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INTRODUCTION

Until someone can bring the creator into a court to give first hand cross examinable witness testimony that any individual or group of individuals has authority to impose its will on any other individual or groups of individuals it is self evident that:

- All are entitled to an equal share of the creators creations, and
- All are equal under the law, and
- No one is above the law, and
- No one can knowingly cause another harm, and
- No one can knowingly cause the creators creations harm.

The rule of law is to uphold these self evident truths, and is foundational for the peaceful co-existence of this common reality.

Being foundational, all must have equal access to public dispute resolution, and anything which prejudices one person's right is unlawful.

Any prejudice of any individual's rights is admitted to be an abuse of the due process of law, and is a contempt of court! This includes any discrimination in regards to paying for access to justice.

There must be an effective balance to stop baseless accusations, and costs resulting from claiming what you have no right to claim or creating a dispute where none exists is causing the other party harm, and therefore those who do so must provide remedy to those harmed parties.

It is time to stop turning a blind eye when we see a wrong, and stand up for the weaker members of society to stop injustices and hold bad actors to account for the harm they are causing to individual and hence also to society.

Change starts with you, as it only takes a few good people to do nothing for tyranny to prevail, and therefore it only takes a few good people to do something for tyranny to fail!

Be the change you want to see – it starts with you!

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A1: 'LAW' = DUTIES, RIGHTS AND OBLIGATIONS

Without Consent there can be no duties, rights and obligations

1. Under the courts own rules, until someone can bring 'creation' (whatever that may be to anyone) into a court of law to give first hand cross examinable witness testimony, it is self evident that:
   1.1. no one is entitled to more than an equal share of the creators creations, and
   1.2. All are equal under the law (hence what one can do all can do)[1], and
   1.3. No one is above the law (all are accountable for harm they cause)[2], and
   1.4. No one can knowingly impose their will upon any other (no one can knowingly harm another).
   1.5. No one can knowingly cause the creators creations harm.

2. 'Law' enforceable can only result from the creation of duties, rights and obligations following a meeting of the minds (= full disclosure of respective party's duties, rights and obligations) and then by each party's freewill (= no mental or physical coercion) consenting to the respective duties, rights and obligations.

3. Without consent it is impossible to create duties, rights and obligations as no individual lawfully can impose their will upon another as equity will not suffer a wrong without a remedy.

4. Lower courts are bound to follow the highest Courts rulings by applying the same principles of law, unless lawful excuse is argued applying the rules of equity which creates new common law precedence.

[1] Common law equality and fairness tort (partially legislatively codified in the Equality Act 2010 and fully codified in the Statute of Monopolies 1623

[2] Equity will not suffer a wrong without a remedy. Lord Mansfield in *Montefiori v Montefiori (1762)* affirms ***'no man shall set up his own iniquity as a defence, any more than as a cause of action'***
https://ssudl.solent.ac.uk/id/eprint/1313/1/2007_11_1&2.pdf

Every human's right to survival – self defence

5. **The creator retains authority** over our bodies to protect our life and limb, or that of our dependents**, the survival instinct** controlling 'fight or flight' , affirmed in the right to self defence [3]**:**

   *'... the test to be applied for self-defence is that **a person may use such force as is reasonable in the circumstances as he honestly believes them to be in the defence of himself or another**.'*

   5.1. Force can ONLY be used when under **imminent attack**[4].

   5.2. Whether the force was reasonable is a question of fact for the jury.

   5.3. thereby entitling each human to;

      5.3.1. shelter from the environment,

      5.3.2. clean air to breathe,

      5.3.3. nutritious food to eat,

      5.3.4. clean water to drink,

   5.4. **Thereafter** the creator allows our minds to experience this common 'reality' where through our conscience we discern right from wrong.

   5.5. **Further, the creator gifted us observational tools**; ears to hear, skin to feel, noses to smell, mouths to taste and eyes to see together allowing each to **gather evidence of this reality,**

   5.6. **Further the creator gifted us the power of logic and reason to make sense of it**, entitling each human to

      5.6.1. freedom of association which ends where another's equal right starts

      5.6.2. freedom of speech to allow our thoughts to be explored and articulate, and

      5.6.3. knowledge left from generations past so as to minimise harm to the creators creations.

It is every person's absolute right to choose what they do with their body5

[3] *Beckford v The Queen [1988] AC 130* https://www.bailii.org/uk/cases/UKPC/1987/1.html
[4] *R v Owino (1996) 2 Cr. App. R. 128 at 134* https://swarb.co.uk/regina-v-owino-cacd-1996/

6. This right of choice what anyone does with, or puts into their bodies[6],

   6.1.1. is not limited to de

   6.1.2. cisions which others might regard as sensible... [15]

   6.1.3. A person is not to be treated as unable to make a decision merely because he or she makes a decision that is deemed unwise by another [15].

