



CITIZENSHIP

Theme C

Revision guide

LAW AND JUSTICE

THEME C – HOW THE LAW WORKS

Why do people obey the law?

- Strong religious or moral views
- Afraid of being caught or arrested
- Shame of going to prison on them and their family
- Worried about ruining their reputation

Why do we need laws?

- Life would be chaotic
- The most vulnerable members of society would suffer (young, old, ill, minorities)

Why do laws change?

- Scientific and technological developments (internet, medical etc)
- Changing values in society (LGBT rights, women's rights etc)

Rule of Law:

The laws in the UK also apply to the lawmakers - everyone must obey the law

Principles that affect the way in which laws are applied:

- **Innocent until proved guilty**
- **Equality before the law** – the law applies to everyone equally
- **Access to justice** – everyone has the right to use the legal system

Where does our law come from?

- **Legislation** – all laws passed by Parliament
- **Common law** – made by judges who make decisions, which must be followed by all other courts. Known as case law or precedent.
- **European Union law** – as a member of the EU, we must follow EU law.

The UK has signed up to the **European Convention on Human Rights (ECHR)**. The UK's **Human Rights Act** means that courts in the UK must protect the rights identified in the ECHR.

The law across the UK

- England and Wales have the same legal system, and laws passed by the UK Parliament automatically apply in Wales.
- The Welsh Assembly has passed some laws, which apply only to Wales but, as yet, there are no major difference between the two countries.
- Scotland has its own system of laws and courts, and its own Parliament.
- Northern Ireland has a similar system to that of England Wales.

CIVIL LAW

- Most cases are about disputes between individuals or groups, and very often these arguments are about rights.

What happens in a civil court?

- A judge sitting without a jury decides almost all civil cases.
- Most civil cases are heard in a **county court (a local court that has limited powers)**
- A small number of civil cases are heard in a **High Court (the court where judges hear cases on serious crimes)**.
- If a civil case involves a claim of less than £10,000 it will be heard in a **small claims court**.
- The conflict is between the **claimant** and the **defendant**
- In some civil cases, the claimant sets out to **sue** the defendant. If the claimant wins, the defendant will have to give the claimant money, which is known as damages.

CRIMINAL LAW

- Deals with offences such as murder, theft and drug dealing.
- The conflict is between the **Crown** (government - acting for all citizens) and the **defendant** (lawbreaker).

What happens in a criminal court?

- A separate system of courts to deal with criminal cases.
- Less serious offences are dealt with in **magistrates' courts**.
- Serious offences are dealt with in **crown courts** before a judge and **jury**.

Who puts the law into practice?

The Criminal Justice System (CJS)	
Judges	Judiciary – all of the judges who work in criminal and civil courts. In a jury trial, the jury decides if the accused is guilty, the judge sets the sentence. Senior judges who sit in the high courts are very powerful. Parliament makes laws but senior judges interpret the law.
Magistrates	Full-time magistrates are called district judges and paid for their work. They are usually barristers or solicitors with at least 7 years' experience. They sit alone in court. Part-time magistrates come from all walks of life. They are not legally qualified and not paid. They work with other magistrates.
Jury	Made up of 12 adults chosen at random who sit in a crown court and decide whether the accused person is innocent or guilty.
Police	Police do not make laws, they enforce them. Their job is to protect the public, arrest lawbreakers and bring them before courts.
The Crown Prosecution Service	CPS – advises the police on cases for possible prosecution. Reviews cases submitted by police and if decides to prosecute, it decides the charge in the more serious cases.
Solicitors	Must pass law exams. Give legal advice to people who have to go to court. Some speak in court on behalf of their clients.
Barristers	Spend most of their time in court representing clients. They are the only lawyers qualified to speak in all types of court.
Probation Officers	Works with an offender given a community sentence. Are professionally qualified. Write court reports on offenders and supervise them in the community when they've been sentenced.

Criminal Courts - Two types of courts

Magistrates' Court

- Where over 95% of all criminal trials take place
- Also deal with a small number of civil cases
- Sit in court with at least one other magistrate
- No jury

They must take into account **mitigating factors** – reasons why an offender might be given a lighter sentence.

Magistrates have the power to give the following **penalties**:

- Prison, maximum 6 months
- Community service
- Criminal Behaviour Orders (CBOs)
- Fines
- Discharge: conditional or absolute.

Crown Court

- Where the most serious criminal cases are heard eg murder, rape
- More formal than a magistrates' court.
- Judges and barristers wear wigs and gowns
- Jury decides whether the defendant is guilty or not.
- Judges and juries must also take into account mitigating factors.
- Maximum sentence is life imprisonment.

Solving Civil Disputes

Civil courts are not always the best place to solve civil disputes.

Tribunals

- Often used to resolve work-based problems but also other fields such as asylum and mental health issues.
- Less formal than courts but produce rulings that are legally binding.
- An expert judge takes the lead with experts who understand the issues.

Ombudsman

- Makes decisions when people think they have been treated badly.
- Work in many fields – financial, local government, property, prison etc.
- Are free of charge and unbiased
- You usually have to go through the organisation's complaints procedure before going to the ombudsman, so it can take a long time.

Mediation

- Can be used to resolve all sorts of disputes, including housing, families, employment, consumer issues and problems between neighbours.
- A **mediator** helps both sides to work out the problem and attempt to come to an agreement.
- If both sides still can't agree they can still go to court.

