



SIXTH FORM BRIDGING WORK & YEAR 11 DISCOVERY



Get Ready for A Level Law

Subject mind-set and BIG picture thinking & links...

In the first few months we are going to be considering how legal system works and, in particular, the civil and criminal legal system (they are very different!). Therefore, you need to be familiar with how the legal system has developed and how it works today, with particular emphasis on the Magistrates Court and Crown Court systems (where criminal cases are tried.) We're also going to look at the elements normally needed to be found guilty of a criminal offence – the actus reus (guilty act) and the mens rea (guilty mind) and why the law considers both to be important.

Please explore the following tasks:

Work to complete

Look at the pack provided along with relevant pages from the AQA A Level Law Revision Book. Read through this carefully and complete the tasks on civil and criminal law, the different court systems, parliamentary law making, researching subject specific vocabulary and researching the rules of criminal law. There is also some recommended reading and viewing at the end. This will give you an excellent grounding for your A Level studies in September!

Recommended text book

AQA AS/A Level Law Book 1 Paperback – 30 Jun 2017 by Jacqueline Martin (Author), Nicholas Price (Author)

Recommended websites you should be familiar with

<http://www.e-lawresources.co.uk>

<https://www.thestudentroom.co.uk/a-level/subjects/law/>

Related magazines, blogs subject experts

A Level Law Review, LawPod UK (this is really excellent for understanding the principles law is based on)

Possible virtual places to visit

<https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/the-rolls-building/virtual-tour/>

Teachers contact for questions and more information

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It is time to look forward and explore the courses you are planning to study in the future.

Getting organised: Begin to set up a Learning folder digital or at home for your chosen subjects.

(Shoreham Sixth Form has a way of organising this)

Introduction – Welcome to A Level Law at Shoreham Academy!

This pack contains a set of tasks and resources to prepare you to start an A Level in Law. It should be used throughout the remainder of the summer term and over the summer holidays to ensure you are ready to start your course in September. Because you have more time than you would have otherwise, there is quite a lot of material to go through! If you are wise and you do this thoroughly you will be off to a flying start when you begin A Level Law in September 2025.

The course we follow is AQA A Level Law. There is a link to the specification at the bottom of this page. There is also included in this booklet some recommended reading and viewing to give you a basic understanding.

Law at A level is an exciting and interesting course which covers the English Legal System and the Nature of Law, Criminal Law and the Law of Tort (Negligence) with an option to study either Contract or Human Rights. We will be studying Contract Law. The course will give you an understanding of the law; how laws are made and enforced through the Courts as well as peoples' civil and criminal rights and responsibilities.

Please complete the activities in this booklet. Feel free to use the internet to assist you and, in particular, the link in the useful websites page to support you with these activities. Bring your answers to the activities to your first law lesson in September.

“In a world divided by differences of nationality, race, colour, religion and wealth [the rule of law] is one of the greatest unifying factors, perhaps the greatest, the nearest we are likely to approach to a universal secular religion,” Tom Bingham, The Rule of Law.

AQA LAW SPECIFICATION

This is a two-year linear course that comprises four topics that will be formally assessed at the end of the two-year course. Students will also be assessed throughout the course by way of formal and informal testing.

<https://www.aqa.org.uk/subjects/law/as-and-a-level/law-7162/specification-at-a-glance>

Task One - Criminal or Civil Law?

There are different types of law and understanding the difference between Civil and Criminal law is key to understanding the workings of the English Legal System.

Criminal Law will result in a prosecution being brought by the Crown Prosecution Service (on behalf of the Queen) against a defendant. It is a form of public law – involving the State against a citizen – and it exists to ensure society can live safely and that those who threaten others' personal safety through violence or who take away people's property dishonestly through theft etc are punished. This is why we have a criminal court system which deals with defendants accused of assault, murder, rape and also theft, burglary and robbery.

Civil Law is a form of private law. It is where individuals bring actions in law against other individuals (or companies) for doing something which has had an adverse affect on them – this could be a claim against another driver for a road traffic accident which has seriously damaged your car, or suing a hospital trust for negligent treatment during an operation which has left lasting injuries.

Read the attached pages from AQA Law Revision book which sets out the differences between the civil and the criminal court system. (pages 2, 46 – 53)

Also, watch 'What is the distinction between Civil and Criminal Law?' with Professor Jo Delahunty QC

<https://www.youtube.com/watch?v=LbLPiwo10bM>

- a) A number of words and phrases are listed below but do they relate to civil or criminal law?

Can you put them in the right column? The first 2 have been done for you.

Criminal	Civil
Jury	Claimant

jury

prosecutes

defendant

punishment

claimant

compensation

beyond reasonable doubt

damages

convicts

R (Rex – the King – criminal cases are normally R v (Defendant's name)

small claims court

CPS (Crown Prosecution Service)

Balance of probabilities

County court

Crown Court

- b) Familiarise yourself with the different hierarchy structures of both the Civil and Criminal courts, which are outlined in the attached pages (referred to above) from the A Level Law Revision Book.**

Read through the jumbled Civil and Criminal court structures and then create an annotated diagram for each hierarchical structure (Civil AND Criminal) that should include:

- The purpose of each of the courts
- Which type of cases would be heard at each type of court

For example, in the Criminal Hierarchy, the Magistrates Court will be at the bottom as it hears the least serious cases. The next Court up is the Crown Court... etc

Criminal Court Hierarchy

Civil Court Hierarchy

County courts

Crown Court

Supreme Court (Previously known as the House of Lords)

High Court

Magistrates' Court

Court of Appeal (civil division)

Court of Appeal (criminal division)

c) Gary's problems

For each of the scenarios below, outline whether you think that Gary's possible legal problem is civil or criminal.

Also, decide whether you think that Gary will win or lose if the case ends up in a court or Tribunal and explain your reasoning.