   6.2. This creates the lawful obligations on ANY provider of medical advice to provide [13];

   6.2.1. quantified risks, and

   6.2.2. effectiveness, and

   6.2.3. consequences,

   6.2.4. including for all reasonable alternative options available,

Those governing have one obligation – to keep the peace

7. The Justice of the Peace Act 1361 [7] affirms every individual is entitled to their peace:

   '…to the Intent that the People be not by such Rioters or Rebels troubled nor endamaged, nor the Peace blemished…'

   7.1. R v Howell [1982] [8] summarises the case law that before breaching another's peace you must show reasonable evidence at the time that another's actions related to harm which was:

   7.1.1. actually done or

   7.1.2. likely to be done to a person or, in his/ her presence, their property.

   7.2. *Commissioner of Police of the Metropolis v Raissi: CA [2009] QB 564, [2008] EWCA Civ 1237*[9] *affirms o*rder following is not lawful excuse.

   7.3. *R (Laporte) v Chief Constable of Gloucestershire [2006] UKHL 55* [10] summarizes

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[5] **is reaffirmed in the unanimous 7 justice UK Supreme Court ruling** in *Montgomery (Appellant) v Lanarkshire Health Board (Respondent) [**2015**] UKSC 11* https://www.supremecourt.uk/cases/docs/uksc-2013-0136-judgment.pdf

[6] An Introduction to the Legal Structures of the NHS https://www.landmarkchambers.co.uk/wp-content/uploads/2018/06/Introduction-to-the-Legal-Structures-of-the-NHS.pdf

[7] https://www.legislation.gov.uk/aep/Edw3/34/1

[8] http://www.hrcr.org/safrica/arrested_rights/Regina_Howell.htm

[9] https://www.bailii.org/ew/cases/EWCA/Civ/2008/1237.html

[10] https://www.gardencourtchambers.co.uk/wp-content/uploads/2016/06/R-Laporte-v-Chief-Constable-of-Gloucestershire-2007-2-AC-105.pdf

collective 'punishment' is not lawful excuse to breach another's peace, and no breach of another's peace can be done:

7.3.1. Prematurely, or

7.3.2. Indiscriminately, or

7.3.3. Disproportionately.

8. In the event of a dispute between individuals not being settled in the private, when the matter is brought for public dispute settlement the judgement creates the common law enforceable between the disputing parties.

Natural Justice – all courts are courts of conscience

9. The common law created in the Earl of Oxford case (1615)[11] is legislatively codified in section 49(2) of the Senior Courts Act 1981[12] ("**SCA1981**") affirming in every case before the courts the rules of equity must be applied so as to avoid a multiplicity of suites and thereby make efficient use of the courts resources by not reinventing the wheel in every case.

10. Section 49(1) of the SCA1981 legislatively affirms the longstanding common law that the rules of equity prevail over the common law:

10.1. ***Equity = fair and just as dictated by our conscience, being our guide of right and wrong*****,** and

10.2. ***Equity is invoked by unconscionable actions***

10.3. ***Equity acts in person*** (fictions of law cannot act for they have no 'being')**,** and

10.4. ***Equity will not suffer a wrong without a remedy*** (all are accountable for harm they cause), and

10.5. ***Equity knows no time*** (once an individual is with the knowledge they can seek remedy for harm done), and

10.6. ***Those who want equity must do equity:***

10.6.1. ***Honour*** (my word is my bond, I walk my talk), and

10.6.2. ***Good faith*** (not putting one's self interest above the interest of another), and

[11] https://www.lawteacher.net/free-law-essays/equity-law/conflict-between-common-law-and-equity-equity-law-essay.php

[12] https://www.legislation.gov.uk/ukpga/1981/54/section/49

10.6.3. ***Clean hands*** (full transparency, no underhand dealings, no hidden agenda).

10.6.4. *Montefiori v Montefiori (1762)* [13] affirms

'no man shall set up his own iniquity as a defence, any more than as a cause of action'

11. Natural justice prevails. *Ridge v Baldwin [1964] AC 40* [14] says it all:

Lord Reid

"Time and again in the cases I have cited it has been stated that ***a decision given without regard to the principles of natural justice is void****, and that was expressly decided in Wood v Woad (1874) LR 9 Ex I 90. I see no reason to doubt these authorities".*

Although there exists no clear definition of the principle of natural justice, it cannot be said for this reason that 'therefore it does not exist*: [65]*

*There is '****an unbroken line of authority to the effect that an officer cannot lawfully be dismissed without first telling him what is alleged against him and hearing his defence of explanation'****: [66]*

As such, the power of dismissal under the 1882 Act ***cannot be lawfully exercised until the appellant had been properly informed of the charges against him and given the opportunity to make representations on his own behalf***

Since the decision to dismiss the appellant was made ***'without regard to the principles of natural justice', it is therefore void*** *: [80]"*

Lord Hodson added:

"*There are 3 features of natural justice (at p. 132B):*

- ***Right to be heard by an unbiased tribunal,*** and
- ***Right to have notice of charges,*** and
- ***Right to be heard in answer to those charges"***

