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# Chapter 2:

## The law



In this chapter, we explore the nature of rules and laws. We investigate how laws can protect our rights and interests, and help us to settle disputes. We go on to consider where our laws come from and the important principles that should be features of all our law. Finally we investigate why laws are different in different parts of the United Kingdom. This chapter on *The law* builds on Chapter 1, *Rights and responsibilities* and helps us prepare for Chapter 3, *The legal system*.

Learning the following key concepts and terms will make it easier to organise your thinking and communicate your ideas:

- rules and laws
- fairness and justice
- common law
- legislation
- case law and precedent
- judge-made law
- presumption of innocence
- equality before the law
- legal jurisdiction.

## Rules, law and society

### Key learning

Study the differences between rules and laws, and understand how rules and laws help society to deal with complex problems of fairness, justice and discrimination, to protect rights and freedoms, maintain order and resolve conflicts.

### What's the difference between rules and laws?

Rules in homes and schools are designed to remind people about safe, considerate and acceptable behaviour. For example, some households have rules about keeping dogs and cats out of bedrooms. Other households are quite relaxed about pets on beds, but less happy about animals in the kitchen at meal times. Such rules are not usually written down and, from time to time, people may agree to change them.

School rules are more likely to be written down than household rules. Teachers and learners like to be clear about expectations and so find some simple rules useful. For example, a rule about walking on the left in narrow corridors helps keep everyone safe. Most people are happy to respect such a rule as it helps them to reach their destination quickly and safely – avoiding embarrassing corridor collisions. Most schools with narrow corridors have such rules but, in other respects, each school's rules can be very different.

Rules also apply in workplaces, clubs and organisations. By breaking a rule, we are not usually breaking the law. Nevertheless rule-breaking often leads to punishment within households, schools or organisations.



Figure 2.1 The KC stadium in Hull has rules banning football and rugby fans taking certain items into the ground. Carrying some of these items would also be illegal. Which ones do you think they are?

# Chapter 3: The legal system



This chapter on *The legal system* builds on learning from Chapter 1, *Rights and responsibilities* and from Chapter 2, *The law*.

In this chapter, we explore the ways in which the law is administered and enforced, and assess how far this achieves justice and fairness. We go on to study how best to manage and respond to crime.

Learning the following key concepts and terms will make it easier to organise your thinking and communicate your ideas:

- legal representative
- judge
- tribunal
- juror
- sanction
- retribution
- reform
- rehabilitation.

## How the legal and justice system works in England and Wales

### Key learning

Study the operation of the justice system in England and Wales to understand the distinct roles of: the police, judges and legal representatives. Know about how the criminal and civil court and tribunal systems work, and understand the other ways of settling disputes. Apply this knowledge and understanding to particular cases. Compare the youth justice system with adult systems.

Study and understand the responsibilities and roles of citizens in the legal system as a juror, magistrate, special constable, police commissioner and member of a tribunal hearing.

## The role and powers of the police

### The purpose of the police

In the *State of Policing*, its annual assessment of policing in England and Wales for 2013/14, **Her Majesty's Inspectorate of Constabulary (HMIC)** sums up the police's purpose as follows:

*'The first duty of the state is the protection of its people.*

*(The police) hold not only a special position of power in society, but also one of trust.*

*With those positions go high expectations; these are expectations not only of integrity and honour, but of efficiency and effectiveness in dealing with the causes and the consequences of crime.*

*People need to be safe, and to know and feel that they are safe. If they become victims of crime, they need to know that they will be believed, that they will be properly treated, and that wherever practicable those who have harmed them will be pursued and brought to justice.*

*The public's expectations depend on the police having the capabilities to deal with crime efficiently and effectively, and having strong leadership to police with integrity and honour.'*

(HMIC)

### Her Majesty's Inspectorate of Constabulary

**(HMIC)** An organisation independent of government that has responsibility for monitoring standards in police forces and reporting to the public.



**Figure 3.1** Even though police responsibilities are very different from 200 years ago, the police's purpose is largely unchanged

### Website

Find the location of police forces in the UK and link to their websites via: [www.police.uk/forces](http://www.police.uk/forces)

### History of the UK police service

The UK police service began in Scotland when the City of Glasgow Police was founded in 1800. This was the UK's first professional force. It was not until 1829 that Sir Robert Peel, Home Secretary in Lord Liverpool's Conservative Government, proposed that London should have its own permanent, paid police officers to protect the capital.

