

Unit 22: Aspects of the Legal System and the Law Making Process

Unit code:	M\600\6101
QCF Level 3:	BTEC National
Credit value:	10
Guided learning hours:	60

● Aim and purpose

The aim of this unit is to enable learners gain knowledge and understanding of the legal system and the criminal trial process in England and Wales. Learners will do this by looking at the hierarchy of the court system, the personnel involved in the courts and the criminal trial process.

● Unit abstract

Understanding the legal system in England and Wales is an important basis for the study of any area of UK law. This unit will help learners to understand that the legal system in England and Wales is essentially practical in nature and provides solutions to everyday problems. Studying this unit will enable learners to understand the fundamental difference between the civil and criminal courts. Learners will also develop their knowledge of the court structure, both civil and criminal, and relevant routes of appeal.

Learning outcomes 1 and 2 explore the structure and framework of both the civil and criminal courts in England and Wales and the roles and powers of lay and paid personnel involved in the administration of justice, including the role of the Crown Prosecution Service (CPS). Learners will also consider the use of juries, the roles of the judge and magistrates and the different legal professionals involved in the presentation of the trial. The unit then considers how legal rules are created by the courts through judicial precedent.

The unit examines the criminal trial process, dealing with categories of criminal offences, bail and the right of the defendant to legal representation, and the trial process in both magistrates' courts and the Crown court, including mode of trial and committal proceedings and the right of the defendant to elect for trial by jury in some scenarios.

The unit covers the sentencing of offenders and the sentencing powers of both magistrates' courts and the Crown court; the range of sentences available and the limitations imposed on sentencers in both magistrates' courts and Crown court. The unit examines the grounds for and routes of appeal in criminal cases up to and including appeals to the highest court in the UK – the Supreme Court.

Current legislation should always be used when teaching this unit.

● Learning outcomes

On completion of this unit a learner should:

- 1 Know the hierarchy of the courts system
- 2 Know the role undertaken by the personnel of the courts
- 3 Know how legal rules are created by precedent
- 4 Understand how the criminal trial process works.

Unit content

1 Know the hierarchy of the courts system

Civil courts structure: function and jurisdiction of Small Claims Court, county court, High Court, Civil Division of the Court of Appeal, Supreme Court, European Courts of Justice; difference between first instance and appeal courts

Criminal courts structure: role, function and jurisdiction of the youth court, magistrates' courts, Crown court, Criminal Division of the Court of Appeal, Supreme Court; European Courts of Justice; difference between first instance and appeal courts

2 Know the role undertaken by the personnel of the courts

The legal profession: work, training and regulation of barristers and solicitors and their roles in the court systems of England and Wales

Prosecutors: role of the Crown Prosecution Service (CPS); code for crown prosecutors; other prosecutors; private prosecutions; plea bargaining

The judiciary: selection and appointment of judges including district judges; roles of judges in civil and criminal cases; judicial independence; removal of judges from office

Lay people: selection and appointment of lay magistrates; training, role and powers of lay magistrates; jurisdiction of lay magistrates in civil and criminal cases including role in Crown court proceedings; removal of lay magistrates from office; advantages and disadvantages of the use of lay magistrates; the role of juries including qualification and disqualification for jury service, selection of juries, summoning, vetting and challenging jury members, role in the criminal and civil courts

3 Know how legal rules are created by precedent

Judicial precedent: development of the system; law reporting; binding authorities; persuasive authorities; ratio decidendi; obiter statements

Avoiding judicial precedents: distinguishing previous decisions; reversing decisions; overruling previous decisions; practice statements

4 Understand how the criminal trial process works

Categories of criminal offence: summary offences; triable either way offences; indictable offences

Bail: police powers to grant bail; the Bail Act 1976 and Criminal Justice Act 2003; right of defendant to bail; conditional and unconditional bail; restrictions on bail; breaches of bail; right to liberty under Human Rights Act 1998

Access to legal advice and representation: duty solicitors; funding and representation for defendant; legal aid; right to a fair trial under Human Rights Act 1998

Magistrates' courts: summary trial process; 'guilty' pleas; 'not guilty' pleas; triable either way offences; plea before venue; mode of trial; defendant's election; indictable trial process; committal proceedings; youth courts

Crown court: trial by jury; implications of trial by jury; composition of the jury; advantages and disadvantages of the jury system

Sentencing powers: magistrates' court sentencing powers and limitations; committal from magistrates' courts to Crown court for sentence; Crown court sentencing and restrictions; range of sentences available

Appeals from criminal courts: appeals from magistrates' courts to the Crown court; appeals to the Queen's Bench Divisional Court by way of case stated; further appeals to the Supreme Court; appeals from the Crown court by the defendant; leave to appeal; Court of Appeal's powers; appeals by the prosecution; appeals to the Supreme Court

Assessment and grading criteria

In order to pass this unit, the evidence that the learner presents for assessment needs to demonstrate that they can meet all the learning outcomes for the unit. The criteria for a pass grade describe the level of achievement required to pass this unit.