Law must be rational

12. REVEREND DR WILLIAM J U PHILIP AND OTHERS for Judicial Review of the closure of places of worship in Scotland OUTER HOUSE, COURT OF SESSION [2021] CSOH 32 summarises the

[13] https://ssudl.solent.ac.uk/id/eprint/1313/1/2007_11_1&2.pdf
[14] https://lawprof.co/public-law/procedural-fairness-cases/ridge-v-baldwin-1964-ac-40/

history if the common law test for lawfulness requiring the following 3 tests to be met by any claimant of any rights [15]:

12.1. **Legitimate aim:** The problem and desired objective to be achieved must be expressed, and

12.2. **Reasonable:** all reasonable options meeting the legitimate aim must be considered, and

12.3. **Proportionate:** The chosen action must be the least imposing upon any other's rights and liberties.

13. In *Council of Civil Service Unions v Minister for the Civil Service [1985] AC 374* [16], Lord Diplock affirms the common law that any action which is irrational is unlawful and summarized irrational as being:

"so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it."

Affirming the law is self evidence, discoverable and knowable to all

To lie is to go against the mind *(understanding of respective duties, rights and obligations)*

Ignorance of the law is no excuse *(Natural law will prevail = Truth is Sovereign)*

All are equal under the law *(no privileges = what one can do, all can do)*

No one is above the law *(no immunity = we are all accountable for harm we cause)*

The law operates without fear or favour *(due process of the rule of law)*

Innocent until proven guilty *(the claimant must prove their case)*

[15] *https://www.bailii.org/scot/cases/ScotCS/2021/2021_CSOH_32.html*
[16] https://www.bailii.org/uk/cases/UKHL/1984/9.html

A2: THE LAWFUL AUTHORITY OF THE INDEPENDENT JUDICIARY

The Royal Coat of Arms[17]

"The Royal Arms appear in every courtroom in England and Wales (with the exception of the magistrates' court in the City of London), demonstrating that justice comes from the monarch, and a law court is part of the Royal Court (hence its name).

***Judges and magistrates are therefore officially representatives of the Crown**.*

The presence of the Royal Arms explains why lawyers and court officials bow to the judge or magistrates' bench when they enter the room. They aren't bowing to the judge – they are bowing to the coat of arms, to show respect for the Queen's justice."

14. The lawful independent judiciary was also created by offer of contract, where on the 2 June 1953, at the Abbey of Westminster, the Archbishop of Canterbury offered Elizabeth Alexandra Mary a contract by asking: ***"Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgements?"*** which was accepted with the words ***"I will"***, and later sealed this contract in writing[18]. The people then filling the judicial offices is also by contract, in the affirmations or oaths of office, given to the monarch

15. This admission settles that the judiciary does not fall under the authority of those governing, further affirmed as follows in the judicial oaths which is their contract with the people and further affirms each judicial officer is independent from the judiciary and directly is accountable to the Monarch:

16. **The Lord Chancellor** affirmation / oath [19] [20] as follows :

*"I, [name], do swear that in the office of Lord High Chancellor of Great Britain I will respect the rule of law, **defend the independence of the judiciary** and discharge my duty to ensure*

[17] https://www.judiciary.uk/about-the-judiciary/the-justice-system/court-traditions/
[18] https://www.royal.uk/coronation-oath-2-june-1953
[19] https://www.legislation.gov.uk/ukpga/2005/4/part/2/crossheading/lord-chancellors-oath
[20] https://www.legislation.gov.uk/ukpga/Vict/31-32/72/contents

the provision of resources for the efficient and effective support of the courts for which I am responsible. So help me God."

17. **The Lord Chief Justice, The Master of the Rolls, The Recorder of London and Justices of the Peace**[14], judicial affirmations or oaths of office [21] create judicial independence at the personal level of each person filing this office as follows:
*"I, [name], do [swear by Almighty God OR solemnly sincerely and truly declare and affirm] that I will well and truly serve our [monarch] in the office of [office], and **I will do right to all manner of people after the laws** **and usages of this realm, without fear or favour, affection or ill will**."*.

18. **Public enforcement of the law is by the police where the Police Constables affirmation or oath (police officer attestation)**[22] under the Police Reform Act, 2002, every police officer and every special constable is required, on appointment, to be attested by making a declaration in a prescribed form before a justice of the peace in the force area concerned, again ensuring each individual officer is independent (following order is not lawful excuse[23]):
*"I (name), of (police force) do solemnly and sincerely declare and affirm that I will well and truly serve the (monarch) in the office of constable, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people; and that **I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people and property**; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully **according to** law."*[24]

19. In consideration the monarch is granted "**Regal Power**" (Royal Prerogative), and officers salaries at the public expense, **making these contracts LAWFULLY enforceable in HM Courts to "govern you and me according to our respective laws and customs" Affirming HM Courts is the balance** upholding the rights and obligations of those governing to the

[21] https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/oaths/
[22] https://www.legislation.gov.uk/ukpga/2002/30/section/83
[23] *Commissioner of Police of the Metropolis v Raissi: CA [2009] QB 564, [2008] EWCA Civ 1237* https://www.bailii.org/ew/cases/EWCA/Civ/2008/1237.html
[24] https://foi.west-midlands.police.uk/wp-content/uploads/2021/03/298A_ATTACHMENT_01.pdf

governed[25], namely to **"govern you and me according to our respective laws and customs"** as expressed in the monarchs first promise, and we hold public officers to account in the independent courts created in the monarchs second promise.