Remember that in **criminal** courts, the standard of proof the Defendant is judged by is 'beyond reasonable doubt'; the jury has to be satisfied beyond reasonable doubt that D committed the crime and is **guilty**. This is also known as the '99%' rule – it's a very high standard to meet, because the result can be going to prison and losing your liberty!

For **civil** courts, the standard of proof is 'on the balance of probabilities' - the judge will decide if it is more than 50% likely that the defendant is **liable**. This is lower than the standard required for criminal case. The reason for this is that, if a defendant is found guilty in a criminal court, he may be sent to prison – therefore the jury have to be really sure that he or she committed the crime. In civil cases, the punishment is normally by way of damages (money), where the defendant makes a payment to the claimant if they are found liable.

1. Gary is pulled over by the police for driving under the influence of alcohol. Gary has had three pints of beer and two vodka and cokes .

a. Criminal or Civil

b. Win or Lose?

c. Why?

2. Gary has been stealing money from his till at work. He is doing it to pay for urgent medical care for his daughter. His boss has found out.

a. Criminal or Civil?

b. Win or Lose?

c. Why?

3. Gary owns a garage and there was an oil puddle on the floor. He didn't clear it up and a customer slipped on it causing him to break his leg.

a. Criminal or Civil?

b. Win or Lose?

c. Why?

4. Gary wants to take a jacket back to a shop because he has discovered a small tear in it after he has bought it. They refused to take it back.

a. Criminal or Civil?

b. Win or Lose?

c. Why?

5. Gary has been stalking his ex. He is repeatedly commenting on her stories on Instagram, calling and texting her. She has told him she doesn't want anything to do with him.

a. Criminal or Civil?

b. Win or Lose?

c. Why?

6. Gary is part of a syndicate which plays the lottery together. One week, the numbers come up but because Gary hasn't paid his share for a week they tell him he cannot claim his part of the prize.

a. Criminal or Civil?

b. Win or Lose?

c. Why?

Task Three: Parliamentary Research Activity

Read pages 22 – 25 of the AQA Law Revision Book (attached)

a) Do some research on both The House of Commons and the House of Lords.

Watch this video along with your own research:

[An introduction to Parliament](#)



- How many people sit in each chamber?
- How do people become members?
- What are the roles of each House?

Watch this videos:

[Most of Britain's Parliament is not elected... Meet THE LORDS](#)



b) Answer this question over at least 3 paragraphs:

Do you think the House of Lords has become an outdated legal institution or is it still necessary to have a 'check' on law made in the House of Commons? Refer to the make-up of the House of Lords in your answer (how many BAME members / female members are there? Could this have an impact on the laws passed?)

c) There are many steps that need to be taken before a bill (a proposed parliamentary act) passes through government. Both houses (House of Commons and the House of Lords) must be consulted. These are outlined in pages 22-25 of the AQA Revision Book.

- Write a few sentences about what happens during the Parliamentary law-making process.

- Explain what potential difficulties an MP may face in passing their bill.

Use the following resources to help you:

- <https://www.youtube.com/watch?v=1KFGt9M-j28>

- <https://www.parliament.uk/about/how/laws/passage-bill/>

Task four: Learning Subject Specific Vocabulary

There is a lot of vocabulary specific to the law which you will need to have an understanding of. Look at the below glossary and make revision cards with their definitions. Try learning the terms and test yourself.

Appeal

Civil law

Common law

Damages

Compensation

Doctrine

Green papers

Guilty

Juror

Jury

Lay people

Magistrate

Offence

Omission (committing an offence by omission)

Parliamentary supremacy

Precedent

Remedy

Statute

Statutory

Statutory interpretation

Tort law

White papers

Task 5: Rules of Criminal Law

It is important to understand that there are certain rules which apply to criminal law. The most important are that each crime is normally made up of an **actus reus** (which is Latin for **a guilty action**) and the **mens rea** (Latin for **a guilty mind**). For example, for the crime of theft, the **actus reus** would be taking an apple from a shop. The **mens rea** is the intention to take the apple.

However, sometimes realising something bad may happen as a result of what you do, and then going ahead and doing it anyway, is sufficient mens rea for the crime. This is called **recklessness**. So for assault, the **actus reus** could be hitting someone when you are dancing wildly in a crowd, but the **mens rea** is being reckless as to whether your actions will result in someone being hit, and still choosing to act in that way.

Read pages 66 to 67 of the AQA level law revision book (attached) and make notes under the following headings:

1) Defining crime

2) Criminal liability

3) Defending crime - how to remove liability (and so be found 'not guilty')

4) How criminal liability is proved

Finally, do some research on the very old (and very famous!) case of R v Dudley and Stephens. Write a brief summary of the case below:

Now do a quick sketch of the facts of the case below; this can be comic book style if you want!!

What important legal principle did this case establish, which is still in existence to this day, about using the defence of duress for a crime (the defence that someone else made you commit a crime otherwise they would seriously hurt or kill you)?

Preparing to study law

In order to really understand the legal system in England and Wales it is a good idea to do some research of your own so that you can start to build a picture of

what the law is all about. Students who wish to prepare further for their studies may find the following suggestions useful: -

The Media:

A good Law student will have a broad awareness of current affairs (in particular relating to legal issues). Every single day you can be guaranteed there will be a story in the news that is about law in some way; from a police officer's widow campaigning for a minimum sentence of 15 years when someone is found guilty of killing an officer carrying out his duty, to M&S bringing legal action against Aldi for selling a cake that looks like 'their' Colin the Caterpillar cake.

For this reason, we recommend that one of the best ways to prepare for your Law A Level is to read a good quality British newspaper or news website every day. Many newspapers have specific sections for legal news.

- The Independent
- The Telegraph
- The Guardian and Twitter @GdnLaw

Recommended Books:

The Rule of Law, Tom Bingham (Lord Bingham, the senior Law Lord). This is viewed as the best book for anyone to read if they are interested in the profession.