What are the advantages of mediation?

- Much cheaper than going to court
- Is more flexible and informal
- The solution may be long lasting
- It is not adversarial as it tries to get people to agree
- It can be quicker than court
- There are more solutions. You might just want an apology, for example.

What's the purpose of punishment?

- To punish the offender
- To protect the public
- To change the offender's behaviour
- To ensure the offender does something to make up for their crime
- To reduce crime in the future.

Dealing with Young Offenders

- Age 10-17
- The **Youth Justice System** is part of the justice system that deals with young people.

Arrest:

- If you are arrested before 18, police must contact your parent, guardian or carer. You can't be questioned without an appropriate adult.

Cautions:

- If you commit an offence that is not serious for trial, you will receive a caution.
- The **Youth Offending Team** will assess your needs and decide on a program of rehabilitation and education. Team is made up of police, probation, health, education and children's services.

Youth Court:

- If the offence is serious, you will be sent for trial in a **youth court**. You will be referred to the **Youth Offending Team**.

Youth courts are different to adult court:

- No jury
- Public is not allowed in
- A parent or guardian must be there
- Offenders are called by their first names.

Types of Sentencing:

If the defendant pleads guilty or gives evidence against another defendant, the sentence might be reduced. This is called **plea-bargaining**.

A discharge

- An offender is given a discharge if they are guilty of a minor crime and the decision is not to punish them at this time.
- **Absolute discharge:** no action will be taken.
- **Conditional discharge:** the offender won't be punished unless they commit another offence within a set period of time.

A fine

- The most common criminal sentence.
- Usually given for less serious crimes such as driving offences, minor theft or criminal damage.
- The amount of the fine depends on the seriousness of the crime and the offender's ability to pay.

Community Sentence

- Set out the conditions that an offender must fulfill over a period of time.
- The objective is both to punish them and reduce the risk of them offending again.
- Usually offenders are given a period of Community Payback, which means they do unpaid work to repay their neighbourhood for their crimes. It can range from 40 to 300 hours' work.
- **Restorative Justice:** Used to bring offenders together with their victims to help them understand the effect of their actions.

Prison Sentence

- Will be given when the court believes the public must be protected from the offender.
- **Determinate sentence:** they serve a fixed length of time. Half will be served in prison and the rest in the community. Will be on licence and probation service will supervise them.
- **Indeterminate sentence:** no fixed end point. Usually given to people who are a threat to society and will not be let out until they are thought to be safe.

Suspended Sentence

- First time offender may get this. They will not go to prison if they do not reoffend and if they follow orders. If they break the rules they are usually sent to prison.

Deciding on the sentence:

Decisions made by judges and magistrates when they find someone guilty of a crime depends on:

- The type of crime and how serious it is
- The law and sentencing guidelines
- If the offender admits their guilt
- The offender's criminal history
- The offender's personal and financial circumstances.

Sentences for young offenders:

- **Discharge:** either absolute or with conditions
- **Fines:** if under 16 parents pay
- **Referral orders:** young offender attends youth panel to agree a contract for 3 months or up to a year. Young offender agrees to abide by certain rules to avoid more serious punishment. May involve restorative justice.
- **Youth rehabilitation orders:** young offender commits rehabilitation for up to 3 years. Conditions can include a curfew, unpaid work drug rehabilitation and education.
- **Custodial sentence:** aged 12-17 may receive a Detention and Training Order lasting between 4 months and 2 years.

Why do people commit crimes?

- Income inequality
- Lack of education
- Drugs and alcohol
- The environment – streets full of rubbish, graffiti

Why do people reoffend?

- 47% of people leaving prison reoffend within a year.
- 57% of people on short sentences reoffend in a year.
- 70% of under 18s leaving prison reoffend in a year.

-Prisoners lose contact with their family and friends.

-Generally have poor education or mental health problems.

-No job prospects.

How do we reduce crime?

Methods of preventing crime:

<p>Supporting children</p> <ul style="list-style-type: none"> -People who commit crime often have deprived family backgrounds and poor education. -Strong link between children who have experienced abuse and neglect and future crime. -Support for families and schools in deprived neighbourhoods is important in preventing crime in the future. 	<p>Reducing opportunities</p> <ul style="list-style-type: none"> -By improving the environment, opportunities for crime can be reduced. -Better lighting on streets and hidden corners of shopping centres or housing all help. -Reducing access to drugs, alcohol and weapons means people are less likely to have the opportunity or desire to commit crimes. -Engaging and distracting young people can lead them away from crime.
<p>Deterring Offenders</p> <ul style="list-style-type: none"> -Reducing the chance of people getting away with crime is a strong deterrent. -More police and community schemes. -Developing trust in the legal system and the rule of law, and concern for communities, fewer people offend. 	<p>Reduce the risk of reoffending</p> <ul style="list-style-type: none"> -Keep people in touch with their families. -Help people find work when they come out of prison. -Rehabilitation programs – drugs, alcohol -Help with mental health issues

If you are **arrested** you will be taken to a police station and put in a cell. You have rights. **You must be**

- told the reason for your arrest
- given the opportunity to tell someone about your arrest
- able to get free legal advice from a solicitor
- offered medical help if you are feeling ill
- able to see a written notice about your rights (e.g. To regular breaks for food and to use the toilet).