20. This is further admitted in the unanimous 11 judge Supreme Court ruling in *R (Miller) v The Prime Minister and Cherry v Advocate General for Scotland ([2019] UKSC 41)*[26] that:
At 31 *"…**the courts have exercised a supervisory jurisdiction over the decisions of the executive for centuries**.."*, and
At 32 the **supremacy of the courts over those governing** reaffirming from the *Case of Proclamations (**1611**) 12 Co Rep 74*[27];
*"… **the limits of prerogative powers were set by law and were determined by the courts** .."*, *and.*
Parliaments supremacy is only over HM Government from *Entick v Carrington (**1765**) 19 State Tr 1029; 2 Wils KB 275, 95 ER 807*[28]
*"...the Secretary of State could not order searches of private property **without authority conferred by an Act of Parliament or the common law**."*
At 33: The fact that the minister is politically accountable to Parliament does not mean that he is therefore immune from legal accountability to the courts. As Lord Lloyd of Berwick stated in the Fire Brigades Union case (R v Secretary of State for the Home Department, Ex p Fire Brigades Union [1995] 2 AC 513, 572-573):
*"**No court would ever depreciate or call in question ministerial responsibility to Parliament**."*
As Professor Sir William Wade points out in Wade and Forsyth, Administrative Law, 7th ed (1994), p 34, **ministerial responsibility is no substitute for judicial review**. In R v Inland Revenue Comrs, Ex p National Federation of Self-Employed and Small Businesses Ltd [1982] AC 617, 644[29] Lord Diplock talking about actions of officers or departments of central government said:

[25] https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/jud-acc-ind/independence/
[26] https://www.supremecourt.uk/cases/docs/uksc-2019-0192-judgment.pdf
[27] https://www.casemine.com/judgement/uk/5a938b4160d03e5f6b82bd82
[28] https://www.casemine.com/judgement/uk/5a8ff8d260d03e7f57ecdcfa
[29] https://www.casemine.com/judgement/uk/5a8ff8ca60d03e7f57ecd7b9

"....They are accountable to Parliament for what they do so far as regards efficiency and policy, and of that Parliament is the only judge; ...", and

*"...**they are responsible to a court of justice for the lawfulness of what they do, and of that the court is the only judge**.'*

21. Further Resources – Admissions of judicial independence!

https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/jud-acc-ind/justice-sys-and-constitution/

https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/constitutional-reform/

https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/jud-acc-ind/

https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/jud-acc-ind/independence/

https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/jud-acc-ind/principles-jud-acc/

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A3: JURISDICTION - THE DUE PROCESS OF LAW

22. Jurisdiction means the power to act[30]:

1. (Law) the right or power to administer justice and to apply laws,
2. (Law) the exercise or extent of such right or power,
3. (Law) power or authority in general,

22.1. Different Courts may have different power to hear different matters, which is perfectly rational as it avoids wasting public resources so that each becomes a centre of knowledge applicable to similar disputes. This should lead to clearer simpler understandable law as that knowledge is refined.

22.2. All UK courts must apply the rules of equity whether legally expressed or not as lower courts are bound by higher court decision, and hence must follow the common law precedence of the Earl of Oxford case 1615[31] and apply the rules of equity which prevail in the event of a conflict with the existing common law precedence, where equity is triggered by unconscionability where an existing precedence is not fair or just. Hence remedy must reflect harm caused, and this is legislatively obliged in section 63 of the Sentencing Act 2020[32] = 'mercy in all judgements'

22.3. The power of the courts actions in all cases is constrained by the due process as summed up by Lord Diplock in Att-Gen v. Times Newspapers Ltd. [1974] [33], ante, outline the various ways in which the due administration of justice:

"The due administration of justice requires
first that all citizens should have ***unhindered access*** *to the constitutionally established courts of criminal or civil jurisdiction* ***for the determination of disputes as their legal rights and liabilities****;*