Letters to a Law Student, N.J.McBride.

A Really Basic Introduction to English Law and the English Legal System,
Michael Lambarth

The Secret Barrister blog – an anonymous account of what life is really like as a barrister!

What about Law?, Catherine Barnard

Students who enjoy fiction may enjoy reading works with legal themes such as:

- Charles Dickens, *Bleak House*
- Harper Lee, *To Kill a Mocking Bird*
- Franz Kafka, *The Trial*

Also, you could read *Lord of the Flies* by William Golding – to show what can happen to a society without a legal framework in place

Suggested Viewing:

Briefs - A documentary series which follows the work of the UK's largest criminal legal aid firm.

https://www.youtube.com/results?search_query=the+briefs+criminal+law+documentary

Acts of Parliament: A look at how laws are made by Parliament (in Australia but their system largely reflects ours):

<https://www.youtube.com/watch?v=NhYpkVclXbA>

Common Law: A look at how the common law is made by Judges (see above)

<https://www.youtube.com/watch?v=Vb9JjncNq3k>

Useful Websites:

These websites are so useful in helping you create notes as well as providing essential case law, revision tools, games and practice papers.

- The Student room offers great law resources to view and create as well as support from real life students. The content includes notes, flashcards and mind maps.

<https://www.thestudentroom.co.uk/a-level/subjects/law/>

- This website gives a good overview of the main areas of law we will be covering together with case summaries and revision games.

<http://www.e-lawresources.co.uk/A-Level-Law-books.php>

Materials required for September:

- Folders – you will need 4 large lever arch files to be kept at home for filing notes upon completion of topics/units in lessons. You will need a smaller folder to bring to each lesson with current work.
- Stationery – pens, pencil, highlighters, ruler, stapler, hole punch, lined notepaper, dividers

AQA Law Book 1 – Martin and Price (Hodder Education)

Now test yourself

TESTED

- 1 Decide which type and category the following laws fit into:
- theft
 - rules of evidence
 - conventions that dictate how an Act of Parliament should be made
 - wills
 - health and safety law.

Answers on page 237.

Exam tip

These are key issues which you will need to compare and contrast throughout this chapter.

Revision activity

Name as many different law-making bodies as you can.

Difference between criminal and civil law

REVISED

Criminal law

Criminal laws create criminal offences and punish those who commit them. These laws attract the attention of the Criminal Justice Service (CJS), which includes:

- the police
- the Crown Prosecution Service (CPS)
- the criminal courts
- Her Majesty's Prison Service
- Her Majesty's Probation Service
- the National Offender Management Service.

The Crown **prosecutes** the defendant. The defendant may be found **guilty**, provided the jury/magistrates have no **reasonable doubt**.

Criminal law fits into both the substantive and public categories outlined above. There are courts that specialise in criminal law (see Chapter 1.4).

Civil law

Civil laws create rights that are enforceable between private individuals. This means that enforcement agencies such as the police do not get involved in these laws. Civil laws therefore do not aim to punish but to compensate those whose rights have been violated.

The **claimant** can **sue** the **defendant**. The defendant may be found **liable** on the **balance of probabilities**.

Claimant: legal term for a person or organisation starting a civil claim in the courts.

Sue: take civil legal proceedings against a defendant.

Defendant: legal term for a person defending or responding to a legal claim (called a respondent in some aspects of civil law).

Liable: held to be legally responsible for a breach of the civil law.

Balance of probabilities: the civil standard of proof which means the claimant must satisfy the court that their version of events is more likely than not.

Civil laws fit into the substantive category above. There are courts that specialise in civil law (see Chapter 1.4).

Prosecutes: legal term for bringing a criminal charge against a defendant.

Guilty: legally responsible for a specified wrongdoing.

Reasonable doubt: the criminal standard of proof which means the prosecution must provide sufficient evidence for the jury or magistrates to be certain of the defendant's guilt – if they are not, then they have reasonable doubt.

Revision activity

Name two of the criminal law courts.

Revision activity

Name two of the civil courts.

Exam tip

Make sure you do not mix up the terminology used in criminal and civil law.

1.4 The legal system

The legal system is assessed in all three exam papers. You must be able to identify and evaluate key civil and criminal issues of the legal system. The legal system examines and evaluates the:

- civil courts and other forms of dispute resolution
- criminal courts' sentencing powers for adults
- role of magistrates and juries
- role of legal personnel: solicitors, barristers and legal executives, along with the judiciary.

The final topic looks at access to justice and legal funding. Here, public, private and alternative sources of legal advice are assessed.

Civil courts and other forms of dispute resolution

REVISED

Civil courts

The **civil courts** deal with non-criminal matters, such as contract, tort and human rights issues. They are designed to deal with disputes between individual citizens and/or organisations. There is some crossover with criminal courts, but generally they have separate courts.

Examples of disputes include disagreements arising under contract, family or employment law.

The civil justice system was largely reformed in the 1990s. There are two key civil courts of first instance: the County Court and the High Court.

Exam tip

You need a clear understanding of the civil courts' structures, procedures and appeal systems. It might help you to visit as many types of civil court as you can, to observe their workings in practice.

Revision activity

Explain what is meant by tort law and why such disputes are dealt with under civil law.

Civil courts: courts that deal with non-criminal matters.

Revision activity

Identify which courts have both civil and criminal jurisdiction.

Reform of the civil justice system

In 1995, following historic public criticisms of the civil justice system, Lord Woolf reported that 'the key problems facing civil justice today are cost, delay and complexity'.

Lord Woolf's report, *Access to Justice* (1996), suggested major reforms to the civil justice system, which were largely incorporated into the Civil Procedure Rules of 1999. These rules had an overriding objective to enable the civil courts to deal with cases in a more 'just' way than they had been historically.

Woolf reforms

- These reforms gave the handling of case management to individual judges.
- A 'track' system was introduced in the County Court, to put claims in a hierarchical order depending upon the value of the claim.

