

## Revision Summary Sheet – The Law

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|---|---|--|--|
| <b>Legal Jurisdiction</b>                                   | <b>an area of land where a particular legal system has authority.</b>   | <b>Supreme court</b>                                     | <b>the final court of appeal in the UK for civil cases, and for criminal cases from England, Wales and Northern Ireland but not Scotland. It hears cases that affect the whole population.</b> |
| <b>Devolution of Power</b>                                  | the transfer of some decision-making to local control (local governments making some decisions)   | <b>State</b>   | an organised political community under one government.   |
| <b>Homicide</b>   | the killing of one person by another, this includes manslaughter as well as murder  | <b>Small Claim</b>                                       | Small Claim – a claim of under £10,000 is known as a small claim.  |
| <b>Murder</b>   | if a person is considered to be of sound mind and intended to cause serious harm to the victim  | <b>County Court</b>                                      | this type of court deals with civil matters such as financial or housing disputes, family issues, personal injury or breach of contract.   |
| <b>Manslaughter</b>   | killing someone with no intention to cause death or the accused has a partial defence such as loss of control.  | <b>Magistrates' court</b>                                | all criminal cases pass through this court, serious crimes get sent to Crown courts and minor criminal matters are tried in a magistrates  |
| <b>Crown Court</b>  | the court used for the trial of serious criminal offences.  | <b>Defendant</b>   | the person accused of the offence  |
| <b>Discrimination</b>                                       | unfavourable treatment of others often based on prejudice.  | <b>Prosecution</b>                                       | the prosecution Lawyers work on behalf of the crown and in co-operation with the Police to prove that the defendant is guilty.   |
| <b>Advisory conciliation and arbitration service (ACAS)</b> | provides free and impartial information and advice to employers and employees on workplace relations and employment law.  | <b>Jury</b>  | a group of ordinary people aged 18 and over, in a crown court they listen to the evidence and arguments from both sides before making decision if the defendant is guilty or not.              |
| <b>Citizens advice Bureau (CAB)</b>                         | an independent charity that offers free, confidential and independent advice to everyone on rights, responsibilities and the law.   | <b>Information commissioner's office (ICO)</b>           | an independent watchdog sponsored by the Ministry of Justice that reports directly to parliament on data protection and privacy issues.  |
| <b>Employment tribunal</b>                                  | hear cases brought by employees who think that their employer/potential employer or trade union has treated them unlawfully.  | <b>Data Protection Act (original 1998, revised 2015)</b> | controls how personal information is used by businesses, organisations or the government.  |
| <b>Legal Aid</b>  | government provide financial support to people with a low income so that they can have access to justice.   | <b>Solicitor</b>   | a member of the legal profession who deals with property transfers, drawing up of wills and other legal matters. They sometimes instruct Barristers and represent clients in some courts.      |
| <b>Work to rule</b>   | employees work strictly to the rules of their contract and refuse to do any additional work outside of their job description.   | <b>Barrister</b>   | qualified member of the legal profession who is a specialist in representing their clients in court  |
| <b>Joint Enterprise</b>                                     | Or common purpose means that all participants in the crime can be held responsible for its outcomes. E.g. if a gang attacked someone with a knife then they all may be held responsible if they actively assisted or encouraged the attack. | <b>Public order offences</b>                             | offences that prevent people going about their normal business e.g. riots  |
| <b>Inchoate offences</b>                                    | the police can arrest and charge people who are planning or intending to commit a crime, even if there are no victims or criminal activity taking place   | <b>"No Win, No Fee"</b>                                  | the lawyer only charges a fee if they win the case.  |
| <b>The Crown Prosecution service (CPS)</b>                  | consider the information and evidence provided by the police and they decide if there is enough evidence to take the matter to court, and if doing so would be in the public interest.  | <b>Legislation</b>                                       | acts or laws passed by parliament or assembly  |

## Rule

A rule is something that you follow in order to keep you and others safe.

## Law

A law is a rule that everyone in a community must obey.

Blindfolded to suggest that justice is impartial (fair) and objective (unbiased).

Holding a sword that faces downwards represents punishment. This is held below the scales to show that evidence and court are always held before punishment

## Blind/Lady Justice



Scales to show the weighing of evidence. They are balanced to show that evidence should stand on its own

**Fairness:** the making of judgements that fit the circumstances of a particular case without being influenced by personal feelings or interest.