Assessment and grading criteria		
To achieve a pass grade the evidence must show that the learner is able to:	To achieve a merit grade the evidence must show that, in addition to the pass criteria, the learner is able to:	To achieve a distinction grade the evidence must show that, in addition to the pass and merit criteria, the learner is able to:
P1 outline the hierarchies of the civil and criminal courts in England and Wales [IE, CT]		
P2 describe the roles of judges, lawyers and lay people in criminal trials in England and Wales [IE, RL]	M1 compare the roles and functions of paid and lay personnel within the court system of England and Wales	D1 critically analyse the role of lay personnel within the court system of England and Wales.
P3 describe how legal rules are created by precedent [CT, EP]		
P4 outline the rights of the defendant to legal representation and bail [CT, EP]		
P5 describe how the criminal trial process works for both a summary and an indictable offence [IE, CT, RL]	M2 compare the trial process in the magistrates' courts and Crown court, using a summary, either way and indictable offence	
P6 outline the powers of the courts in sentencing offenders, using one example of a summary offence and one indictable offence. [IE, TW, SM]	M3 explain the grounds for appeal from the magistrates' courts and the Crown court in England and Wales.	

PLTS: This summary references where applicable, in the square brackets, the elements of the personal, learning and thinking skills applicable in the pass criteria. It identifies opportunities for learners to demonstrate effective application of the referenced elements of the skills.

Key	IE – independent enquirers CT – creative thinkers	RL – reflective learners TW – team workers	SM – self-managers EP – effective participators
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Essential guidance for tutors

Delivery

This unit should be delivered with as much practical content as possible, to engage learners with the whole process of the court and trial systems. Although learning outcome 1 requires some tutor-led activity, it could be made more relevant to learners by taking account of their own knowledge and experience of courts. Wherever possible, learners should be accompanied on visits to both magistrates' courts and Crown court early on in the programme. If the visit is pre-arranged, most magistrates' courts and Crown court staff and administrators will be happy to provide an outline of the proceedings for learners. Jury summoning officers are helpful and, if given sufficient notice, will usually arrange to give a short talk to learners before the court sits.

If visits to courts are difficult to arrange the various court websites provide excellent guides to the court process and proceedings (eg www.info-court.org/croc.html; www.info-court.org/magist.html; moj.coionline.tv/videos/goingtocourtvideo/).

The use of visiting speakers is vital to bring a sector-relevant focus to the delivery of this unit and the Crown Prosecution Service and magistrates are usually happy to talk to learners. Representatives from the local Bar Council and Law Society may also be able to provide speakers, and local community police officers are also a helpful source of information. It is essential that any speakers are made aware of the requirements of the units learning outcomes.

Involvement in mock trials can be organised via the Citizenship Foundation at www.citizenshipfoundation.org.uk/main/comps.php?21. This gives an excellent insight into the court process.

The use of case studies, scenarios and role play will help to bring delivery of this unit to life. Case studies can be assembled easily from various court reports and from following through a case from when an alleged offence occurs to the final sentencing of the defendant found guilty of that offence.

Delivering this unit in conjunction with *Unit 17: Police Powers in the Public Services* will facilitate learners' understanding of the whole criminal justice process.

Outline learning plan

The outline learning plan has been included in this unit as guidance and can be used in conjunction with the programme of suggested assignments.

The outline learning plan demonstrates one way in planning the delivery and assessment of this unit.

Topic and suggested assignments/activities and/assessment
Introduction to unit; explanation of court systems. Explore learners' existing knowledge and experiences of courts.
Learning outcome 1, P1 (group working) research into the courts within the legal system in England and Wales; explain main functions of each court; difference between civil and criminal courts. Design wallcharts showing the hierarchy of both civil and criminal courts (to include the UK Supreme Court and European courts).
Visiting speakers from court and CPS, Bar Council, Law Society personnel.
Visit by group to selection of courts – it is recognised that location might make this difficult, but learners should have the opportunity to experience at least one court visit or otherwise view the various courts online at the relevant websites.

Topic and suggested assignments/activities and/assessment

Learning outcome 2, P2/M1/D1 research court personnel: identify personnel associated with each court – professionals, judiciary and lay people.

Produce information leaflets on the role and powers of the various paid and lay personnel involved in the court process.

