Law Induction Booklet for a September 2025 start.

Important Information:

1. At Upton Hall, we study for the AQA Law A Level. The specification can be found on the AQA website, under the law subject tab. We learn about three main areas of law: crime, tort and human rights. There is a two hour exam in each of those topics at the end of the two years. I strongly advise you to take a look at the specification over the summer and make sure the topics interest you!

2. Have a look at the sample question from the 2019 AQA Paper One- Law and Crime- page 2 of this handout.

3. For the first lesson you will need a lever arch folder, about 15 subject dividers and lined paper.

4. Could you please complete the questions found on Page 3 of this handout for the first lesson after the summer holidays. Could you also have a go at filling in the chart highlighting the differences between civil and criminal law on page 7.

Do not write outside the box

In Question **10** you are required to provide an extended answer which shows a clear, logical and sustained line of reasoning leading to a valid conclusion.

10

Gail, a rather short-tempered person, was very annoyed when she lost her job at the same time as her neighbour, Harry, received a promotion in his job. Harry taunted Gail about this through a series of posts on social media. Shortly afterwards, whilst out walking, Gail saw Harry and his friend Ian. When they saw Gail they started to laugh and Harry shouted, "Off to get your unemployment benefits, loser?" She started to walk away but then picked up a heavy garden ornament, ran back and smashed Harry over the head with it. Harry died instantly.

Ian feared that he too would be attacked. He pushed Gail into a busy road where she was hit by a speeding car. Gail suffered several deep cuts to her face and body and was left with permanent scarring.

Consider the criminal liability of Gail for the murder of Harry **and** of Ian for the injuries to Gail.

[30 marks]

Nature of Law <u>Questi ons- pg.2-6</u> of Textbook.

1. What is a rule?
2. Give examples of different types of rules that you and perhaps members of your family follow in every day life. You will have to come up with these examples yourself.
3. Why do people obey rules?
4. What do we mean by 'law'?
5. Give some characteristics of legal rules.
6. What is criminal law?
7. What happens to a person who is found guilty of a criminal offence?
8. What is civil law and give some examples.
9. Give one example of the law of tort, one example of the law of contract and one from human rights.
10. Can you make a few notes under the headings of each of the following differences between criminal and civil law:
    - Purpose of the law
    - Person starting the case
    - Courts
    - Standard of Proof
    - Outcome of Case
11. Try and explain what custom means.
12. What is common law?
13. What is statute law?

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After reading this chapter you should be able to

- Understand the distinction between legal rules and other rules or norms of behaviour
- Understand the differences between crimina and civil law
- av:_ basic underst nding of the sources of law

1.1 The character of a rule

In all societies there are rules for keeping order. These rules often develop from the 'norms of behaviour': that is, from the behaviour that the particular society has, over a long period of time, accepted as the 'correct' or 'normal' behaviour. Many of these norms of behaviour will be rules about morality.

Rules exist in many contexts. The term 'rule' has been defined by academics 1\vining and Miers as 'a general norm, mandating or guiding conduct'. In other words, a rule is something that determines the way in which we behave. This can be either because we submit ourselves to it voluntarily, as would be the case with moral rules, or because it is enforceable in some way, as would be the case with the law.

As well as legal rules and moral rules there are other types of rules which operate in specific contexts. A classic example of this is the rules that operate in sport. These rules started to define the sport, and have evolved over time to ensure fair play. In some instances a rule may have developed for the protection of the players. These rules will also be enforced through a set of sanctions.

For example, in footba ll, a breach of the rules may mean that a free kick is given to the other side, or a player may be sent off, or in serious cases or repeated breaches of rules a player may even be banned from playing for a certain number of games.

Rules that come about through custom or practice will involve the disapproval of the community rather than any legal sanction if such a rule is broken. Also the individual may become conditioned to accept the rules and so such rules are enforced by a feeling of self-guilt. Some such rules may 'harden into rights' and can be so widely accepted that they become the law. The early common law of England and Wales developed out of customs that were commonly accepted.