- Pre-action protocols were introduced.
- Other forms of dispute resolution were encouraged, including alternative dispute resolution (ADR).

Three tracks

While some civil cases start in the magistrates' court, most civil cases start in the county court.

If the claim value is for a specific amount, in some cases a claim can be made online. If the case is to go to court, a claimant fills in an N1 form and sends this, with the appropriate fee, to the HM Courts and Tribunals Service. Depending on the value of the claim, and whether the defendant denies liability, the service can allocate the claim to the most appropriate track:

- small claims track for straightforward claims of not more than £10,000 or personal injury of not more than £1000
- fast track for claims between £10,000 and not more than £25,000
- multi-track for claims exceeding £25,000 and not more than £50,000
- High Court for more complex claims over £50,000.

Civil courts appeal system

If either party in a case is dissatisfied with the decision made by the judge at first instance, then it is possible to appeal. Generally:

- A first appeal from a decision of the small claims court or the fast track is heard by a next-level judge. If the case was first heard by a District Judge, the appeal will be to a Circuit Judge. If first heard by a Circuit Judge, then the appeal is to a High Court Judge.
- It is possible for a second appeal from the decision of a Circuit Judge or High Court Judge to the Court of Appeal (Civil Division), but this would be in exceptional circumstances and only with the Court of Appeal's permission.
- An appeal from a decision of the multi-track, whether heard by a District or Circuit Judge is to the Court of Appeal (Civil Division).
- An appeal from the High Court is to the Court of Appeal (Civil Division), or on rare occasion to the Supreme Court (called a 'leapfrog' appeal) where a point of general public importance is present.
- It is possible for a further appeal from the Court of Appeal (Civil Division) to the Supreme Court, but only if either court gives permission.
- A final appeal is possible for a case to be referred to the European Court of Justice, under Article 234 of the Treaty of Rome, if a point of EU law is involved.

Other forms of dispute resolution

There are two main alternatives to the civil courts:

- tribunals
- **ADR** – negotiation and mediation.

Exam tip

Make sure you understand the advantages and disadvantages of tribunals and negotiation and mediation, as questions are commonly set on this area.

Typical mistake

Do not muddle the three tracks when it comes to the financial limits and the key types of cases they hear. Exam questions might ask about which court(s) an appeal will go to after it is heard in one of the tracks – be clear on the differences.

Revision activity

Print out and complete an N1 form. This will help you appreciate the idea of simplicity and understand its requirements.

Revision activity

Draw a chart showing the civil courts' appeal routes from:

- the County Court, and
- the High Court.

ADR: alternative dispute resolution, one of the key Woolf reform recommendations.

Tribunals

Structure

Tribunals are separated at first instance into seven divisions dealing with specific areas of law and four divisions for appeals.

First-tier tribunals hear cases at first instance, and upper tribunals hear appeals from the first tier.

There is a possible appeal route to the Court of Appeal and from here an appeal route to the Supreme Court.

A separate first-tier tribunal and upper tribunal exist for disputes involving employment law.

Role

The system of administrative tribunals runs alongside the civil courts system. Tribunals were established to deal with specific areas of law generally concerning social and welfare legislation, for example employment rights.

Advantages

- Tribunals are cheaper, and in many cases quicker, than going to court.
- They are an informal hearing of fact, in most cases heard in private.
- Some legal aid is available, usually for human rights issues concerning immigration or mental health issues.
- They are heard by a panel of three – in most cases consisting of a tribunal judge and two lay persons having expertise in the area in dispute.
- From July 2017 you do not need to pay fees to make an employment tribunal claim.

Disadvantages

- Public funding is not available in most cases, and the individual has to bear the cost of using a tribunal.
- The government department that the individual is in dispute with will generally use a lawyer to represent it.
- They are more formal than alternative methods of dispute resolution, with an inquisitorial nature to the hearing.
- Due to the huge volume of cases, especially those involving employment law, there can be a delay in hearing the case.

Negotiation

Table 1.4.1 Outline of negotiation

Description	The most basic form of ADR, where an individual attempts to resolve the issue directly, privately and possibly face to face with the other party
Advantage over litigation	Potentially the quickest, cheapest, most informal way of settling a dispute between parties, as no court or lawyers are involved
Disadvantages compared to litigation	<ul style="list-style-type: none"> • Requires confrontation with the other party • If the dispute is not settled, the case may go to court, which will involve costs and the court may insist the parties go back to negotiation before trial
Examples	<ul style="list-style-type: none"> • Noise caused by neighbours • Returning faulty goods to a shop • Receiving poor service from a tradesperson

Revision activity

Using the internet, draw a flowchart to reflect the tribunals' structure in England and Wales.

Revision activity

Role play the following scenario. Your neighbour's son keeps playing his music very loud and in the early hours of the morning. You have asked him to stop, but he has ignored you. How could negotiation help resolve the dispute?

Exam tip

You might be asked to assess the options a defendant would have if they wanted resolve a dispute without going to court. This would require a discussion of tribunals and ADR.

Mediation

Table 1.4.2 Outline of mediation

Description	<ul style="list-style-type: none"> • Slightly more formal than negotiation, but still a relatively informal method of dispute resolution • A neutral third-party mediator attempts to resolve the issue (possibly face to face) with both parties, without giving their opinion
Advantages over litigation	<ul style="list-style-type: none"> • The parties are, in effect, in control of proceedings and decisions • Based on common sense rather than decisive legal rules
Disadvantages compared to litigation	<ul style="list-style-type: none"> • Will only work if both parties agree and cooperate • Many decisions may not ultimately be binding on both parties
Examples	<ul style="list-style-type: none"> • Businesses negotiating or renegotiating contracts • Marriage guidance to avoid separation or divorce

Typical mistake

Do not muddle up negotiation and mediation, or forget to support your definitions with examples (real or imagined) of organisations that operate in these areas of ADR.