**Justice:** giving each person what he/she deserves. In law, this includes:

- Protecting everyone from crime and criminals.
- Enabling people suspected of crime to defend themselves properly.
- Sentencing criminal so that their punishment fits their crime.
- Compensating victims of crime so that they are in the same position as before the crime took place.

We have Laws to regulate the behaviour of the people. Not everyone will agree with all of the laws but everyone is expected to obey the law (this is known as the rule of law). If we ignored the rules that we didn't like then there would be no common code of behaviour. People would never know what to expect from other members of their community and they would find it difficult to trust others. Law and order would break down if laws applied to some and not others, leading to protests and a loss of respect for the police. Laws work best when:

- Most people know about the law and agree with it.
- The law is clear and easy to understand
- The law can be easily enforced without discrimination.
- Punishments are clear and fairly applied.

### The purpose of law: protecting safety.

Many laws are designed to protect our safety. Laws forbidding homicide, assault and burglary are examples of this. As lives have changed and developed parliament have passed laws that protect health and safety. Such laws protect people on roads, in work places, shops, restaurants, schools and even homes.

- Direct discrimination: when someone is treated less favourably because of a protected character list (see opposite). Examples of less favourable treatment could include not employing them; refusing training; giving them worse working conditions/terms than other workers.
- Indirect discrimination: when everyday decisions made in an organisation or business disadvantage people on the basis of the characteristics (opposite). E.g. advertising a job for applicants to be 1.8m tall. On average men are taller than women so this discriminates against women.

### The purpose of law: Protecting rights, and promoting freedoms and equalities.

In the second half of the 20<sup>th</sup> century governments passed laws to protect peoples rights, promote their freedoms and guarantee equalities by safeguarding people against discrimination. This has continued into the 21<sup>st</sup> century. The two most recent laws to protect equalities in the UK are the Human rights act (1998) and the Equality Act (2010)

**The Equality Act (2010)** is designed to protect people against discrimination in relation to any of 9 specific characteristics:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnerships
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation

Employers must make reasonable adjustments for employees so that they can work as normally as possible in the event of disabilities or other issues e.g. pregnancy. This is the same in wider society. (ramps, lifts, braille on cashpoints and now some have voice prompts)

Keep a record of relevant events: include dates and times, and a description of what happened together with copies of any relevant paperwork, such as, letters, memos, emails, notes of meetings.

Seek information and advice from the **Advisory, Conciliation and Arbitration Service (ACAS)**, **Citizens Advice**, a trade union or a solicitor.

See the boss or supervisor to try to sort the problem out informally.

(Ask for the support of a work colleague or trade union representative at this stage or any of the stages below.)

Use the company's grievance procedure to make an official complaint.

Contact your trade union, professional association or ACAS to see whether they can resolve the matter through mediation.

Take legal action by taking the case to an **employment tribunal** for an independent judgement. This must be done within three months of the problem occurring. Before being able to lodge an employment tribunal claim, potential claimants must first notify ACAS of their intention to claim so that ACAS can offer the opportunity to resolve the issue using conciliation. (For more on tribunals, see page 65.)



People can make a complaint under the **Equality Act**. The Equality Act is part of Civil law rather than criminal law. This means that the police and criminal courts are not involved a person with a protected characteristic must take action themselves if they have been discriminated against, harassed or victimised because of that characteristic. (previous page).

## The purpose of law: settling disagreements.

The law is also used as a way of settling disagreements. Judges are asked to decide who is right or wrong in disputes such as land ownership, money, employment and relationships.

## Key Legal Principles

The presumption of innocence (innocent until proven guilty) - people must be seen as innocent until they are proved to be guilty in a court of law. The prosecution must prove that the defendant is guilty. It is not the responsibility of the defendant to prove that they are innocent. Defendant does **not** have to:

- Answer questions in a police interview.
- Provide a defence case statement (a document setting out the basics of their defence)
- Give evidence at their trial
- Provide an explanation for any issues raised by the prosecution.
- Answer questions asked by the prosecution.