Rules are generally obeyed for one of three reasons:

1. because they carry with them a sense of moral obligation
2. because the rule is reasonable and relevant
3. because a penalty may be imposed if the rule is broken.

1.2 Legal rules

Law has been described as a formal mechanism of social control. It is a set of rules imposed and enforced by the state. There is a system of courts which apply and enforce the law.

Legal rules are enforced through the courts. In criminal law there are penalties for breaking the law. The most severe penalty is imprisonment for life. In civil law the courts can order the party who has broken the rules to compensate the innocent party or the courts can make some other order trying to put right the wrong that was done.

Figure 1.1 Differences between norms of behav iour and law

Norms of behaviour	Law
Develop over time	Ca n change inst antly
Ought to be obeyed	Must be obeyed
Are enforced by disapproval of the community	Are enforced by the courts
Are volunta ry and apply only to those who accept them	Are obligatory and apply to everyone

1.3 Criminal and civil law

In the English legal system criminal and civil law are quite separate. The purpose of the law is different and the cases are dealt with in different courts.

1.3.1 Criminal law

Criminal law sets out the types of behaviour which are forbidden at risk of punishment. A person who commits a crime is said to have offended against the state, and so the state has the right to prosecute them. This is so even though there is often an individual victim of a crime as well. For example, if a defendant commits the crime of burglary by breaking into a house and stealing, the state prosecutes the defendant for that burglary, although it is also possible for the victim to bring a private prosecution if the state does not take proceedings. This-very rarely happens in cases where the victim is an individual. However, some private organisations do bring cases against offenders. An example is the RSPCA which will often prosecute in cases of cruelty to animals.

The criminal courts have the right to punish those who break the criminal law. So, at the end of the case where the defendant is found guilty, that defendant will be sentenced. The courts have a wide range of sentences that they can use. These include sending the defendant to prison, making an order that the defendant do a certain number of hours of unpaid work, fining the defendant or disqualifying the defendant from driving for a certain period of time.

Any individual victim of the crime will not necessarily be given any compensation though, where possible, the courts will order the offender to pay the victim compensation, as well as passing a sentence on him.

1.3.2 Civil law

Civil law is about private disputes between individuals and/or businesses. There are several different types of civil law. Some important ones are:

- law of tort
- contract law
- human rights
- family law
- employment law
- company law.

If you are doing AQA AS Law you **will** study topics from the law of tort. These are covered in Chapters 23 to 26 of this book. If you are doing AQA A-level Law you will study both law of tort and either the law of contract or human rights. The further areas of law of tort and the areas of contract law or human rights that you need are covered in Book 2.

In order to give you a basic understanding of the areas covered by tort, contract and human rights some examples of each are given in the following sec tions.

Law of tort

Consider the following situations:

a A child passenger in a car is injured in a collision (the tort of negligence).

b A family complains that their health is being affected by the noise and dust from a factory which has just been built near their house (the tort of nuisance).

c A woman is injured by faulty machinery at work (the tort of negligence, but may also involve occupiers' liability and/or employer's duty under health and safety regulations).

d A man complains that a newspaper has written an untrue article about him, which has affected his reputation (the tort of defamation).

All these cases come under the law of tort. A tort occurs where the civil law holds that, even though there is no contract between them, one person owes a legal responsibility of some kind to another person, and there has been a breach of that responsibility. If there is a breach of this responsibility, then the person affected can make a claim under the law of tort. If successful the court can award damages - that is a sum of money to compensate the person.

Where there is a situation which is continuing (such as in (b) above), it is also possible for the court to award an injunction. This is an order to the defendant to do or to stop doing something.

There are many different types of tort, and the above examples demonstrate only some of them. Many cases arise from road traffic crashes, since drivers owe a duty of care to anyone who might be injured by their negligent driving.

