

Unit 15: Police Powers and the Law

Delivery guidance

Approaching the unit

This unit allows learners to explore key elements of the legal system relating to the criminal trial process. They will look at the legal personnel involved as well as investigating police powers and their limitations.

Learners will develop an understanding of the criminal justice system. They will look at the criminal trial process and examine the procedures that must be followed before the trial and during the trial itself. They will explore the different types of sentencing and what the aims of sentencing are. Learners will look at the personnel involved in the administration of justice and their respective roles in the criminal trial process. Learners will explore the legal framework regarding searching, arresting, detaining and interviewing individuals, including how the rights of the individual are safeguarded, and how the police must work within this framework. Learners will investigate the procedure for making a complaint against the police when an individual feels that their rights have been infringed.

You could deliver this unit using a mix of theory (to introduce learners to the topics listed in the unit content), visits and guest speakers (to enable learners to apply the theoretical concepts they have learned).

Delivering the Learning Aims

Learning aim A

For **Learning aim A** you could use tutor led presentations to deliver information to the learners about the different powers of the police to search people and their premises. You should include the powers of arrest, legal requirements for detention, interviews, carrying out further searches and collecting samples.

You could use tutor delivery to present the different organisations that are in place to handle complaints against the police.

This topic can be delivered by arranging a guest speaker from the police or from the justice sector, this will allow learners to hear how the theory works in real life. Videos/documentaries could be used to give real life experience to the topic.

Learning aim B

For **Learning aim B**, learners will need to research the role undertaken by different court personnel including the legal profession, prosecutors, the judiciary and lay people. Learners will understand the different roles each person has in the legal system. Group or individual research on the different roles could be used to work on this topic. Past cases could be used to look at the different roles within the legal system, with example of different personnel's involvement.

Learning aim C

For **Learning aim C** learners will explore the criminal trial process that is followed once an individual has been charged with an offence, including the hierarchy of the court system, the pre-trial process, the criminal trial itself and sentencing. You could use tutor delivery to present information about the key features of the court system. A visit to a local court where learners will be able to see how the trial process works would be beneficial. Learners need to be able to make links between the theory and practice.

Summary of unit

Learning aim	Key content areas	Recommended assessment approach
A Examine the legal framework surrounding the powers of the police to tackle criminal behaviour	A1 Powers of the police to search people and their premises A2 Powers of arrest A3 Legal requirements for detention, interviews, carrying out further searches and collecting samples A4 Complaints against the police	Application to case studies of police powers relating to: <ul style="list-style-type: none"> • powers of stop and search • powers of arrest • powers relating to detention, interviews, searches and samples • complaints against the police. An evaluation of the safeguards for individuals against the powers of the police, suggesting proposals for reform.
B Investigate the various roles undertaken by the personnel of the courts	B1 The legal profession B2 Prosecutors B3 The judiciary B4 Lay people	Application to case studies of: <ul style="list-style-type: none"> • the pre-trial process, including bail and the pre-trial procedure for different categories of offences • the criminal trial process for different categories of offences • sentencing of different offenders • personnel involved in different criminal trials. An evaluation of a case study of effectiveness of the criminal trial process and sentencing in achieving justice, and the impact of using lay people in the criminal justice trial process as opposed to legal personnel, providing a justified conclusion.
C Explore the criminal trial process to be followed once an individual has been charged with an offence	C1 The hierarchy of the court system C2 The pre-trial process C3 Criminal trial C4 Sentencing	Application to case studies of: <ul style="list-style-type: none"> • the pre-trial process, including bail and the pre-trial procedure for different categories of offences • the criminal trial process for different categories of offences • sentencing of different offenders • personnel involved in different criminal trials. An evaluation of a case study of effectiveness of the criminal trial process and sentencing in achieving justice, and the impact of using lay people in the criminal justice trial process as opposed to legal personnel, providing a justified conclusion.

Assessment guidance

The recommended assessment for this unit includes two assignments. The first assignment focuses on Learning aim A and the second on Learning aims B and C.

For the first assignment you could ask learners to review a case study of police powers relating to:

- powers of stop and search
- powers of arrest
- powers relating to detention, interviews, searches and samples
- complaints against the police.