However juries are allowed to take the defendants silence into consideration when reaching their verdict of "guilty" or "not guilty". As a result most defendants usually make some response to the charges against them. New laws are sometimes brought in at times of national emergency. This happened after the terrorist attack on New York's World Trade Centre in 2001. The Anti-Terrorism, Crime and Security Act allowed the imprisonment of terror suspects without trial. This can undermine the principle of innocent until proven guilty.

## Key Legal Principles

Equality before the law. The right to equality before the law (as part of the right to a fair trial) is part of Article 7 of the Universal Declaration of Human Rights (UDHR), it is also included in the Magna Carta. The Principle of the equality before the law means that:

- People should receive a fair, public hearing.
- Cases should be heard by competent, independent, and impartial people in courts established by law.
- Defendant should have time to prepare their case and should be tried without delay.
- Defendants are entitled to legal representation which should be provided by the state through legal aid if the defendant cannot pay.
- Defendants should be able to understand what is being said in court and should have the right to an interpreter if they need one.
- Defendants have the right to attend court and question witnesses.
- Any judgement should be made public (except in special circumstances where it is necessary to respect children's confidentiality).
- Defendants have a right to appeal to a higher court.

**Criminal Law:** covers offences against the community as a whole. Parliament decides which types of behaviour should be criminal offences. Offences covered by criminal law usually fall into one of the following categories: Against the person e.g. rape, robbery, assault; Against property e.g. theft, burglary and fraud; Against the state or Crown e.g. tax evasion, smuggling, misconduct in public office, terrorism, immigration or currency forgery; Participatory offences where a person has encouraged or assisted a criminal.

**Civil Law:** covers disputes between individuals or groups of people/organisations. This covers the following: employment/other contracts or agreements; unfair treatment at work; cases of discrimination under the Equality Act; land and property ownership; inheritance; divorce/separation/child access and custody; copyright and patents; accident and injury; Negligence



## Revision Summary Sheet – The Law

|  | Civil law   | Criminal law  |
|--|---|---|
| Purpose  | Settling disputes and compensating victims  | Deterring and punishing people who offend against the community at large  |
| Who investigates the problem?  | The victim – usually assisted by a solicitor or other representative  | The police  |
| Who pays for all this?   | The two parties in the case will need to pay their legal costs. Sometimes solicitors will agree 'no win, no fee' with their client. Victims with low incomes may be able to claim legal aid.  | The administration of criminal law is mainly funded by the State  |
| Who takes the case to court?   | The victim – usually assisted by a barrister  | Usually the <b>Crown Prosecution Service (CPS)</b>  |
| Which courts deal with the case?<br><i>(The Court system is complicated because it has grown up over hundreds of years. See Chapter 3 for more details.)</i> | County Court, Family Court or Tribunal (depending on the type of case)<br>High Court  | Magistrates' Court or Crown Court (depending on the seriousness of the offence)   |
| Which courts deal with any appeal?   | High Court<br>Appeal Tribunal or Upper Tribunal<br>Supreme Court  | Court of Appeal<br>Supreme Court  |
| What happens to the victim?  | <i>If they win</i> , they will receive compensation from the loser who may also be made to pay all or part of the victim's legal costs<br><i>If they lose</i> , they are likely to have to pay all or part of the winner's legal costs as well as their own | May be offered emotional support from the charity Victim Support<br>The Court may order the offender to pay compensation to the victim<br>Victims may also be able to claim compensation from the Criminal Injuries Compensation Authority<br>To win 'damages' from the criminal, they will need to use civil law |
| What happens to the person in the wrong?   | Compensates the winner and may also be ordered to pay the winner's legal costs  | Punishments could include: <ul style="list-style-type: none"> <li>• community orders</li> <li>• fines</li> <li>• imprisonment</li> </ul>  |

### European and International Law

The EU: When a country joins the EU it allows most EU laws to become part of its own national laws. The UK has been heavily influenced by laws made within the EU, e.g. the UK Human Rights Act (1998) is based on European Law.

The UN: as a member of the UN the UK is bound by a range of international laws and treaties on: human rights, environmental protection and relationships between nations e.g. International Law of the Sea covers things such as rights to navigation and ownership of resources on the seabed

### Sources of English Law

#### Parliamentary Legislation

Most new laws in England and Wales are proposed by the Government and decided by Parliament. These are statute laws, e.g. the conservative Government of 2015 proposed legislation to encourage welfare claimants back to work. This kept a promise that they made during their election campaign.