Peel's Metropolitan Police Force, dressed in blue coats and top hats, began to patrol the streets of London in September 1829. Their uniform was chosen so that police officers could not be mistaken for soldiers. People were suspicious of the army and Peel wanted police officers to get the public on their side. He thought that by building trust, people would help the police to fight crime.

The County Police Act of 1839 led to each county and most large towns having their own police forces.

Her Majesty's Inspectorate of Constabulary (HMIC) was established in 1856 to inspect police forces and to report on how well the police were doing their job. This is a role HMIC still has today. HMIC is independent of the Government.

### Website

The Metropolitan Police website contains information on police history, the work of the police, police careers and crime: <http://content.met.police.uk>

## Police rights and responsibilities

In the UK legal system, the police:

- keep people safe and prevent crime
- investigate crime
- arrest and charge suspects
- collect evidence
- brief the **Crown Prosecution Service (CPS)**
- give evidence in criminal courts.

The police need to carry out their duties fairly and justly. For these reasons, police work is regulated by codes of behaviour and laws. When people know what to expect from the police and feel confident of fair treatment, police work will be more effective. Police officers are trained to know their responsibilities as well as their rights.

**Crown Prosecution Service (CPS)** The CPS considers information provided by the police. CPS lawyers decide whether there is enough evidence to take a matter to court and whether doing so would be in the 'public interest'. The CPS works independently of the police to prepare cases for court and to organise the prosecution of alleged offenders. The CPS also provides information, assistance and support to victims and prosecution witnesses.

### Activities

1. Study police responsibilities and the challenges they face.
  - a) List the skills needed by a successful police officer.
  - b) List the personal qualities he/she will need.
  - c) Compare your lists with those of other learners.
  - d) Adjust your lists and rank the skills and personal qualities in order of priority, placing the most important ones at the top.
  - e) Write a paragraph (maximum 100 words) for a police recruiting campaign describing the type of person who would make an ideal police officer.
2. Sir Richard Mayne, Joint Commissioner of the Metropolitan Police in 1829, described the role of the police as follows:
 

*'The primary object of an efficient police is the prevention of crime: the next that of detection and punishment of offenders if crime is committed. To these ends all the efforts of police must be directed.'*

Study this section and Sir Richard's description above.

- a) Re-write Sir Richard's description to make it fit the police's role today.
- b) Compare Sir Richard's description with your own.