In order to achieve learning aim A, learners' evidence must show in-depth consideration and an understanding of the police powers in the case study to reach a reasoned conclusion regarding the effectiveness of the safeguards on police powers. Learners must provide evidence of individual research and clear application of the facts of the case study. Learners must be able to state what safeguards exist against the abuse of police powers, such as the requirement that all interviews be recorded, and to determine the legality of the exercise of the powers in the given situations.

For the second assignment you could ask learners to review a case study. The case study should look at

- the pre-trial process, including bail and the pre-trial procedure for different categories of offences
- the criminal trial process for different categories of offences
- sentencing of different offenders
- personnel involved in different criminal trials.

In order to achieve learning aims B and C learners should make a judgement on the effectiveness of the criminal trial and sentencing, with reference to reoffending statistics for those who have been given a custodial sentence as opposed to a community order or a fine.

Learners should consider the impact of using lay people in the criminal trial process as opposed to legal personnel. Learners should consider whether lay people serve an important purpose in the criminal trial process. They will identify the correct category of offence, whether it is summary, either way or indictable, and be able to explain how the processes operate differently, depending on the category of offence. They will also be able to consider the aims and types of sentences as well as the factors involved in sentencing, making some reference to appropriate case law examples.

Authorised Assignment Briefs for Learning aim A and Learning aims B and C are available on our website.

Details of links to other BTEC units and qualifications, and to other relevant units/qualifications

This unit links to:

- Unit 8: Custodial Care
- Unit 14: Principles of Managing Security Threats
- Unit 18: Criminal Investigation Procedures and Practice.

Employer involvement

This unit would benefit from employer involvement in the form of:

- guest speakers such as solicitors, barristers, judges, magistrates, police officers
- court visits
- support from local protective services staff as mentors
- work experience in the legal sector.

Textbooks

Elliot C, Quinn F, Allbon E, Kaur Dua S (2018) - *Elliot and Quinn's English Legal System* (19th Edition), London: Pearson

Martin J (2016) - *English Legal System* (8th Edition), London: Hodder Education

Finch E and Fafinski S (2018) - *Law Express: English Legal System* (7th Edition) London: Pearson

Websites

College of Policing (2017) *Stop and Search* [online] accessed on 12 November 2021 available at: <https://www.app.college.police.uk/app-content/stop-and-search/>

Police powers to stop and search: your rights [online] available at: <https://www.gov.uk/police-powers-to-stop-and-search-your-rights>

Police powers of arrest: your rights [online] available at: <https://www.gov.uk/police-powers-of-arrest-your-rights>

In Brief (no date) *Powers of arrest* [online] accessed on 12 November 2021: <https://www.inbrief.co.uk/police/power-of-arrest/>

Police powers: detention and custody: <https://commonslibrary.parliament.uk/research-briefings/cbp-8757/>

Articles

Campbell, G., (2017) 'Rough justice: who is looking out for the wrongfully convicted?' 28th February 2017 *News Statesman* [online] accessed on 12 November 2021 available at: <http://www.newstatesman.com/politics/uk/2017/02/rough-justice-who-looking-out-wrongfully-convicted>

Goldhill, G (2014) 'When innocent men to jail: miscarriages of justice in Britain' 4th September 2014 *The Telegraph* [online] accessed on 12 November 2021 available at: <http://www.telegraph.co.uk/news/uknews/law-and-order/11075284/When-innocent-men-go-to-jail-miscarriages-of-justice-in-Britain.html>

Cases

Alanov v Chief Constable of Sussex Police [2012] EWCA Civ 234

Kenlin v Gardner [1967] 2 QB 510

Michaels v Highbury Magistrates' Court [2009] EWHC 2928

Osman v DPP [1999] All ER 716

R v Aspinall [1999] MHLR 12

R v Miller (1992) 97 Cr App R 99, CA

Roberts v Chief Constable of Cheshire [1999] 2 All ER 326, CA

R v Howden-Simpson [1991] Crim LR 49, CA

R v Absolam (1989) 88 Cr App R 332, CA

R v Samuel [1988] 2 All ER 135, CA

R v Vernon [1988] Crim LR 445, Judge Andrew QC

R v Chief Constable of South Wales ex p Merrick [1994] NLJ 423, QBD

R v Grant [2005] EWCA Crim 1089

Rice v Connelly [1966] 2 QB 414

Ricketts v Cox (1982) 74 Cr App R 298

Statutes

Police and Criminal Evidence Act 1984

Serious Organised Crime and Police Act 2005