Law of contract

Look at the following situations:

a A family complains that their package holiday did not match what was promised by the tour operator and that they were put into a lower-grade hotel than the one they had paid for.

b A woman has bought a new car and discovers the engine is faulty.

c A man who bought a new car on hire purchase has failed to pay the instalments due to the hire-purchase company.

All these situations come under the law of contract. There are, of course, many other situations in which contracts can be involved. A contract is where the parties have made an agreement and each side has put something into the agreement. In (a) the tour operator provided the holiday and the family paid for that holiday. In (b) a garage had sold the car tci the woman and she had paid for it. In (c) the hire-purchase company had provided the money for the man to have the car, while the man promised to pay back that money in instalments to the company.

If one party to the contract has not kept their side of the bargain, then the other party can bring a claim against them.

Human rights

Consider the following situations:

a A man is arrested and held in a police station for longer than the law allows.

b At the trial of a woman in the Crown Court, one of the jurors is a police officer. This officer knows (and has worked with) one of the police who gives imponant evidence in the case.

c The eight-year-old child of a well-known author is photographed by a journalist as he goes to school. The journalist does not have permission to take the child's photo. The photo is then published in a newspaper.

All these situations involve breaches of human rights. In (a) there is a breach of Article 5 of the European Convention on Human Rights - the right to liberty. In (b) there is a breach of Article 6(1) of the Convention - the right to a fair trial. In (c) there is a breach of Art icle 8 of the Convention - the right to respect for private life. These rights will be upheld in the English courts. There is also a right to take the case to the European Court of Human Rights.

Compensation can be awarded where there is a breach of human rights. It is also possible for other remedies to be given, such as an injunction to prevent the future publication of photographs.

1.3.3 Differences between criminal and civil law

There are many differences between civil cases and criminal cases. It is important to understand fully the distinctions between civil and criminal cases.

Purpose of the law

Criminal law is aimed at trying to maintain law and order. So, when a person is found guilty of an offence, that offender will be punished. There is also the aim of trying to protect society and this is the justification for sending offenders to prison.

Civil law upholds the rights of individuals and the courts can order compensation in an effort at putting the parties back to the position they would have been in if there had not been any breach of the civil law.

Person starting the case

Criminal cases are taken on behalf of the sta te, and so there is a Crown Prosecution Service responsible for conducting most cases. However, there are other State agencies which may prosecute certain types of offence, for example the Environment Agency which prosecutes pollution cases.

In civil cases, the pe rso n starting the case is the individual or business which has suffered as a result of the breach of civil law.

The person starting the case is given a different name in criminal and civil cases. In criminal cases they are referred to as the prosecutor, while in civil cases they are called the claimant.

Key terms

Prosecutor - the legal term for the person or organisation bringing a criminal charge against a defendant.

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

Courts

Criminal cases will be tried in either the Magistrat es' Courts or the Crown Court. The Magistrates' Courts deal with less serious offences and the case is tried by a panel oflay magistrates or by a single legally qualified District Judge. Serious offences are tried in the Crown Court. The case is tried by a judge sitting with a jury. The judge decides points of law and the jury decide the verdict of 'guilty' or 'not guilty'.

The cases take place in different courts. In general, civil cases are heard in the High Court or the County Court. The High Court deals with more serious cases while the County Court deals with cases of lower value.

In both the High Court and the County Court a judge will try the case. It is very rare to have a case tried by a jury in a civil matter.

Standard of proof

Crim inal cases must be proved 'beyond reasonable doubt'. This is a very high standard of proof, and is necessary since a conviction could result in the defendant serving a long prison sentence.

Civil cases have to be proved 'on the balance of probabilities'. This is a much lower standard of proof, where the judge decides who is most likely to be right. This difference in the standard of proof means that it is possible for a defendant who has been acquitted in a criminal case to be found liable in a civil case based on the same facts.

This can happen in driving cases where a driver may be found not guilty of dangerous driving but can still be liable in the law of tort for damage or injury caused by negligent driving.