Learning outcome 3, P3 this will require extensive tutor input before learners carry out individual research to find examples. Research judicial precedent and produce a guide to the various terminology as listed in the unit content (law reporting; binding authorities; persuasive authorities; ratio decidendi; obiter statements; distinguishing previous decisions; reversing decisions; overruling previous decisions; practice statements).

Assignment 1: The Civil and Criminal Courts, Court Personnel and Precedent

P1, P2, M1, D1, P3

Learning outcome 4 categories of offence (summary, indictable, either way); linking to actual offences and producing a wallchart showing types of offences found in each of the three categories.

Learning outcome 4, P4 bail and access to legal advice – rights of the defendant.

Research into the rights of those accused of a criminal offence.

Production of an FAQ guide detailing the rights of those accused.

Learning outcome 4, P5, M2 the criminal trial process including summary, either way and indictable trials; mock trials (summary and indictable) involving learners including pleas and committals.

Learning outcome 4, P6

Sentencing in relation to both types of criminal offence: researching recent high-profile cases; group presentation to class, outlining variance of sentences.

Learning outcome 4, M3 appeals process – investigate and describe appeals process and grounds for appeals.

Assignment 2: The Criminal Trial Process in England and Wales

P4, P5, P6, M2, M3

The criminal trial process in England and Wales.

Review of unit and assessment.

Assessment

Assessment for this unit might use a number of methods, for example presentations, written assignments, wall displays and posters, leaflets and frequently asked questions, audio or video recorded role play and radio reports.

Tutors should try to make the assessment as creative as possible so that learners are sufficiently engaged to study the material in depth. If learners are assessed working as a group, for example when delivering a presentation, it is important that each learner makes a sufficient individual contribution to meet the assessment criteria and that detailed tutor, self or peer evaluations are available to authenticate the evidence presented for each individual learner.

Scenarios, case studies and role play that are used should be based on real examples and ideally developed with the support of personnel from the criminal justice agencies who have been asked to contribute to unit delivery. These personnel should also be invited to assist with assessment, especially where observed activities such as role play and presentations are being used.

For P1, an introduction to the courts could be presented, along with a diagrammatical representation of the hierarchy of the courts.

For P2, learners need to describe the variety of roles undertaken by professional and lay personnel involved in the criminal justice process (including solicitors, barristers, legal executives, judges, magistrates, juries and prosecutors). Learners need to relate to criminal courts for P2, but will need to extend this to include civil courts for both M1 and D1.

M1 requires learners to compare the roles undertaken by paid and lay court personnel, including their relative functions and the part they play in the court process.

To achieve D1, learners will need to critically analyse the role of lay personnel in the court process in England and Wales. To achieve this, they will need to review the role of both lay magistrates and juries objectively and weigh up both the positive and negative aspects of using lay personnel before reaching a conclusion as to the benefits or disadvantages in the court process in England and Wales.

To achieve P3, the learners will need to describe how legal rules are created by precedents, using the terminology used in the unit content.

P4 requires an outline of the rights of the defendant in criminal proceedings including the right to legal representation and the (presumed) right to bail in accordance with the Human Rights Act 1998 and the right to a fair trial and to liberty.

P5 requires a description of the criminal trial process for both summary and indictable offences. It is recommended that the task set for this assessment either presents learners with examples of summary and indictable offences or asks learners to give examples from each of these categories so that the description of the trial process can be expanded into a comparison for M2. A case study approach would work well for assessing P5 and M2.

P6 requires an outline of the sentencing powers of the courts using examples of summary and indictable offences. The assessment of P6 would therefore link to the work undertaken for P5 and M2 and it is recommended that assessment for these criteria is linked.

To achieve M3, learners must explain the grounds on which an appeal (from magistrates' courts and the Crown court) will be allowed. Again it is recommended that actual case study examples are used to help learners contextualise their assignment work.

Programme of suggested assignments

The following table shows a programme of suggested assignments that cover the pass, merit and distinction criteria in the grading grid. This is for guidance and it is recommended that centres either write their own assignments or adapt any Edexcel assignments to meet local needs and resources.

Criteria covered	Assignment title	Scenario	Assessment method
P1, P2, M1, D1, P3	The Civil and Criminal Courts, Court Personnel and Precedent	Learners explain to a group of Year 9 students (or students visiting from another EU country) how the courts in England and Wales operate.	Posters, wallcharts, leaflets, presentation, FAQs.
P4, P5, M2, P6, M3	The Criminal Trial Process in England and Wales	Learners explain to a group of Year 9 students (or students visiting from another EU country) how the criminal trial process in England and Wales operates.	Role play, mock courts, presentations, supporting documentation.