Type of ADR	Advantages	Disadvantages
Negotiation	1	1
	2	2
	3	3
Mediation	1	1
	2	2
	3	3

Revision activity

Copy out and complete the revision chart (left) to evaluate negotiation and mediation.

Now test yourself

TESTED

- 1 List three areas of law that would be dealt with in the civil courts.
- 2 List the three key problems Lord Woolf stated were facing the civil justice system by 1995.
- 3 Look at the chart below and complete the missing court or value of claim.

Court	Claim value
Small claims	
	Between £10,000 and £25,000
Multi-track	
	Over £50,000

- 4 Explain the purpose of tribunals in the civil justice system.
- 5 Explain one advantage and one disadvantage of the tribunal system.
- 6 Give three ways that alternative dispute resolution (ADR) is different from using the civil courts.
- 7 Explain what is meant by negotiation and mediation.

Answers on page 238.

Exam summary

In the exam, you MAY be asked:

- multiple-choice questions about the civil courts and other forms of dispute resolution
- to explain the purpose of the civil courts, the types and practices of the civil courts or tribunals, and negotiation and/or mediation
- to write an analysis of the civil courts, tribunals, negotiation or mediation as a standalone, short or mid-range question.

Criminal courts and lay people

REVISED

Criminal courts: there are two levels – the Magistrates' Court, which deals mainly with summary offences, and the Crown Court, which deals mainly with indictable offences.

Lay people: in the criminal justice system, lay people are either magistrates or juries. 'Lay' in this circumstance means legally 'unqualified'.

Criminal courts

The criminal courts system is designed to uphold laws which forbid certain types of behaviour. Indulging in those behaviours risks punishment, thereby maintaining a civilised society.

There are two key criminal **courts of first instance**: the Magistrates' Court and the Crown Court.

Criminal process

There are three key criminal processes in the criminal courts' system:

- **bail**
- trial in the Magistrates' Courts and/or Crown Court
- the Crown Prosecution Service.

Bail: a form of security, either a sum of money or a promise in exchange for the freedom of an arrested person as a guarantee that they will appear in a criminal court when required.

Bail

There is a **rebuttable presumption** that bail should be granted under s 4 of the Bail Act 1976.

After being arrested, a suspect can be released on bail at the police station after being charged with an offence. Bail can be issued by the police or any court before which the defendant appears, usually either the Magistrates' Court or Crown Court. Bail will remain in place until their court hearing. It can also be refused if there are sufficient grounds.

Conditions can be applied to the bail, for example:

- to reside at a particular address
- not to contact certain people, such as the victim or witnesses
- to surrender their passport to the police if considered a 'flight-risk'
- to report to a police station at specific, agreed times each week.

Failure to comply means the suspect can be arrested again and remanded in prison until their court hearing.

Exam tip

You might be asked to explain the reasons for three conditions that could be attached to a suspect's bail. Ensure you understand this. For example, a passport might have to be surrendered to make sure the suspect does not flee the country.

Court of first instance:

one of two courts where a criminal trial begins, i.e. Magistrates' Court or Crown Court.

Rebuttable presumption:

a conclusion that a judge will take in court unless the contrary is raised and proven.

Revision activity

Read s 4 of the Bail Act 1976 and summarise succinctly the section's main constituent parts.

Revision activity

Consider any other conditions that could be attached to a person's bail.

Trial in the Magistrates' Court

Around 97 per cent of all criminal cases are dealt with in a Magistrates' Court, with more than 90 per cent being concluded here. The court's key functions include:

- trying summary offences and most either-way offences
- carrying out plea-before-venue hearings for either-way offences
- sentencing defendants if found guilty – powers are limited but reflect the seriousness of the crimes under its jurisdiction
- dealing with the first hearing of indictable offences such as the granting of bail, or making reporting restrictions before being sent to the Crown Court
- dealing with ancillary matters, such as issuing 'bench' arrest warrants and granting or refusing bail in summary or either-way trials
- trying cases in the Youth Court for defendants aged 10–17.

Revision activity

Identify the Magistrates' Courts in your local area and the geographical area each one serves.

Trial in the Crown Court

In 1971, a system of Crown Courts was established to deal with those criminal cases not tried fully in the Magistrates' Courts. The Crown Courts deal with the most serious, indictable offences, and some triable either way offences.

The trial normally begins with a plea and case management hearing, where the defendant will plead either guilty (and subsequently be sentenced) or not guilty (whereupon a full trial involving a jury of 12 citizens will commence).

Crown Prosecution Service

The Crown Prosecution Service (CPS) is responsible for prosecuting most criminal cases in England and Wales. It:

- decides which cases are to be prosecuted
- determines the most appropriate offences with which to charge the defendant
- prepares cases and presents them in court.

Under the Code for Crown Prosecutors, a decision to prosecute is made if the merits of the case pass a two-fold test:

- 1 the evidential burden test: there must be sufficient evidence to prosecute
- 2 the public interest stage test: the prosecution must be in the public interest.

Factors influencing the CPS to prosecute would include:

- a premeditated decision to commit a crime
- use of a weapon
- the defendant was in a position of authority or trust
- vulnerability of the victim
- the defendant has previous convictions.

Revision activity

Browse the CPS website (www.cps.gov.uk) and see if you can find out further information about the Code for Crown Prosecutors.

Exam tip

You might be asked to explain three factors influencing the CPS to prosecute a suspect, or assess the likelihood of a suspect being prosecuted in an example scenario. You will need to remember these factors, and be able to spot them in a scenario.