[30] https://www.thefreedictionary.com/jurisdiction
[31] https://www.lawteacher.net/free-law-essays/equity-law/conflict-between-common-law-and-equity-equity-law-essay.php
[32] https://www.legislation.gov.uk/ukpga/2020/17/part/7/chapter/1
[33] https://learninglink.oup.com/static/5c0e79ef50eddf00160f35ad/casebook_187.htm

secondly, that they should be able to rely upon obtaining in the courts the arbitrament of a tribunal which is ***free from bias against any party*** *and whose decision* ***will be based upon those facts only that have been proved in evidence adduced before*** *it in accordance with the procedure adopted in courts of law; and*

thirdly that, once the dispute has been submitted to a court of law, they should be able to rely upon there being ***no usurpation by any other person of the function of the court to decide according to law****.*

Conduct which is calculated to prejudice any of these requirements or to undermine public confidence that they will be observed is contempt of court*".*

A4: ADMINISTRATIVE COURTS ARE UNLAWFUL

23. *Regina v Brentford Justices ex parte Catlin[1975]*[34] where Lord Widgery CJ said:

"A decision by magistrates whether to issue a summons pursuant to information laid involves the exercise of a judicial function, and is not merely administrative. A summons (or warrant) is merely machinery for giving a defendant notice of the proceedings and for getting him before the Court. ***If a Magistrates authorises the issue of a summons without having applied his mind to the information then he is guilty of dereliction of duty*** *and* ***if any justices clerk's office a practice goes on of summonses being issued without information being laid before a magistrate at all then a very serious instance of maladministration arises*** *which should have the attention of the authorities without delay…",*

24. Under the rules of equity which prevail over the common law in the event of conflict in substance affirm any 'rubber stamping' procedure without application of the individual mind to the evidence before it is unlawful

[34] https://swarb.co.uk/regina-v-brentford-justices-ex-parte-catlin-1975/

A5: TRIAL BY JURY vs WRITTEN DECISIONS

25. As no one can prove more authority than another it is self evident to anyone who chooses to apply logic and reason that no individual can knowingly cause harm. This limits each individual's authority, and hence any form of representative 'government' by impossibility cannot knowingly cause any of the governed harm!

26. The legislative right to trial by jury is affirmed since ancient times through section XXIX of Magna Carta 1297[35], Liberty of Subjects (1354)[36] and the Bill of Rights 1688[37].

27. " LEGITIMACY OF DPE/BILL OF RIGHTS 1689

As no doubt members will be aware, on 21 July 1993, the Speaker of The House of Commons issued a reminder to the courts. Betty Boothroyd said: "There has of course been no amendment to The Bill of Rights . . . ***the House is entitled to expect that The Bill of Rights will be fully respected by all those appearing before the courts****...*

There is a provision in the Bill of Rights Act 1689 which states:

[added "*That Jurors ought to be duely impannelled and returned… "***]**

"That all grants and promises of fines and forfeitures of a particular person before conviction are illegal and void."

As you will be aware, ***the Bill of Rights is a "constitutional statue"*** *and may not be repealed impliedly. This was stated in the case Thoburn v City of Sunderland, the decision commonly referred to as the "Metric Martyrs" Judgment. This was handed down in the Divisional Court (18 February 2002) by Lord Justice Laws and Mr Justice Crane (I will paraphrase, but have included a copy of the judgment's relevant sections 62 and 63).*

*62. "We should recognise a hierarchy of Acts of Parliament: as it were "ordinary" statutes and "constitutional statutes****." The special status of constitutional statutes follows the special status of constitutional rights. Examples are the . . . Bill of Rights 1689 . . .****"*

63. "Ordinary statutes may be impliedly repealed. ***Constitutional statutes may not*** *. . ."*

This was ***upheld by Lords Bingham, Scott and Steyn in an appeal which went to the House of***

[35] https://www.legislation.gov.uk/aep/Edw1cc1929/25/9/contents
[36] https://www.legislation.gov.uk/aep/Edw3/28/3
[37] https://www.legislation.gov.uk/aep/WillandMarSess2/1/2

Lords on Monday 15 July 2002."[38]

28. Therefore no fines or forfeitures can be imposed by those governing, and can only be imposed by society itself which is the rational of trial by jury, where the jury determine if harm has been caused, and if so by whom, and what remedy is required.

29. This is admitted in Section **63 Assessing seriousness** of the Sentencing Act 2020[39]**,** where the Court has the legal obligation when considering the seriousness of any offence, **it must consider** at (b) any **harm** which the offence (i) caused, (ii) was intended to cause, or (iii) might foreseeable have caused (due diligence / negligence).

    29.1. This means that as the court must reach its decision only based upon the evidence before it that the claimant **must** evidence a victim, and the harm that was actually done, intended to be done or was reasonably foreseeable to have occurred. Without this no fine or forfeiture can be imposed making this perfectly equitable.

30. The foundational principle of Trial by jury (some people claim this is different from Jury Trial) is that **each juror satisfies their conscience** that harm has been done to the claimant by the defendant, and determine suitable remedy for that harm.