Outcome of case

A defendant in a criminal case is found 'guilty' or 'not guilty'. Another way of stating this in criminal cases is to say that the defendant is 'convicted' or 'acquitted'. A defendant in a civil case is found 'liable' or 'not liable'.

At the end of a criminal case a defendant found guilty of an offence may be punished. The courts have various penalties available depending on the seriousness of the offence. A defendant may be sent to prison, given a community order, fined or (for driving cases) disqualified from driving.

At th e end of a civil case, anyone found liable will be ordered to put right the matter as far as possible. This is usually done by an award of money in compensation, known as damages, though the court can make other orders such as an injunction to prevent similar actions in the future or an order for specific performance (where the defendant who broke a contract is ordered to complete that contract).

figure 1.Z Key facts table on differences between criminal and civil cases

	Criminal cases	Civil cases
Purpose of the law	To ma int ain law and order: to protect society	To uphold the rights of individuals
Person starting the case	Usually the state through the Crown Prosecution Service	The individual whose rights have been affected
Legal name for that person	Prosecuto r	Claimant
Courts hearing cases	Magistrates' Court Crown Court	County Court High Court
Standard of proof	Beyond reasonable doubt	The balance of pro babiliti es
Person/s making the decision	Magistrate s in Magistrates' Court A jud ge and jury in Crown Cour t	Judge Very rarely a jury
Decision	Guilty (convicted) or not guilty (acquitted)	Liable or not liable
Powers of the court	Prison, community order, fine, drivin g ban	Usua lly an award of damage s (compensation); also possible - injun ction, specific performance of a contract

ctivity

ead the newspaper article below and :

Read the newspaper art icle below and say whether it is a criminal or a civil case. What specific points or words in the article led to your decision?

Rip-off plumber danced jig of joy in OAP's garden after overcharging her £6,000

A rogue plumber was spotted dancing a jig outside a frail pens ioner's house after he conned her out of nearly £8,000, a court heard.

Tradesman Russell Lane, 38, made no attempt to hide his joy after shamelessly ripping off Patr icia Bink s, 72, who had called for help after suffering a blocked drain.

But yesterday he was counting the cost of his dishonesty after the company he worked for was f in ed £15,000 in fines and costs.

Lane was also found guilt y of fraud and is due to be sentenced in March. Bournemouth Crown Court heard Mrs Binks contacted Plumbers 24/7 Ltd after finding the number in *Yellow Pag es.*

Lane who was with a second unnamed man, produced pap erwork he ordered Mrs Binks to sign. It had no prices on and the men told her that if she didn't sign they wouldn't be able to carry out the work.

The men worked on the drains for five hours - then handed Mrs Bin ks a bill for £7,800.They produced a card machine and ordered her to pay the full amount immediately.

Officials called in an expert to examine the work who found Lane overcharged Mrs Binks by £6,000.

The jury agreed the price cha rged by Lane was so significantly above a reasonable charge that the demand to pay that amount could only have been made dis honestly.

Source: Adapted from an article by David Pi/ditch, in the Daily Express online, 21 January 2016

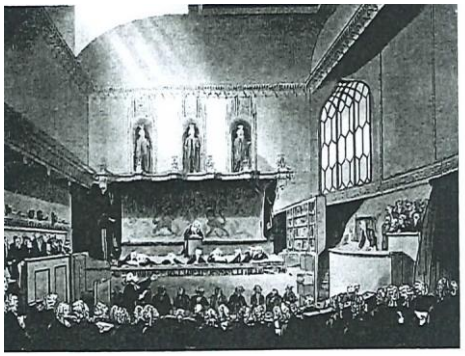
1.4 Sources of law

There are several sources of law: custom, common law, statute law.

1.4.1 Custom

A custom is a rule of behaviour which develops in a community without being deliberately invented. Historically these are believed to have been very important in that they were, effecti vely, the basis of our common law (see below). It is thought that following the Norman Conquest, judges appointed by the king travelled around the land making decisions in the king's name. The judges based at least some of their decisions on the common customs. This

idea caused Lord Justice Coke in the seventeenth century to describe these customs as being 'one of the ma in triangles of the laws of England'. Custom is an historical source and is unlikely to create new law today.