Classification of criminal offences

Table 1.4.3 Classification of criminal offences

Classification of offence	Trial court	Examples of offences	Sentencing powers of court
Indictable	Administrative hearing in Magistrates' Court, then transferred to Crown Court for trial	<ul style="list-style-type: none"> • Murder • Manslaughter • Robbery • Section 18 wounding/GBH 	Up to the maximum set by specific offence by common law or statute
Triable either way	(Plea before venue) Magistrates' Court, or Crown Court	<ul style="list-style-type: none"> • Theft • Section 20 wounding/GBH • ABH 	Up to maximum set by specific offence (but see below for magistrates' maximum sentencing powers)
Summary	Magistrates' Court	<ul style="list-style-type: none"> • Common assault • Driving without insurance or licence 	Up to six months' imprisonment for a single offence, or up to 12 months in total for two or more offences; and/or a fine, generally of up to £5000

Criminal appeal system

The criminal courts system provides appeal routes for defendants in all cases and to the prosecution in certain situations.

Revision activity

Create and illustrate a diagram on A3 paper identifying the three classifications of offence.

Table 1.4.4 Appeals from the Magistrates' Court to the Crown Court

Available to	Only the defence
Reason for appeal	Against sentence and/or conviction
Appeal heard by	Panel of a single Circuit Judge and two magistrates
Further appeal possible?	<ul style="list-style-type: none"> • Generally no, but possible to appeal to the Queen's Bench Divisional Court purely on a point of law • Possible further appeal to the Supreme Court (see below)
Result of appeal	Appeal quashed, confirm appeal or remit case back to the Magistrates' Court

Table 1.4.5 Appeals from the Magistrates' Court to the Queen's Bench Divisional Court (QBD)

Available to	The prosecution and the defence
Reason for appeal	On a point of law by way of case stated
Appeal heard by	Panel of two or three High Court Judges, which might include a Court of Appeal Judge
Further appeal possible?	<ul style="list-style-type: none"> • Possible appeal by the prosecution or the defence to the Supreme Court on a point of law of general public importance • Must have leave to appeal by either the Supreme Court or QBD
Result of appeal	Appeal quashed, confirm appeal or remit case back to the Magistrates' Court

Table 1.4.6 Appeals from the Crown Court (1)

By whom?	Defendant
Reason for appeal	Rare, but possible – against sentence and/or (unsafe) conviction
Where heard?	<ul style="list-style-type: none"> ● Court of Appeal (Criminal Division) within six weeks of conviction and must be granted permission ● Fresh evidence can be heard at this appeal
Further appeal possible?	<ul style="list-style-type: none"> ● Again, rare but possible, to the Supreme Court on a point of law of general public importance ● Must have leave to appeal
Result of appeal	Appeal quashed or confirm appeal

Table 1.4.7 Appeals from the Crown Court (2)

By whom?	Prosecution
Reason for appeal	<ul style="list-style-type: none"> ● Against the <i>acquittal</i> of the defendant if the prosecution is unhappy with the decision, or by the Attorney-General to clarify a point of law relevant to the acquittal ● Against <i>sentence</i> if the Attorney-General considers the sentence to be unduly lenient
Where heard?	Court of Appeal (Criminal Division)
Further appeal possible?	<ul style="list-style-type: none"> ● Rare, but possible ● To the Supreme Court on a point of law of general public importance ● Must have leave to appeal
Result of appeal	Appeal quashed or confirm appeal

Revision activity

Create a flow chart poster showing the different appeal routes from the Crown Court.

Criminal court powers and sentencing of adult offenders

Typical mistake

Do not use incorrect or out-of-date information. As part of your self-study or homework, make sure you research relevant websites, for example www.sentencingcouncil.org.uk.

The term 'sentencing' means any punishment given to an offender who has been convicted. An adult offender is anyone aged 21 years or older who has been convicted of an offence.

There are four main types of adult sentences:

- **Imprisonment:** the offender's behaviour is so serious that none of the other sentences will suffice. Offenders serve half of their sentence in prison and the other half on licence in the community.
- **Community sentences:** offenders are made to carry out between 40 and 300 hours of demanding work in the community, or undergo treatment for issues like drug addiction.
- **Fines:** these are for less serious offences and, by far, the most common type of sentence. The amount depends on the severity of the crime.
- **Discharges:** this is where the court feels that simply being brought in front of a judge or magistrate is enough punishment. Conditions can be set with a discharge, for example to stay out of trouble, and if the

Revision activity

Consider the following scenario: William is a DJ in a nightclub. He has a disabled son, and in order to make some extra money he sells illegal drugs to some of the customers. One of the customers, Ryan, takes some of the drugs, but dies due to an overdose. Which type of sentence do you think is appropriate. Explain your answer.

1.3 Law making

Law making covers an important set of topics, not only to gain an understanding of the legal system, but also to appreciate the impact of sources of law on substantive areas of law such as criminal law and tort law.

Law making is examined below by its various sources: legislation, delegated legislation, statutory interpretation, judicial precedent and EU law. We also look at law reform, in particular the operation of the Law Commission.

Parliamentary law making

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This will be assessed in Paper 2.

What is Parliament?

The UK Parliament, based in the Palace of Westminster in London, is a tripartite body comprising the monarch, the House of Lords and the House of Commons.

It is also a bicameral legislature – the legislators are divided into two separate assemblies, chambers or houses.

Monarch

The UK is a constitutional monarchy. This means the queen (or king) is bound to exercise powers and authority only within the limits prescribed by the law.

Rules are not in a written constitution in the UK as they are in some other countries, but originate in the conventions, practices and precedents of Parliament, which form what is known as the Constitution of the United Kingdom.

The monarch is a ceremonial figurehead – a theoretical source of executive power who does not actually exercise executive powers. Executive powers may be exercised in the monarch's name by Parliament and the government.

No person may accept significant public office without swearing an oath of allegiance to the monarch. However, he or she is bound by constitutional convention to act on the advice of the government in making these appointments.

Political theorist Walter Bagehot identified three main political rights which a constitutional monarch may freely exercise, namely the right to:

- be consulted
- encourage, and
- warn.

House of Commons

By convention the seat of government, the House of Commons is Parliament's only democratically elected element.