31. The problem is trial by jury are largely threefold:
    31.1. without clear guidance the decisions are not predictable making the law unpredictable, and
    31.2. As no written logic and reason is used to explain the rationale behind reaching the conclusion it is difficult to appeal it if it clearly is not equitable, and
    31.3. If the jury contains a very persuasive individual change the opinion of the remaining members of the jury.

32. These problems could easily be overcome through the jury having inquisitorial obligations at all stages of the trial where:

[38] https://publications.parliament.uk/pa/cm200506/cmselect/cmtran/748/748we10.htm
[39] https://www.legislation.gov.uk/ukpga/2020/17/part/7/chapter/1

32.1. firstly the complainant present the harm, and the jury cross examine to ensure they fully understand their position, and they independently retire to balance the evidence with their conscience as to whether harm truly has been done, and return their verdict independently, and if harm has been determined then,

32.2. Secondly the defendant present their side of the story, and the jury cross examine to ensure they fully understand their position, and they independently retire to balance the evidence with their conscience as to whether the harm was caused by the defendant, and return their verdict independently, and if guilt has been determined then

32.3. Thirdly the victim presents what they want for remedy to return to peace and the jury cross examine to ensure they fully understand both positions, and they independently retire to balance the evidence with their conscience as to what remedy they feel is suitable.

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A6: CRIMINAL VS CIVIL MATTERS

33. Criminal law essentially is where wrongs are against 'society' to deter others from behaving in that manner, and
    33.1. punitive remedy is sought by those governing (punishment by taking the offenders property or their liberty).
    33.2. The burden of proof by the claimant is 'beyond reasonable doubt'.
    33.3. There must always be a victim, as without a victim no harm can be done, and hence no rights or liberties can be removed.

34. Crimes simply are **merely defined as such by those governing,** and
    34.1. Unfortunately many governing simply create crimes to generate revenue!
    34.2. As it is the state bringing the claim, the state must provide legal assistance.
    34.3. Judges in criminal cases wear red robes or sashes[40]

35. Civil law is essentially harm against individuals or their property (private rights) and
    35.1. remedy is largely to reinstate the victim to a position they would have been in had the event not occurred (liberties cannot be removed).
    35.2. The burden of proof is on the balance of probabilities (51%).

36. Everything ultimately is between living people where one lays a claim of right, alleging another is under an obligation to comply, so everything in substance is civil.

[40] https://www.judiciary.uk/about-the-judiciary/who-are-the-judiciary/court-dress/examples/

A7: OPEN JUSTICE PRINCIPLE: Public Access to Courts

"It is not merely of some importance but it is of fundamental importance that justice must not only be done, but must also be seen to be done".

"Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice."

This dictum was laid down by **Lord Hewart**, the then Lord Chief Justice of England in the case of *Rex v. Sussex Justices,* [1924] 1 KB 256.

37. This is a pillar of administrative law, and indeed as the basis of the principles of natural justice and open justice is a constitutional principle.

38. Public access is affirmed by the 5 justices of the UK Supreme court as recently again in Cape Intermediate Holdings Ltd (Appellant/Cross Respondent) v Dring (for and on behalf of Asbestos Victims Support Groups Forum UK) (Respondent/Cross Appellant) [2019] UKSC 38[41] that public have full access including documents from the court records.

The Principle of open justice from Case name in footnote as too long! [2019] UKSC 38

39. This case is about how much of the written material placed before the court in a civil action should be accessible to people who are not parties to the proceedings and how it should be made accessible to them**. It is, in short, about the extent and operation of the principle of open justice.**

39.1. At 36 ***"The requirements of open justice applied to all tribunals exercising the judicial power of the state. The fact that magistrates' courts were created by statute was neither here nor there*** *(para 70). The decisions of the House of Lords in Scott v Scott [1913] AC 417, and of the Court of Appeal in FAI, and R v Howell [2003] EWCA Crim 486 - respectively a family, civil and criminal case - were illustrations of the jurisdiction of the*

[41]Cape Intermediate Holdings Ltd (Appellant/CrossRespondent) v Dring (for and on behalf of Asbestos Victims Support Groups Forum UK) (Respondent/Cross-Appellant) https://www.supremecourt.uk/cases/docs/uksc-2018-0184-judgment.pdf

court to decide what open justice required (para 71). Hence the principles established in Guardian News and Media cannot be confined to criminal cases. ***They were clearly meant to apply across the board. Nor has anyone suggested why the jurisdiction in criminal cases should be wider than that in civil. More to the point, they have since been approved by this court****."*

39.2. At 42 *"The principal purposes of the open justice principle are two-fold and there may well be others. The first is* ***to enable public scrutiny of the way in which courts decide cases - to hold the judges to account for the decisions they make and to enable the public to have confidence that they are doing their job properly.*** *In A v British Broadcasting Corpn, Lord Reed reminded us of the comment of Lord Shaw of Dunfermline, in Scott v Scott [1913] AC 417, 475, that the two Acts of the Scottish Parliament passed in 1693 requiring that both civil and criminal cases be heard "with Page 15 open doors",* ***"bore testimony to a determination to secure civil liberties against the judges as well as against the Crown****" (para 24)."*

39.3. At 49: "…The Court of Appeal not only had jurisdiction to make the order that it did, but also had jurisdiction to make a wider order if it were right so to do. On the other hand, the basis of making any wider order is the inherent jurisdiction in support of the open justice principle, not the Civil Procedure Rules, CPR rule 5.4C(2). The principles governing the exercise of that Page 17 jurisdiction are those laid down in Guardian News and Media, as explained by this court in Kennedy, A v British Broadcasting Corpn and this case."