Sometimes new laws are proposed by individual MP's. In 2015 Labour MP Rob Marris proposed the Assisted Dying Bill in the House of Commons. (This bill wanted to change the law so people with terminal illnesses could end their lives as long as they had medical supervision. The Bill was defeated by 330 votes to 118.

### Common Law

The English Legal system is founded on Common Law. Law in medieval times was based on decisions made by judge about what was right and wrong. From 12<sup>th</sup> century (1300) onward, judges would travel around England bringing justice to people wanting to settle disputes. These decisions were based on England's beliefs and traditions. E.g. stealing from a person or causing them personal injury was though by most people to be a threat to the peace and prosperity of an entire community. Judges made decisions on issues such as theft, murder and assault. These rulings were written down and then used by other judges. Through this process of establishing precedent (courts setting out judgements for others to follow) laws became "common" and recognised by everyone. This was judge made not by parliament.

#### Case Law

Precedent is still a very important feature of English Law. Judges will still refer to other similar cases from the past. In order to for laws to be applied consistently on "in common", the judge will follow the decision made by senior or equal ranking judges in earlier cases. In February 2016 the Supreme Court reinterpreted the law on Joint enterprise judging that an incorrect precedent had been set in 1980 and that 100'ss of people had been wrongly convicted for over 30 years.

Sometimes senior judges rule that past decisions do not fit with recent advances in technology or modern thinking. Judges may reinterpret the law to bring it up to date and so set a new precedent for other judges to follow. They can then recommend that Parliament reviews the law to bring it properly up to date. E.g. Consumer Rights Act (2015) brought consumer law up to date including laws on the purchase of digital content.

The UK does not have a single **legal system**. This is because the UK is a political union of nations that were once **independent**.

The Kingdom of Great Britain was created in 1707 by bringing Scotland into **Partnership** with England and Wales. Scotland had its own legal system at the time. It was decided that this would continue largely as it had been before the **union** with England and Wales.

The political union between Great Britain and Ireland in 1801 created the United Kingdom of Great Britain and Ireland but allowed Ireland to keep its **separate courts**. Today only the six northern Irish counties (known as Northern Ireland) **remain** part of the UK still has a different **court system** from that of England and Wales.

This means that England and Wales, Scotland and Northern Ireland have separate **legal jurisdictions**.

Scotland with its **separate parliament**, and Northern Ireland, through its **assembly** also have the power to pass their own **laws**. For example, the age of criminal responsibility is 12 years old in Scotland but 10 in England, Wales and Northern Ireland.

However, there are more similarities than differences in the laws of these separate jurisdictions. For example, employment in all three jurisdictions is very much the same. On the other hand, there are major differences in family law.

### Northern Ireland

Until recently, Northern Ireland was bitterly divided between loyalists (people who want to remain part of the UK) and republicans (people who want Northern Ireland to leave the UK). The two sides now share power in the Northern Ireland Assembly. It has responsibility for education, planning and development, and public safety. The Assembly can pass its own laws and has its own court system.

### Scotland

An independent country until 1707, Scotland has its own parliament with the power to pass its own laws. Scotland's legal system is largely separate from the rest of the United Kingdom, but the UK Supreme Court does act as the highest court for appeals in Scottish cases and a source of precedent for all Scotland's courts to follow. In 2014 Scottish people voted to remain part of the UK. However, with the Scottish National Party as an important political force in the country, Scotland may eventually break away from the rest of the UK. If this happens, the UK Supreme Court may lose its power to establish precedent for legal judgements in Scotland.

### Wales

An independent country until 1543, Wales has its own language. This almost died out in the 1960s, but has become more popular since. The Welsh Assembly, formed in 1998, has responsibility for: planning; environment, culture and sport; education; health; and transport. The Assembly has made changes to the law to fit Welsh circumstances but Wales still shares its legal jurisdiction with England.

### England

England does not have its own assembly but, in 2015, the Government was considering a greater **devolution of power** to the English regions. Everything that affects England is decided through the United Kingdom Parliament.

In addition, the UK Parliament makes decisions about systems of government, taxation, economic policy and defence for the whole of the UK. England and Wales have a common legal jurisdiction.

**Devolution of power** The transfer of some decision-making to local control.