Links to National Occupational Standards, other BTEC units, other BTEC qualifications and other relevant units and qualifications

This unit forms part of the BTEC Public Services sector suite. This unit has particular links with the following unit titles in the Public Service suite:

Level 2	Level 3
Law and its Impact on the Individual	Government, Policies and the Public Services
Crime and its Effect on Society	Crime and its Effect on Society
	Understanding Police Powers in the Public Services

Essential resources

Learners should have access to suitable textbooks, journals and the internet. So far as reasonably practicable, learners should also have the opportunity to visit a Magistrates' Court or the Crown court, to see a trial taking place. Following this there should be the chance to discuss the case and learners should be given explanations of any points of particular interest. Learning would be greatly enhanced by visiting speakers from areas set out in the unit introduction; it is essential that such visitors are familiar with the criteria to which their information relates.

Employer engagement and vocational contexts

Learning will be enhanced by talks from visiting speakers; it is essential that visitors are familiar with the criteria that their information relates to.

Cases need to be provided as a starting point for learner research.

Indicative reading for learners

Textbooks

Darbyshire P – *Darbyshire on the English Legal System* (Sweet & Maxwell, 2005) ISBN 0421901500

Elliott C and Quinn F – *English Legal System* (Longman, 2006) ISBN 1405835486

Websites

Attorney General's office	www.attorneygeneral.gov.uk
Bar Council (regulates barristers)	www.barcouncil.org.uk
Crown Prosecution Service	www.cps.gov.uk
Code for Crown Prosecutors	www.cps.gov.uk/publications/code_for_crown_prosecutors/index.html
European Court of Human Rights (ECHR)	www.echr.coe.int/ECHR/homepage_en
European Court of Justice (Europa)	euria.europa.eu/
HM Courts and Tribunal Service	www.hmcourts-service.gov.uk
HM Crown Prosecution Service Inspectorate	www.hmcpai.gov.uk
How legal precedent is created	legal-directory.net/english-law/advantages-and-disadvantages-of-precedent.htm
Judicial Committee of the Privy Council (JCPC)	www.jcpc.gov.uk
Judiciary of England and Wales	www.judiciary.gov.uk
Law Society (regulates solicitors)	www.lawsociety.org.uk/home.law
Legal Services Commission (Legal Aid)	www.legalservices.gov.uk
Liberty – Guide to defendants rights	www.yourrights.org.uk/yourrights/the-rights-of-defendants
Magistrates' Association	www.magistrates-association.org.uk
Police bail	www.homeoffice.gov.uk/police/powers/custody
Sentencing Council	www.sentencingcouncil.judiciary.gov.uk
Supreme Court	www.supremecourt.gov.uk
Youth Justice Board	www.yjb.gov.uk/en-gb

Delivery of personal, learning and thinking skills (PLTS)

The table below identifies the opportunities to for personal, learning and thinking skills (PLTS) that have been included within the pass assessment criteria of this unit.

Skill	When learners are ...
Independent enquirers	researching the role of court personnel
Creative thinkers	participating in 'mock courts' contributing to a discussion about courts
Reflective learners	producing evidence of precedents
Team workers	researching information about the hierarchy of the courts group presentation on the role of court personnel
Self-managers	organising time to feed back to the group on the presentation submitting assignments on time
Effective participators	questioning speakers and taking note of their answers discussing functions of each court within the legal system of England and Wales carrying out a particular role in a 'mock trial'.

● Functional Skills – Level 2

Skill	When learners are ...
ICT – Use ICT systems	
Select, interact with and use ICT systems independently for a complex task to meet a variety of needs	researching different public services
Manage information storage to enable efficient retrieval	saving work
Follow and understand the need for safety and security practices	protect work with passwords
ICT – Find and select information	
Select and use a variety of sources of information independently for a complex task	carrying out research on the internet
ICT – Develop, present and communicate information	
Enter, develop and format information independently to suit its meaning and purpose including: <ul style="list-style-type: none"> • text and tables • images • numbers • records 	producing job description, presentation, leaflets and posters
Bring together information to suit content and purpose	producing, presentation, leaflets and posters
Present information in ways that are fit for purpose and audience	producing, presentation, leaflets and posters
Evaluate the selection and use of ICT tools and facilities used to present information	producing, presentation, leaflets and posters
Select and use ICT to communicate and exchange information safely, responsibly and effectively including storage of messages and contact lists	sending emails to request information re public services
English	
Speaking and listening – make a range of contributions to discussions and make effective presentations in a wide range of contexts	carrying out a verbal presentation
Reading – compare, select, read and understand texts and use them to gather information, ideas, arguments and opinions	reading information in textbooks, websites etc for assignment tasks
Writing – write documents, including extended writing pieces, communicating information, ideas and opinions, effectively and persuasively	producing leaflets, posters and job description.