39.4. At 50: "…We therefore order that paras 4 and 7 of the Court of Appeal order (corresponding to points (i) and (ii) in para 11 above) stand. But we would replace paragraph 8 (corresponding with point (iii)) with an order that the application be listed before Picken J (or, if that is not possible, another High Court Judge) to determine whether the court should require the appellant to provide a copy of any other document placed before the judge and referred to in the course of the trial to the respondent (at the respondent's expense) in accordance with the principles laid down by this court."

39.5. At 11: "*…, the court ordered, in summary:* ***(i) that the court should provide the Forum with copies of all statements of case, including requests for further information and answers, apart from those listed in Appendix 1 to the order, so far as they were on the court file and for a fee, pursuant to the right of access granted by CPR rule 5.4C(1);"****…."*

39.6. And these documents form part of the public record so everybody has the equitable right to access them, and the holder is bound to provide them. This is partially legislatively codified in the Freedom of Information Act 2000, however that excludes Court Records, however they can be accessed under GDPR if you are an involved party!

39.7. There are some websites to help such as https://www.publicrecordsearch.co.uk/types-of-records/court-records/.

40. **Magistrates Court Rules[42]:**

66A The open justice principle (1) Where rules 66B, 66C, 66D and 66E apply, the designated officer and the court must have regard to the importance of— (a) dealing with cases in public; (b) allowing a public hearing to be reported to the public; and (c) the rights of a person affected by a direction or order made, or warrant issued, by the court to understand why that decision was made. (2) In rules 66D and 66E this requirement is called 'the open justice principle'.

40.1. 66B Request for information about a case

40.2. 66C Request for information by a party or person directly affected by a case

40.3. 66D Request for information determined by the court

40.4. 66E Publication of information about court hearings

40.5. In accordance with section 1 of the Magistrates Court Manual 2022, at 6 affirms public access to Magistrates Courts[43].

[42] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1083879/magistrates-courts-rules-1981-jun-22.pdf

[43] https://www.whatdotheyknow.com/request/209622/response/601879/attach/5/MCM%20Disclosure%20FOI.ZIP.zip?cookie_passthrough=1

41. This brings into serious question the use of telephone and virtual hearings…
    41.1. how can the participants even know that it is not merely a call centre in some other part of the world running the hearing or
    41.2. deciding the case…

42. Simplicity – All are equal under the law, no one is above the law, and therefore under what authority can any other person restrict any individual's right to hold any other to account = open justice

43. **Anyone denying public access is in contempt of court – end of!**

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A8: RECORDING IN COURTS

44. **No Photos / sketches / pictures of any nature**

Criminal Justice Act 1925 section 41[44]

44.1. This is limited at (1)(a) to *" a judge of the court or a juror or a witness in or a party to any proceedings before the court"*, and

44.2. includes at 2(c) "*...of the person entering or leaving the court–room or any such building or precincts as aforesaid."*

44.3. £50.00 fine

45. **Sound or video recordings**

45.1. **Contempt of Court Act 1981, section 9**[45]

45.1.1. it is a contempt of court—

45.1.2. 1 (a) to use in court, or bring into court for use, any tape recorder or other instrument for recording sound, **except with the leave of the court**;

45.1.3. At (2) **leave is at the discretion of the court**, and if granted may contain conditions as the court sees fit, and at any time may withdraw it.

45.2. **Courts Act 2003, sections 85B**[46] **and 85C**[47]

45.2.1. 85B (1) It is an offence for a person to make, or attempt to make—(a) an unauthorised recording which is being broadcast under 85A for public viewing, or

45.2.2. 85B (1) It is an offence for a person to make, or attempt to make—(a) an unauthorised recording which is a live link

45.2.3. **Unless at (6) it is authorised by (a) the Court or** (b) Lord Chancellor

45.3. **Crime and Courts Act 2013, section 32**[48]

45.3.1. We must apply to the Lord Chancellor to stop this nonsense of the monopoly on recording if the only person who is prejudiced is the respondent of defendant! Utter

[44] https://www.legislation.gov.uk/ukpga/Geo5/15-16/86/section/41
[45] https://www.legislation.gov.uk/ukpga/1981/49/section/9
[46] https://www.legislation.gov.uk/ukpga/2003/39/section/85B
[47] https://www.legislation.gov.uk/ukpga/2003/39/section/85C
[48] https://www.legislation.gov.uk/ukpga/2013/22/section/32

BS as with today's technology there is no excuse, and fair enough if an official transcript is required then have specialist scribers!!!

