

Scheme of work: English legal system

This scheme of work suggests how to deliver the Nature of law and the English legal system section of our AS and A-level Law specifications (7161, 7162).

3.1 Nature of law and the English legal system (ELS)

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| Week | Topic and content skills | Activities and resources | Notes |
| 1 | Introduction to the ELS:   * civil and criminal law * outline of the court system. | * Explain the differences between civil and criminal law. * Fill in the [activity 1: civil and criminal law table](#Civilandcriminaltable) below. * Construct diagrams of the civil and criminal court structures. Students could create posters for the classroom. * If you have not been to the magistrates or crown court before, follows these links to see [the inside of a magistrate’s court](https://www.youtube.com/watch?v=QF46W6LvHY4) or [the inside of a crown court](https://www.youtube.com/watch?v=tZYvv_s5R-s). Additionally, you could plan a court visit; to bring to life both the court system and an area of substantive law. | * Identify the civil and criminal dimensions across the specification. |
| 2 | Introduction to the ELS:   * legal rules and other norms of behaviour * sources of law * rule of law. | * Compare the differences between legal and social norms. * Identify the different sources of law. * Explain and analyse the concept of the rule of law. * Watch [Lord Bingham's speech on ‘the Rule of Law’](https://www.youtube.com/watch?v=XlMCCGD2TeM). | * Give examples of each type of law source. * Consider how you can tell the difference between a rule of law and a rule from a board game. |
| 3 | Parliamentary law making:   * influences on Parliament * legislative process * Parliamentary supremacy. | * Identify and evaluate the different influences on Parliament. * Describe the stages of enactment of legislation. * Explain and illustrate Parliamentary supremacy. * Go onto the [BBC website](http://www.bbc.co.uk/bitesize/higher/modern/uk_gov_politics/central_gov/revision/4/) to look at pressure groups as an influence on Parliament. You can complete the test at the bottom of the information. | * Give examples of the effectiveness of different influences on Parliament. * Consider whether, formally, Parliament or the Government is the more powerful. |
| 4 | Delegated legislation:   * types of delegated legislation * reasons why delegated legislation is used * Parliamentary and judicial controls on delegated legislation. | * Discuss the types of, and reasons for, delegated legislation. * Explain the different controls on delegated legislation. * Analyse advantages and disadvantages of using delegated legislation. * Activity: follow this [government link on changes to the making of bylaws](https://www.gov.uk/guidance/local-government-legislation-byelaws). * Try and find a bylaw that applies to your local area. | * Explain the nature of judicial review and the remedies available to the courts. * Give illustrated examples of the different grounds on which judicial review can be sought in this area. |
| 5 | Statutory interpretation:   * rules of statutory interpretation * internal and external aids to statutory interpretation * impact of the European Convention on Human Rights (ECoHR) and EU law. | * Describe the different rules of statutory interpretation. * Identify the different internal and external aids to statutory interpretation. * Analyse the effectiveness of the different approaches to statutory interpretation. * Read the following [article on the case of R (Miranda) v Home Secretary [2016]](https://www.theguardian.com/world/2016/jan/19/terrorism-act-incompatible-with-human-rights-court-rules-in-david-miranda-case). How is this an example of the golden rule? * Complete the following [Activity 2: statutory interpretation table](#Statutoryinterpretationtable) to consolidate your knowledge of the rules. | * For each of the rules of statutory interpretation, give case examples and explain how those examples illustrate the rule in question. * Draw up a chart comparing the different aids to statutory interpretation. |
| 6 | Judicial precedent:   * hierarchy of the courts * elements of precedent – *stare decisis*, *ratio decidendi* and law reports * operating precedent – overruling and distinguishing. | * Identify the different courts and their positions in the hierarchy. * Illustrate the different elements of precedent. * Referring to Question 6 of the [SAMs](http://www.aqa.org.uk/subjects/law/as-and-a-level/law-7162/assessment-resources), ask students to consider potential difficulties in establishing the ratio of a case eg the difficulties in Donoghue v Stevenson. * Evaluate the effectiveness of precedent as a source of law. * Complete this [revision quiz on judicial precedent](http://e-lawrevision.org.uk/Judicial-precedent-quiz.php). You can read a lecture on judicial precedent and then complete the relevant quiz. | * Be prepared to give case examples to illustrate each aspect of precedent. * Construct a diagram of the hierarchy of the courts; showing their powers, as against each other, for the purposes of judicial precedent. |
| 7 | Law reform – Law Commission | * Identify the different aspects of the Commission’s work. * Evaluate the effectiveness of the Commission in reforming the law. * Access the [Law Commission website](http://www.lawcom.gov.uk/). Here you can see the work they do and laws they are currently reforming. | * Give examples of Law Commission papers and their impact in reforming different aspects of criminal and civil law. * Be prepared to give reasons as to why law needs to be kept under review. |
| 8 | European Union:   * institutions of the EU * sources of EU law * relationship between UK and EU law. | * Identify the respective functions of the Council, Commission, Parliament and Court of Justice of the European Union. * Describe the nature and functions of each type of EU law source. * Illustrate the impact of EU law on the UK legal system. * Read the [following article on Brexit and EU law](http://edition.cnn.com/2017/03/30/europe/brexit-great-repeal-bill-eu-laws/). | * EU law remains part of the specification and is examinable in the normal way. * Construct a flow diagram showing how law is made in the EU. |
| 9 | Civil dispute resolution:   * civil courts * alternative forms of dispute resolution (ADR). | * Identify the different civil courts and their respective trial and appellate functions. * Describe the functions of tribunals and forms of ADR, such as mediation. * Go onto the [Judiciary website](https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/county-court/) to find out more about the role of the County Court. | * Link this topic to the introductory material on the civil and criminal dimensions to the legal system. * Compare and contrast the different forms of civil dispute resolution. |
| 10 | Criminal courts:   * criminal courts * sentencing * magistrates and juries. | * Identify the different criminal courts and their respective trial and appellate functions. * Identify the different sentencing options. * Analyse the effectiveness of using juries. * Watch the [film: 12 Angry Men](https://www.youtube.com/watch?v=6H_0PuwGJow) to look at some of the problems that may happen in a jury trial. Or watch the jury deliberations in [Channel 4’s The Trial: a murder in the family](http://www.channel4.com/programmes/the-trial-a-murder-in-the-family) (a real jury/a fictional case). * Use the following [magistrates association website](https://www.magistrates-association.org.uk/about-magistrates/applying-become-magistrate) to see how you apply to become a magistrate and how they are appointed, selected and the role they play. * Go onto [justice.gov.uk/](http://ybtj.justice.gov.uk/) and complete the sentencing activity. | * Link this topic to the introductory material on the civil and criminal dimensions to the legal system. * Find a media story illustrating the criminal court system. Consider the issues raised by your story. |
| 11 | Legal personnel:   * barristers, solicitors and legal executives * regulation of the legal profession. | * Identify the different roles of barristers, solicitors and legal executives. In order to cement understanding of these differences, you could ask students to decide which, if any, of these roles appeals to them the most – requiring justification ie what would they enjoy about operating in the role of a barrister/solicitor/legal executive? Why would they prefer their chosen pathway over one of the other roles? * Explain how and why regulation of the legal profession takes place. | * Possible opportunity to discuss career options. * Consider what the holder of a law degree might do, other than become a legal professional. |
| 12 | Access to justice and funding:   * alternative sources of legal advice * funding alternatives. | * Identify the alternatives to visiting a solicitor. * Describe in outline how legal work of different types can be paid for. | * Identify what alternatives to a solicitor’s office are available locally. * Access the website of such an alternative and think about the type of advice they offer. |
| 13 | Judiciary:   * types and function of judges * judicial immunity. | * Outline the different ranks of the judiciary and explain their respective functions. * Analyse the need for judicial immunity and how it can successfully be achieved. | * Be prepared to explain the importance of an independent judiciary. * Examine newspapers for the public role of the judiciary. |
| 14 | Law and justice:   * definition of justice * achieving justice in the legal system. | * Analyse the competing theories as to the meaning of justice. * Evaluate whether the legal system is successful in achieving justice. * Watch [lecture 1](https://www.youtube.com/watch?v=VcL66zx_6No) and [lecture 2 from Michael Sandel](https://www.youtube.com/watch?v=kBdfcR-8hEY) to help you understand the theories of justice and morality. | * Consider areas in which you think justice has not been done. Distinguish questions of law from questions of political policy. * Be prepared to use a wide range of examples from across the specification. |
| 15 | Law and morality:   * definition of morality (diversity of views) * enforcement of moral values by the legal system. | * Analyse the competing theories as to whether the law should enforce morality. * Explain and illustrate the extent to which the law does enforce morality. * Watch the following [lecture on the Hart/Devlin debate](https://www.youtube.com/watch?v=qWrhEARupCg). * See above in justice. | * Give examples of subjects where there is a moral dimension and where people hold a range of views. * Be prepared to use a wide range of examples from across the specification. |
| 16 | Law and fault:   * fault in the criminal law * fault in the civil law. | * Explain the different types of fault used in civil and criminal law. * Analyse the reasons for the use of fault. | * Link this topic to fault in criminal, negligence and contract law. * Be prepared to use a wide range of examples from across the specification. |
| 17 | Law and competing interests:   * nature of different interests which may conflict * the role of the law in resolving competing interests. | * Analyse the competing theories as to which interests the law should prioritise. * Identify examples of when the law must prioritise different interests. | * Link this topic to subjects such as remedies, defences and human rights. * Be prepared to use a wide range of examples from across the specification. |