Who's who in a magistrates' court

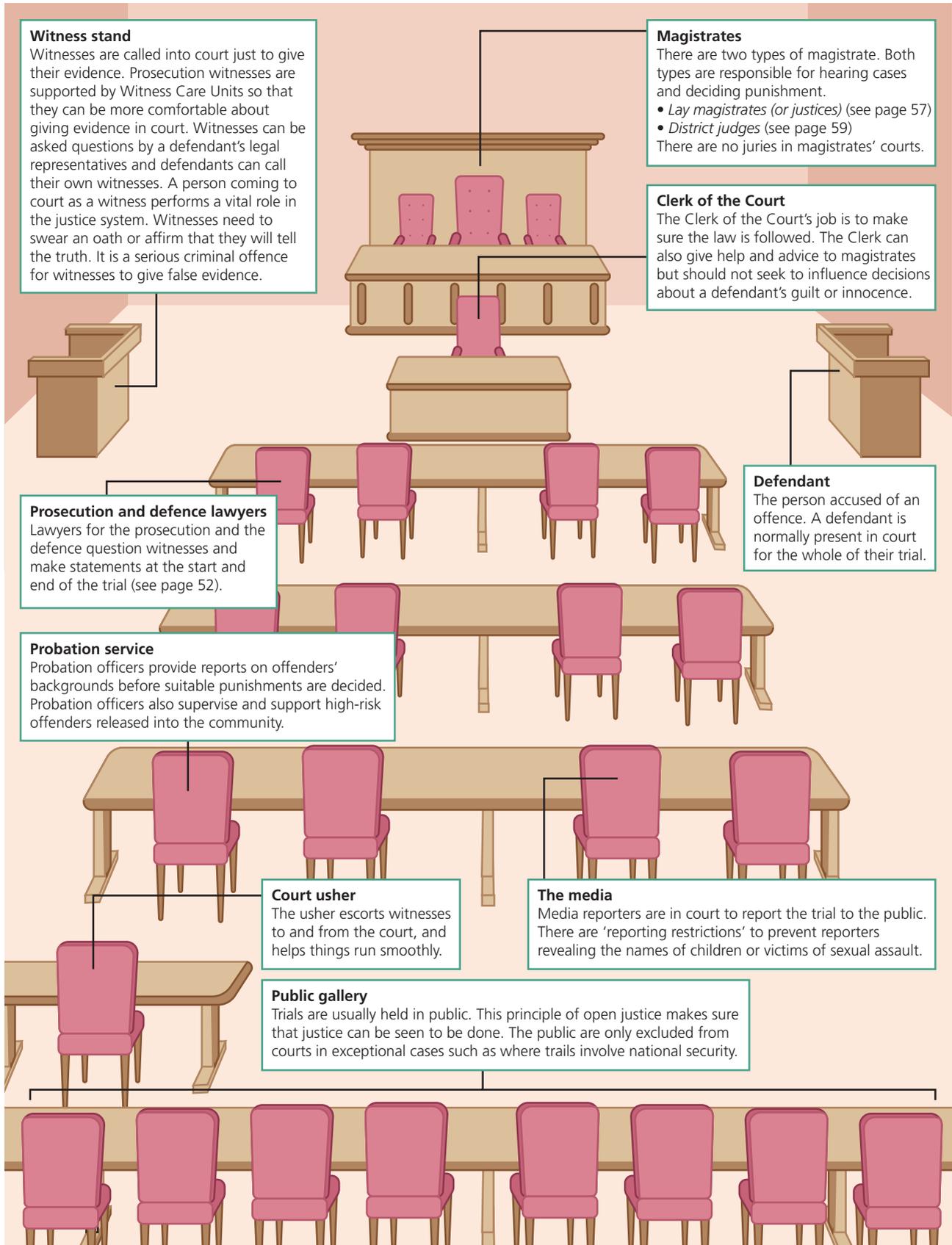


Figure 3.8



**Figure 3.9** Most cities and some larger towns have Crown Courts

A Crown Court is organised in a very similar way to a Magistrates' Court. A judge sits in place of the magistrate or magistrates and there is space for the twelve-person jury opposite the witness stand. The defendant's place is usually in front of the public gallery. It is sometimes known as the 'dock' and has direct access to cells below the court.

#### Victims' rights

Victims do not have a central role in criminal proceedings. The Crown takes responsibility for the prosecution and so victims have no right to legal representation in court. However, if they are witnesses, victims have all the rights of a court witness, including the right to support. In 2013, victims were given the additional right to state how they had been affected by the crime – physically, emotionally, psychologically, financially or in any other way. This is known as a victim impact statement.

#### Appeals

Defendants unhappy with the decisions made in a Magistrates' Court are able to appeal to a Crown Court.

Appeals from the Crown Court go to the High Court and potentially to the Court of Appeal or even the Supreme Court.

#### Youth justice

Young people under eighteen have the right to special support in the justice system. During a police interview, they are entitled to be accompanied by a parent or other responsible adult. If convicted, they are not normally sent to an adult prison.

Courts have a legal duty to safeguard the welfare of all young people and to prevent them reoffending. As a

result, the youth justice system emphasises **restorative justice** and **rehabilitation** rather than **retribution**.

**Restorative justice** The offender makes peace with the victim and makes up for any loss or damage.

**Rehabilitation** Helping an offender to fit back into the community. This may include treatment for alcohol or drug problems, help getting a job or assistance with housing.

**Retribution** Making sure that an offender is punished in a way that satisfies the victim and his or her family and friends. The criminal is 'made to suffer' for what they have done.

Most young people have their cases heard in a youth court but serious offenders can be sent for trial in a Crown Court. A youth court deals with issues such as: theft and burglary; anti-social behaviour and drug offences.

A youth court is a special type of Magistrates' Court for people aged between ten and seventeen.

Either three magistrates or a district judge 'sit' in a youth court. There is no jury in a youth court. Parents or carers must accompany young people under sixteen.

A youth court can give a range of sentences including:

- community sentences
- Detention and Training Orders carried out in secure centres for young people as an alternative to prison.

#### How youth courts are different from adult courts

Youth courts are less formal than adult courts:

- defendants are called by their first name
- the magistrates or judge, lawyers and court staff usually sit on the same level as the defendant
- lawyers and court officials do not wear wigs, gowns or uniforms
- parents or carers sit with the defendant and can contribute to the discussions
- members of the public are not allowed in to the court (unless they get permission)
- **Youth Offending Team (YOT)** workers attend the hearing rather than probation officers.

**Youth Offending Team (YOT)** Youth offending teams work with young offenders and supervise any community sentences. They look into the background of a young person and try to help them stay away from crime.

