12. Remedies for breach of trust

Each Concentrate revision guide is packed with essential information, key cases, revision tips, exam Q&As, and more. Concentrates show you what to expect in a law exam, what examiners are looking for, and how to achieve extra marks. When property is held on trust, arising expressly or implied by law, any breach of the trustee/fiduciary obligation will lead to a remedy. This chapter explains the personal and proprietary remedies available to the claimant. A personal claim is one made against the trustee/fiduciary personally; it is not based upon the recipient having the property in their possession. A proprietary claim is based upon the defendant having the property or its replacement in their possession and being required to return it, or its substitute, to the claimant. The claimant, after identifying the breach, will often have the choice of which claim to make and there may be more than one possible remedy.