The UK is divided into 650 constituencies, each of which votes for a Member of Parliament (MP) to represent it. This vote is known as a general election and must be held at least every five years.

Revision activity

How many public organisations can you name that 'belong' to the monarch?

The government is formed by the political party with a majority of MPs in the House of Commons, and it is the leader of this political party who is invited by the monarch to be his/her Prime Minister. Because it has a majority, it is the government which has the main say in formulating new Acts of Parliament.

House of Lords

The House of Lords is a non-elected body made up of:

- 92 hereditary peers, who inherited their title and will pass it down through their family
- around 700 life peers, appointed on a non-partisan basis by the House of Lords Appointments Commission
- the 26 most senior bishops in the Church of England.

Prior to 1999 there were about 750 hereditary peers. After reforms of the House of Lords, the right of the remaining 92 to sit in the House of Lords will not pass down with their title.

Because the House of Lords is non-elected, the House of Commons can override it under powers contained in the Parliament Acts of 1911 and 1949. This is known as imperfect bicameralism, as the two houses are not equal in power.

Revision activity

Research the Parliament Acts of 1911 and 1949.

Why were they introduced, and how do they limit the House of Lords' power?

Green and White Papers

Each government department (sometimes known as a 'ministry', such as the Ministry of Defence, or a 'department', such as the Department for Education) is responsible for an area of government.

If a change in the law is being considered, it will draft ideas for change. These draft documents are known as Green and White Papers:

- Green Paper – a consultative document issued by the government putting forward proposals for reform of the law and often inviting suggestions
- White Paper – a document issued by the government stating its decisions as to how it is going to reform the law; this is for information, not consultation.

Formal legislative process

While a new law is making its way through the formal stages of becoming an Act of Parliament, it is known as a Bill. There are three types of Bill, outlined in the table below.

Revision activity

Research how private MPs can introduce Bills. Find some Acts that started as Private Members' Bills.

Table 1.3.1 Types of Bill

Public Bills	These involve matters of public policy affecting the whole country or a large section of it. Most government Bills are in this category, for example the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
Private Members' Bills	Individual (private) MPs introduce a Bill. They can be from any political party and are known as 'backbenchers' because they do not sit in the front row in the House of Commons with the government. There are two ways a private MP can introduce a Bill: <ul style="list-style-type: none"> ● by ballot ● through the 'ten-minute' rule.
Private Bills	These are designed to create a law which will affect only individual people or corporations. They do not affect the whole community.
Hybrid Bills	These are a cross between Public Bills and Private Bills. They are introduced by the government, but if they become law they will affect a particular person, organisation or place.

Checks and balances

As discussed in Chapter 1.2, there have to be checks and balances built into the process of a Bill becoming an Act, to prevent any abuses of power.

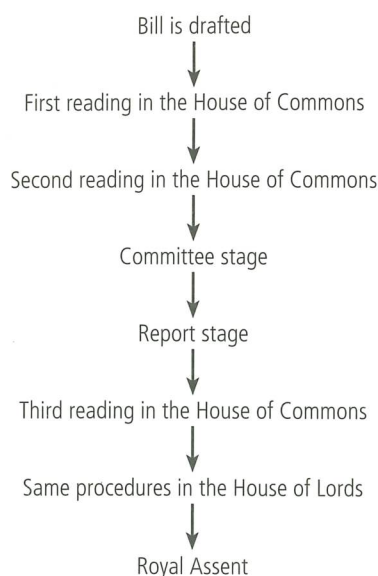


Figure 1 Flow chart of the passing of an Act of Parliament starting in the House of Commons

Revision activity

Write a sentence explaining each stage of the legislative process.

Influences on Parliament

So where do the ideas come from for new laws? As already mentioned, this is often government policy, but who influences this?

Table 1.3.2 Influences on Parliament

Type of influence	Example of its success	Advantages	Disadvantages
Political When a general election is called, the political parties publish a manifesto, which amounts to a promise of what new laws they will introduce.	The Hunting Act 2004 followed the promise by the Labour Party to outlaw fox hunting if elected (also a great example of using the Parliament Acts 1911 and 1949).	Each political party has its proposals ready. A government majority means that most of the Bills it introduces will be passed.	While it is easy to make a promise, it is much more difficult when in power to fulfil that promise, particularly without an overall majority (as the Conservative/Liberal Democrat coalition found in 2010–15).
Media When there is strong public opinion about an issue, the government may bow to it. Where an issue is given a high profile in the media, it may add to the weight of public opinion.	Following the Dunblane massacre in 1996, private ownership of handguns was banned.	The UK's free press is able to criticise government policy or bring any other issue to the attention of the government using public opinion.	Responding too quickly to high-profile incidents leads to poorly drafted law, e.g. the Dangerous Dogs Act 1991. Media companies can manipulate the news to create public opinion.
Pressure groups Sectional: represent the interests of a particular group of people Cause: promote a particular cause	In 2007, laws against smoking in public places were introduced because of public and medical opinion.	Pressure groups often bring important scientific discoveries to the government's attention; e.g. the damage being done by greenhouse gases and other pollutants.	There are occasions when two pressure groups have conflicting interests, e.g. the League Against Cruel Sports wanted to ban fox hunting but the Countryside Alliance wanted it to continue.

The Law Commission is the UK's main law reform body, which recommends or researches law reform on behalf of the government (see page 39 for how it influences changes to the law).

Doctrine of parliamentary supremacy (sovereignty) and its limitations

A.V. Dicey said:

'The principle of Parliamentary sovereignty means ... that Parliament ... has the right to make or unmake any law whatever; and, further, that no person or body is recognised by the law of England as having a right to override or set aside the legislation of Parliament.'

This means that Parliament cannot control the actions of its future self, and the courts have no power to question the legality of an Act of Parliament. A key case here is *British Railways Board v Pickin* (1974).

