

Criminal Courts

The English and Welsh justice system is based on common law principles and operates independently from the legislative and executive branches of government. Here are some key features of the system:

Courts Hierarchy: The system is hierarchical, with several tiers of courts. At the bottom are Magistrates' Courts, dealing with less serious offenses. Crown Courts handle more serious criminal cases, while the Court of Appeal reviews decisions made in lower courts. The highest court is the Supreme Court of the United Kingdom, established by the Constitutional Reform Act 2005, which deals with the most significant legal matters.

Legal Precedent: the system relies heavily on legal precedent, where decisions made in higher courts become binding on lower courts. This principle ensures consistency and stability in the interpretation of the law.

Adversarial System: the English and Welsh justice system follows an adversarial approach, where two opposing parties present their case before an impartial judge or jury. The judge or jury then determines the outcome based on the evidence presented.

Legal Representation: Defendants in criminal cases are entitled to legal representation, and if they cannot afford one, the state provides them with a lawyer. In civil cases, parties can choose to represent themselves or hire legal counsel.

Jury Trials: In certain criminal cases, a jury of ordinary citizens is selected to decide on guilt or innocence. This system is used in more serious criminal trials in Crown Courts.

Human Rights Act: the Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law, ensuring that individual rights and freedoms are protected in the justice system.

Devolved jurisdictions: while the legal system is unified at the UK level, Scotland and Northern Ireland have devolved jurisdictions with their own distinct legal systems.

The structure of the Justice system is the following: all criminal cases will start in the Magistrate's court, but more serious criminal matters are sent to the Crown Court. Appeals from the Crown Court will go to the Court of Appeal Criminal Division and potentially the UK Supreme Court. Civil cases will usually start in the County Court. Therefore, now will see a compound presentation of the Criminal Court in the UK, which is complex system that consists of three divisions: the Courts of England and Wales, the Courts of Scotland and the Courts of Northern Ireland. Each division has its own jurisdiction, laws and procedures.

The Courts of England and Wales are divided into two tiers: the magistrates' courts and the Crown Court. The magistrates' courts deal with less serious offences, such as minor criminal damage, common assault and most motoring offences. They are presided over by either two or three lay magistrates or a district judge. There is no jury in a magistrates' court. The Crown Court deals with more serious offences, such as murder, rape and robbery, "and this are known as 'indictable offence' " (Gov.uk) It also hears appeals from the magistrates' courts. It is presided over by a judge and a jury of

12 people who decide the verdict. The Crown Court can give a range of sentences, including community sentences, prison sentences or life sentences.

The Courts of Scotland are divided into three tiers:

- The Justice of the Peace Court
- The Sheriff Court
- The High Court of Justiciary.

The Justice of the Peace Court deals with minor offences, such as breach of the peace, petty theft and traffic violations. It is presided over by a justice of the peace, who is a lay person appointed by the local authority. There is no jury in a Justice of the Peace Court.

The Sheriff Court deals with more serious offences, such as assault, fraud and burglary. It also hears civil cases and appeals from the Justice of the Peace Court. It is presided over by a sheriff, who is a legally qualified judge. There may or may not be a jury in a Sheriff Court, depending on the type and severity of the case. The High Court of Justiciary deals with the most serious offences, such as murder, rape and treason. It also hears appeals from the Sheriff Court. It is presided over by a judge and a jury of 15 people who decide the verdict.

The High Court of Justiciary can give a range of sentences, including community sentences, prison sentences and life sentences.

The Courts of Northern Ireland are divided into four tiers:

- The Magistrates' Courts
- The County Courts
- The Crown Court
- The Court of Appeal.

The Magistrates' Courts deal with less serious offences, such as disorderly behavior, theft and assault. They are presided over by either a resident magistrate or a district judge. There is no jury in a Magistrates' Court.

The County Courts deal with more serious offences, such as fraud, burglary and sexual offences. They also hear civil cases and appeals from the Magistrates' Courts. They are presided over by a county court judge and a jury of seven people who decide the verdict.

The Crown Court deals with the most serious offences, such as murder, rape and terrorism. It also hears appeals from the County Courts. It is presided over by a judge and a jury of 12 people who decide the verdict.