Suggested activities

Activity 1: civil and criminal law table

Complete the table below, considering the ELS elements of the course, alongside examples from the substantive law elements of the course.

|  |  |  |
| --- | --- | --- |
| ELS element | Civil cases | Criminal cases |
| Purpose of the law |  |  |
| Legal name for the individual starting the case |  |  |
| Court hearing the case |  |  |
| Standard of proof required |  |  |
| Individual making the decision |  |  |
| Legal name(s) of the decision |  |  |
| Powers of the court |  |  |

Extension task: look at four cases currently in the news. Briefly summarise the facts of each case and state whether they are civil or criminal – explain how you have reached this conclusion.

Activity 2: statutory interpretation activity

Complete the worksheet below to check your understanding of statutory interpretation.

Provide definitions of the following rules and link to a relevant case for each of the rules:

* literal rule
* golden rule (both narrow and broad)
* mischief rule
* purposive approach.

To consolidate your knowledge of the rules, complete the following table. Your first task is to put the actual principle in the table, as shown below. Then look at the other rules and suggest how the outcome of the case could have been different if another rule or approach had been followed.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Case | Literal rule | Golden rule (narrow) | Golden rule (broad) | Mischief rule | Purposive approach |
| LNER v Berriman | Compensation was only allowed for those who were ‘repaying or relaying’ the track. Therefore, as C was ‘oiling’ the track when he was killed by a train his widow was not entitled to compensation. |  |  |  |  |
| DPP v Cheeseman |  |  |  |  |  |
| R v Allen |  |  |  |  |  |
| Alder v George |  |  |  |  |  |
| Smith v Hughes |  |  |  |  |  |
| R v Bentham |  |  |  |  |  |
| Royal College of Nursing v DHSS |  |  |  |  |  |