However, there are a number of current Acts that do give the courts power to declare new parliamentary laws incompatible with them, thus contradicting the rule above. These are outlined in the table below.

Table 1.3.3 Acts allowing a declaration of incompatibility

Act	Provision	Case example
Human Rights Act 1998	Section 4: the courts have the power to declare an Act incompatible with the European Convention on Human Rights.	<i>H v Mental Health Review Tribunal</i> (2001) declared that the Mental Health Act 1983 was incompatible.
European Communities Act 1972 (ECA)	Section 2: where EU law exists on a particular subject, it can override any inconsistent UK law, including Acts of Parliament.	<i>Factortame v Secretary of State for Transport</i> (1990) cases held the Merchant Shipping Act 1988 to be contrary to EU law.

In devolving some of its powers to the Scottish Parliament, Welsh Assembly Government and Northern Ireland Assembly (in the Scotland Act 1998, Wales Act 1998 and Northern Ireland Act 1998 respectively), the UK Parliament has handed over much self-governance to Scotland, Wales and Northern Ireland.

However, because Parliament can do anything and cannot be controlled by previous parliaments, in theory there is no reason why Parliament cannot simply repeal the Human Rights Act, the European Communities Act (ECA), the Scotland Act, the Welsh Act and the Northern Ireland Act, thus regaining its supremacy.

This is happening to the ECA as part of Brexit. Repealing the others would not be considered politically wise, even if technically possible.

Now test yourself

TESTED

- 1 How many bodies make up Parliament?
- 2 What is a constitutional monarchy?
- 3 What is the difference between a Green Paper and a White Paper?
- 4 Which is the most effective influence on Parliament?
- 5 Is Parliament actually supreme?

Answers on page 237.

Revision activity

Research the details of *British Railways Board v Pickin* (1974). Why is it important?

Typical mistake

Do not forget that Parliament is ultimately supreme. It can repeal these Acts, thus regaining its original power, without an additional majority.

2.1 Rules of criminal law

Criminal law is a substantive area of law and is assessed in Paper 1. It comprises a series of common-law rules and statutes which define conduct that is prohibited in our society because it threatens or causes harm to public safety.

It is important that you are able to define and explain the principles of criminal law and competent in applying these principles. The course requires you to have an understanding of the rules and theory in criminal law before carrying out an examination of the key principles of *actus reus* and *mens rea*.

This chapter gives background material for what will be assessed in this paper. It revises the rules and principles concerning general elements of criminal liability. Specific elements and crimes are dealt with in greater detail in Chapters 2.2–2.8.

Defining crime

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Lord Atkin defined crime in *Proprietary Articles Trade Association v Attorney-General for Canada* (1931) as ‘the act prohibited with penal consequences’.

Therefore, there are two elements:

- The act must be prohibited, i.e. forbidden by the state.
- The act must attract penal consequences, i.e. it must be punished by the state.

Usually, the state will create a crime by passing an Act of Parliament in the manner shown on page 24, for example the Fraud Act 2006. However, some crimes are created by the common law using the doctrine of precedent as shown on page 34. For example, the law of murder has never been set down by Parliament, but has been developed over time by judges.

This is now quite rare nowadays; most new crimes are set down by Parliament to respond to new circumstances, such as the outlawing of ‘revenge porn’ by the Criminal Justice and Courts Act 2015. However, the case of *R v R* (1991) created a ‘new’ crime of marital rape.

‘Punished’ means that the state must have provided a maximum or mandatory sentence to be imposed if a person is convicted of a criminal offence.

There are many different types of crime, but all will have these two points in common.

Now test yourself

TESTED

- 1 What are the two ways in which new crimes can be created?
- 2 Which two elements are common to all crimes?

Answers on page 239.

Revision activity

Find an example of an offence against the person, a property offence and a regulatory offence. For each, find both the source (Act or case) and the sentence.

Criminal liability

The fundamental principle of English criminal law was stated by Edward Coke in the seventeenth century as '*actus non facit reum nisi mens sit rea*'. This means 'an act is not guilty unless the mind is also guilty'.

As a consequence, most crimes will have both:

- an **actus reus** (AR) – a guilty act, and
- a **mens rea** (MR) – a guilty mind.

These two elements must occur at the same time in order for a crime to have been committed.

Actus reus: a guilty act.

Mens rea: a guilty mind.

Revision activity

Create a table for every offence you have studied in this course, showing the source, the *actus reus*, the *mens rea* and the sentence (see the example below).

Offence	Source	Actus reus	Mens rea	Sentence
Criminal damage	Section 1 of the Criminal Damage Act 1971	Destroys or damages any property belonging to another	Intention or recklessness	Maximum ten years' imprisonment

A person is guilty of attempting to commit an offence under s 1(1) of the Criminal Attempts Act 1981 if they perform an act which is more than merely preparatory to the commission of the offence, with the intention of committing an offence. The offence consists of both *actus reus* (an act more than merely preparatory) and a *mens rea* (intention to commit an offence – recklessness is not sufficient). For further detail on attempt, see page 99.

Defending crime – removing liability

Although the defendant may have committed the *actus reus*, without the appropriate *mens rea* they cannot be guilty. So, if someone kills another person but does not, or cannot, intend to kill them, they cannot be guilty of murder (they might be guilty of a different offence though).

In addition, there are a number of general defences that may be available even if the defendant has both the *actus reus* and *mens rea*. These will lead to a 'not guilty' verdict.

For A-level, you have to study general defences of self-defence/prevention of crime, duress by threats, duress of circumstance, insanity, automatism and intoxication. This list of defences can be split into two categories known as:

- 'capacity defences' – the defendant could not form the *mens rea*
- 'necessity defences' – the defendant did form the *mens rea* but has an 'excuse' for doing so.

These are discussed in greater detail in Chapter 2.8.

Revision activity

Put each defence listed here into the relevant category – capacity defence or necessity defence.