# Chapter 4: Democracy, elections and voting in the UK

This chapter on *Democracy, elections and voting in the UK* lays the foundation for further study of *National, local, regional and devolved government* in Chapter 5 and *The British constitution* in Chapter 6. In Chapter 10, *Politics beyond the UK*, the UK's representative democracy is compared with political systems in Switzerland and China.

In this chapter we explore the ways in which decision-making takes place in the UK's representative democracy.

Learning the following key concepts and terms will make it easier to organise your thinking and communicate your ideas:

- classical democracy and representative democracy
- candidate
- inclusive franchise and pluralism
- free elections
- secret ballot
- political party
- party policy and manifesto
- fixed-term parliament
- constituency
- rule of law, personal freedom, tolerance, respect for diversity and equal opportunity
- first-past-the-post election, proportional representation and referendum.

## How democracy works

### Key learning

Study the differences between classical democracy and representative democracy. Understand the key features of representative democracy in the UK and their relevance to Article 21 of the Universal Declaration of Human Rights. Understand how British democracy is underpinned by key values. Know that Members of Parliament represent constituencies, and know who can and cannot vote in UK parliamentary elections. Investigate the roles and responsibilities of citizens in British democracy.

## Classical democracy and representative democracy

Democracy means 'rule of the people'. Each person with voting rights has a say in decision-making. Decisions in some early democracies were made at frequent meetings of all citizens. These simple systems of government evolved into the democracies that most of the world's people experience today.

### Classical democracy

The earliest democracy in the world began in Athens, now the capital city of Greece, over 2,500 years ago. Athens was one of several Greek states. Many of these states also adopted democracy as a way of making decisions.

Only adult male citizens who owned land or their own houses had the right to vote. Women could be citizens but had no political rights. Most of the work in Athens was done by slaves or foreign workers. Neither group could be citizens or have voting rights.

Athenian citizens held regular meetings at the Assembly to vote on issues ranging from war to the regulation of ferry boats. This system of government with its frequent and direct voting by citizens is known as classical democracy.



**Figure 4.1** In a classical democracy citizens vote on issues directly rather than electing representatives to vote on their behalf

A problem for these classical democracies was that it became inconvenient for men to attend such frequent assembly meetings. So most democracies asked citizens to choose representatives who would attend meetings and vote on behalf of everyone else. Nevertheless, all citizens could participate directly when there was a really important vote.

Different Greek states used different methods to choose representatives. Athens used a lottery in which men drawing winning tickets would serve for one year in the Athenian parliament known as the *Council of 500*. This system became known as representative democracy.

### Representative democracy

Representative democracies now use elections to choose those men and women who will represent all citizens. Representatives in the UK Parliament are known as **Members of Parliament (MPs)**. They are elected by eligible voters.

Almost anyone can stand as an election **candidate**. Candidates campaign to get as many votes as possible from the other citizens. At first, most candidates were popular or important people in their communities. As populations grew and communications improved, candidates with similar views formed **political parties**. This made it easier for voters to decide who to vote for. Voters may not have met the parliamentary candidates standing for election in their **constituency** but they can decide which political party they prefer and vote for the candidate representing that party.

Even in representative democracies, some decisions are thought to be too important to be left to the representatives. Over the past few decades the UK Governments have used a **referendum** (a type of **direct democracy**) to decide each of the following:

- continued membership of the European Union (1975)
- greater powers for Scotland and Wales (1997)
- power sharing in Northern Ireland (1998)
- changing the UK voting system (2011)

- law-making powers for Wales (2011)
- Scottish independence (2014)
- UK membership of the European Union (2016).

#### Members of the UK Parliament (MPs)

Successful candidates who represent their constituency in Parliament.

**Candidate** A person who asks people to vote for him/her as their representative.

**Political party** A group of people with similar ideas who campaign together to win elections.

**Constituency** An area of the country with around 60,000 voters. Each of the UK constituencies elect one representative to Parliament.

**Referendum** A vote in which all electors are able to decide a single issue.

**Direct democracy** A system of decision-making in which all electors have the right to vote on the most important issues.

*“Everyone has the right to take part in the government of his country, directly or through freely chosen representatives... The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage [the right to vote in political elections], and shall be held by secret vote or by equivalent free voting procedures.”*

Article 21, Universal Declaration of Human Rights, 1948

#### Activities

1. ‘Electronic communication enables us to return to the decision-making of classical times by using direct democracy.’
  - a) State three features of classical democracy.
  - b) Explain why electronic communication would allow direct democracy to be used as an alternative to representative democracy.
  - c) Suggest three advantages and three disadvantages of introducing more direct democracy.