Magistrates are using lay people as they are an important part of the justice system. They are ordinary citizens who volunteer to hear cases in the magistrates' courts, which deal with most of the criminal cases in the country. "The term of 'lay people' is used to describe the use of ordinary, non-qualified people in the legal system" (Free law essays/Common law, published 21st Sep 2021) They have the power to decide on the guilt or innocence of the defendants, as well as to impose sentences such as fines, community orders or prison terms. They also have some civil jurisdiction, such as

dealing with family matters, licensing and anti-social behaviour orders. Lay magistrates are not legally qualified, but they receive training and guidance from legal advisers. They are expected to have certain qualities, such as good judgement, maturity, reliability, social awareness and good character. They must also be aged between 18 and 65, be able to sit in court for at least 26 half days a year, and not have a criminal record or any conflict of interest. One of the main advantages of using lay magistrates is that they bring a wider range of perspectives and experiences to the court, reflecting the diversity of the society they serve. They are also more likely to have local knowledge of the area and the issues affecting the community. Moreover, they are cheaper and faster than using professional judges, as they do not receive any salary and can deal with cases more efficiently.

But like everything else, there are also some disadvantages of using lay magistrates. One of them is that they may not be as representative as they should be, as they tend to be older, more middle-class and less ethnically diverse than the general population. This may affect their impartiality and credibility, especially when dealing with cases involving young or minority defendants. Another disadvantage is that they may lack legal expertise and confidence, which may lead them to rely too much on the legal advisers or to make inconsistent or not the right decisions.

But also Crown Court use lay people as the Crown Court is the higher court that deals with more serious offences, such as murder, rape and robbery. The Crown Court is presided over by a judge and a jury of 12 people who decide the verdict. The jury is randomly selected from the electoral register and must be aged between 18 and 70, registered to vote and resident in the UK for at least 5 years since their 13th birthday. The jury listens to the evidence presented by the prosecution and the defence lawyers, and then deliberates in private to reach a unanimous or majority decision. The jury does not give any reasons for their verdict, and they are not allowed to discuss the case with anyone else. The judge decides on the points of law and the sentence if the defendant is found guilty.

A very important Act in the UK Law system is The Juries Act 1974 and is a law that regulates the qualifications, selection, summoning, service and conduct of jurors in the UK. It applies to jury trials in the Crown Court, the High Court and the county court. The Act was passed to consolidate and update previous laws relating to juries, and has been amended several times since then to reflect changes in society and the justice system. The Act lists several categories of people who are disqualified for jury service, such as:

- People who have been sentenced to imprisonment or detention for certain offences
- People who are on bail in criminal proceedings
- People who suffer from mental disorders or disabilities that affect their capacity to act as jurors.
- People who are members of certain professions, such as judges, lawyers, police officers, clergy,

The Act also gives the power to excuse or defer jury service to certain people, such as:

- People who have served as jurors in the past two years.
- People who have good reasons for being excused, such as illness, hardship, public duty
- People who are disabled but capable of acting effectively as jurors with reasonable adjustments.

The Act also sets out the procedures and rules for summoning, selecting, swearing, challenging, separating, refreshing and discharging jurors. It also defines the offences and penalties for failing to attend jury service, serving while disqualified, conducting research or sharing information about the case, interfering with or disclosing the jury's deliberations. The Juries Act 1974 is an important piece of legislation that aims to ensure that jury trials are fair, impartial and representative of the society.

In the UK are proposals or ideas to improve the criminal justice system in the country and they are called Reform suggestions. The criminal justice system is the set of institutions and processes that deal with crime and its consequences, such as the police, the courts, the prisons and the probation services. The criminal justice system aims to prevent crime, protect the public, uphold the rule of law, deliver justice and rehabilitate offenders.

To conclude one thing is certain and this is the following: the English and Welsh justice system is a complex and evolving system that aims to uphold the rule of law, protect the rights and freedoms of individuals, and deliver justice for victims and offenders.

References:

- Free law essay/Common law published 21st Sep 2021
- Gov.uk