The Court of the King's Bench, 1805

1.4.2 Common law

Common law is the basis of our law today: it is unwritten law that developed from customs and judicial decisions. The phrase 'common law' is still used to distinguish laws that have been developed by judicial decisions from laws that have been created by statute or other legislation. For example, murder is a common law crime while theft is a statutory crime. This means that murder has never been defined in any Act of Parliament, but theft is defined by the Theft Act 1968. Involuntary manslaughter is also a common law offence.

In tort law most of the law on negligence has been developed by the judges. Also in the law regarding formation of a contract many of the rules on offer and acceptance come from decisions by the judges in the nineteenth century. The judges can still create new law today. However, they can only do this when a relevant case comes before them. And then they can only rule on the point in that case. This then becomes the law for future cases. Judges cannot make wide-ranging changes to the law. This can only be done by statute law.

Custom	Common law	Statute law
Historically impona nt	Created by the judges Still imponant today	Created by Parliament Creates maior new law

Figure 1.3 Sources of law

1.4.3 Statute law

An Act of Parliament is law that has been passed by both Houses of Parliament and received Royal Assent. Law can be changed by an Act of Parliament or new law can be created. This is useful for new situations or inventions such as computer technology. Parliament has created new offences involving computer hacking. It has also created new rules in respect of 'des igner babies' and what is allowed (the laws surrounding choices which can be made when creating a baby through in-vitro fertilisation).

Statute law can bring together all the existing law in one area in a single Act of Parliament. This was done in the Consumer Rights Act 2015.

Statute law can create, change or revoke any law. It is useful for make wide-sweeping changes to the law.

The process for enacting a new Act of Parliament is explained in Chapter 3.

However, statutes often recognise the common law and create laws which rely on the common law. For example, the criminal offences of assault and battery are common law offences but s 39 of the Criminal Justice Act 1988 sets out the maximum penalty for these offences .

In addition the judges still play an important role as they may have to interpret the meaning of words in a statute if they are not clear. This problem of statutory interpretation is dealt with in Chapter 5.

your understandi

1 In which court would a defendant, who has committed minor criminal offence, be dealt wit h?
   - A Crown Court
   - B High Court
   - C Magist rates' Court
   - D County Court

2 Which one of the following statements accurately defines the standard of proof required in a civil case?
   - A It must be proved beyond reasonable doubt
   - B It must be proved on the balance of probabilities
   - C There must be sufficie nt evidence
   - D There is a low standard of proof

3 Using an example from both civil and criminal law to illustrate your answer, explain two differences in the way civil and criminal cases are dealt wit h in court .

Summary

- A rule is something that determines the way in which we behave .
- Rules often develop from the 'norms of behaviour'.
- Norms of beha viour are enforced by the attitudes of the commun it y and by self-gu ilt.
- Law is a formal mechanism of social control and legal rules are enforced by the state.
- Crim inal law sets out the types of behaviour which are forbidden at risk of pun is hm ent.
- Civil law governs private disputes bet wee n ind ividuals and/or bus inesses .
- Criminal cases are heard in the Magistrates' Court and the Crown Cou rt.
- Civil cases are heard in the County Court and the High Court .
- The standard of proof for criminal cases is 'be yond reasonable doub t': the standard of proof for civil cases is the 'balance of probabilities '.
- The earliest source of law was cust om.
- The common law was developed from custom and the decisions of the judges.
- Today most law is made by Acts of Parliament .
- Judges still have a role in the interpr etat io n of st at utes .

Aims	**Criminal**	**Civil**
Who brings the case		
Courts		
How the case is written		
Parties Involved		
Terms		
Burden of Proof		
Standard of Proof		
Possible Outcomes		
Types of Punishment		