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Outline of the English and Welsh system of courts

Civil and criminal courts and the tribunal system

The English and Welsh main court systems are split down the middle into two separate structures. There is the civil court system and the criminal court system. As we've mentioned many times before, in business law we concern ourselves almost exclusively with the civil side of things. Having said that, you will be expected to have some knowledge of the workings of the criminal court system. This is because you may well be asked to single out some differences between the two systems. Once more here I have in mind MCQs, where it's easily possible that a question may ask you to pick from three or four possible answers as to whether a named court is a civil or a criminal one. I often set this sort of question, because it's so easy to do.

You'll only be expected to have a working or broad knowledge of how the court systems are organised. The study of law at least in this country, interestingly and perhaps a bit surprisingly, can start at GCSE level. Students start their GCSE law course at the age of 14 years and they take their final exams at 16 years. At this early stage students are often expected to be able to reproduce diagrams showing the hierarchy or pyramid-like structure of the court systems accurately. It's very doubtful if you'll ever be asked to do this on any first-year business law courses. You're just expected to have an outline knowledge about which are the more important courts and which are of lesser importance in the system. You'll also be expected to have a working knowledge of the appeal system. The court structure is based on the system of precedent and sets out clearly which courts are able to tell which other courts

what to do. Essentially the structure shows which courts are bound to follow precedents set by courts higher up in the system.

Talking about the appeal system, it's true to say that many students assume that if you don't get the result you wanted in the court of first instance (where your case was first heard), you have an automatic right to appeal to a higher court to try to get the decision changed. This is by no means the situation I'm afraid. What you have to do is to ask the higher court for permission to appeal. This in technical language is called asking for 'leave to appeal' and you might not get this permission. The court acting as an appeal court in this situation, may not agree that there are any grounds for an appeal, e.g. there may be no new evidence to support an appeal.

A favourite question which your lecturers may ask is to get you to explain, in a longer piece of work, what are the main differences between the civil and criminal law systems. A question such as this is likely to be an exam type question or a piece of coursework. As we shall see, there are quite a lot of differences between the two systems. Later I'll give you a list of these main differences. We'll start with the system of civil courts and take a look at the hierarchy (level of importance) of these courts and then we'll take a quick look at the criminal court hierarchy.

Ah yes, we mustn't forget the system of tribunals used in English law. Tribunals are mainly administrative bodies created by acts of parliament and are used mainly to take the pressure off of the more formal and older civil courts.

To demonstrate the system of the hierarchy of the courts, usually law texts will give one or more diagrams for illustration. I've found that such diagrams, although you'd think they would, don't interest students very much at all. They can be pretty complicated looking. However, if you like diagrams and find them a useful way of learning, I'll give you the following website to look at: www.judiciary.uk.

If you click onto this website and follow the links, you'll find excellent charts of the Courts Systems of England and Wales and a diagram showing you the Tribunals Structure Chart. Of course, the website is free to access which is always a very important consideration to me. If you find these charts useful you can print them off and stick them up on the wall of your bedroom.

I don't think that you'll make too many new friends by doing this though, particularly if you've made room for it by tearing down your poster of Status Quo or the Manic Street Preachers.

I have supplied a very simplified couple of these diagrams later in the chapter, as a kind of visual summary. If you need, or want to know in more detail, about court structures, then as I say, log onto the above government website.

One of the areas which is sometimes confusing is that some courts have both a civil and a criminal function. Other courts have a purely civil or purely criminal role. In addition, certain courts can act as what is called a 'court of first instance' and the same court can act to hear appeals from lower courts.

A court acting as a court of first instance is a court in which a particular case is heard for the first time. As we go through the court system, I'll point out the functions which each court can take – they can act either as a court of first instance and/or act as an appeal court.

The Supreme Court

Starting at the very top of the whole court system stands the Supreme Court. Until 2009, the highest court had been the House of Lords (or more exactly, the Appellate Committee of the House of Lords), as the senior judges were members of the House of Lords – the so-called 'law lords'. As members of the House of Lords they could have a hand in framing new laws, which as judges they would then have to apply. There was a 'separation of powers' issue here (see Chapter 1). Creating the Supreme Court and removing the law lords from the House of Lords resolved this. It also resolved any possible confusion, if someone was talking about the House of Lords, as to whether they meant the highest court in the English legal system or a division of Parliament – the one which is sometimes called the 'Upper House'.

You'll still see many references to House of Lords cases, which means that the case you're looking at was heard in highest court at that time. More modern and very important cases since 2009, will be called Supreme Court cases. All you just need to remember is that the two are exactly the same court.

The Supreme Court is often called the final court of arbitration in England and Wales. This simply means that a decision made in this court is the concluding one. There is no higher court to which you can appeal. After the Supreme Court rules on your case, you just have to accept their decision whether you like it or not.

The Supreme Court has both civil and criminal jurisdiction so whether you've been accused of murder or been involved in a multi-million pound business contractual dispute, this is the court which will finally decide your