The House of Lords held that the owned in the case could revoke his promise at any time before the sale was completed, even after the estate agent had made extensive efforts to find a buyer, just as the estate agent could decide not to try to find a buyer.

Although this decision might appear to support the view that offers of unilateral contracts are freely revocable until performance is complete, it maybe more accurately seen as an approach specific to such estate agency arrangements.

It now appears that there are some circumstances in which part-performance may amount to acceptance.

CASE:
Errington v Errington (1952) – A father bought a house for £750, borrowing £500 of the price by means of a mortgage from a building society. He bought the house for his son and daughter-in-law to live in, and told them that if they met the mortgage repayments, the house would be signed over to them once the mortgage was paid off. The couple moved in and began to pay the mortgage instalments, but they never infact made a promise to continue with the payments until the mortgage was paid off, which means that the contract was unilateral.

When the father later died, the people in charge of his affairs sought to withdraw the offer. The Court of Appeal held that it was too late to do this. The part-performance by the son and daughter-in-law constituted an acceptance of the contract and the father (his representatives) was bound by the resulting contract unless the son and daughter-in-law ceased to make the payments, in which case the offer was no longer binding.

Requests for information

A request for information about an offer (such as whether delivery could be earlier than suggested) does not amount to a counter offer, so the original offer remains open.

CASE:
Stevenson v McLean (1880) – The defendant made an offer on a Saturday to sell iron to the plantiffs at a cash on delivery price of 40 shillings, and stated that the offer would remain available until the following Monday. The plaintiffs replied by asking if they could buy the goods on credit. They received no answer. On Monday afternoon they contacted the defendant to accept the offer, but the iron had already been sold to someone else.

When the Plaintiffs sued for breach of contract, it was held that their reply to the offer had been merely a request for information, not a counter offer, so the original offer still stood and there was a binding contract.