Your right to record is for your self defence if you are the only one who can be prejudiced!

46. You are entitled to defend yourself in any manner you feel is reasonable and proportionate so denial of recording is to your prejudice!

Magistrates Courts are not courts of record:

47. The only reason for contempt of court is if either party is prejudiced, and the Magistrates Courts are NOT courts of record where over 90% of the cases are decided, and
    47.1. The vast majority are criminal case imposing fines or removing liberties, and
    47.2. The only person that can be prejudiced is the defendant.
    47.3. As such there is no rational reason to deny the defendant the right to record as this is now technically very easy as they may need that for their self defence.

Other Courts

48. Restricting you from making your own recording is further irrational as the Supreme Court[49] and Appeal Court[50] live stream and archive, and thereby set a precedence as what one can do all can do!

49. The history is important to understand the intent. At the time jury trials were the norm and often they went over multiple days, and with limited 'news' outlets that if there was misreporting, opinion or speculation then the jury may read that and be influenced by things

[49] https://www.supremecourt.uk/live/court-01.html
[50] https://www.judiciary.uk/you-and-the-judiciary/going-to-court/court-of-appeal-home/the-court-of-appeal-civil-division-live-streaming-of-court-hearings/

not presented in evidence before the court which is the only evidence upon which a decision must be made.

The monopoly on recording prejudices parties, and is in breach of equality and fairness

50. This is an interesting item that conflicts with a number of fundamental principle of open justice, and
    50.1. This cannot be lawful as what one can do all can do, and hence if the court can record and create transcript for which you must pay that is in breach of common law discrimination and fairness, and
    50.2. Granting of privileges is in breach of the Statute of Monopolies 1623[51] as it goes against the fundamental of law, namely that all are equal under the law and no one is above the law.

[51] https://www.legislation.gov.uk/aep/Ja1/21/3

A9: CONTEMPT OF COURT

51. Cotton L.J.in *Hunt v. Clarke* [1889] 58 (L.J.Q.B.) 490 [52] said that in his opinion:
"… it does technically become a contempt if pending a cause or before a cause even has begun, *any observations are made or published to the world* ***which tend in any way to prejudice the parties in the case."***

52. **Anything done by any individual (including all officers of the court) which affects the fair administration of justice = prejudice of either party.**

53. As seems to be the case in Huggins [2007] EWCA Crim 732, [2007] Criminal Law Review 798 at [14]. As in Giscombe (1984) 79 Cr App R 79 in which the court held, **"the test for contempt was whether the appellant knowingly did an act which he intended, and which was calculated, to interfere with the course of justice and was capable of having that effect".**

54. For example, Giscombe (1984) 79 Cr App R 79 in which the conduct consisted in **approaching a juror and making possibly threatening comments as the juror left the court building**, and Connolly v Dale [1996] QB 120 in which there had allegedly been **interference with witnesses** by a police officer prior to the trial.

55. Schot and Barclay [1997] 2 Cr App R 383 by Rose LJ. This was a case of juror contempt. Such as where the contemnor **shouts abuse at the judge or throws something at him or her**. See Schot and Barclay [1997] 2 Cr App R 383, 395. 25 See, eg, Jones [2011] EWCA Crim 3179. Huggins [2007] EWCA Crim 732 at [14], [2007] Criminal Law Review 798. 27 Borrie and Lowe

56. As the rules of equity prevail, and equity is about substance and not form, means in criminal cases the only person who can be prejudiced is the defendant, and in civil matters the respondent.

[52] https://app.vlex.com/#vid/793129341

Civil contempt[53]

57. Civil contempt refers to conduct which is not in itself a crime but which is punishable by the court in order to ensure that its orders are observed.

57.1. Civil contempt is usually raised by one of the parties to the proceedings.

57.1.1. Although the penalty for a civil contempt contains a punitive element, its primary purpose is coercion of compliance.

57.1.2. A person who commits that type of contempt does not acquire a criminal record and it is not a criminal offence, even if committed in connection with a criminal case (*Cobra Golf Ltd v Rata* [1998] Ch. 109). Examples of civil contempt include disobedience of a court or undertaking by someone involved in litigation, and proceedings will normally be commenced by the other party aggrieved by it.

57.2. Contempt by breach of an undertaking is rarer in criminal proceedings than civil ones.

57.2.1. Examples include failure to comply with restraint orders or Terrorism Act investigation orders in the Crown Court, or unauthorised use of disclosed prosecution material in the Magistrates' or Crown Court (see CrimPR 15.8 and CrimPR Part 48).

57.2.2. A further example would be where a sentence was mitigated on the basis of an undertaking made by someone to repay money stolen by the defendant.

57.2.3. This could possibly also be a criminal offence such as perjury (where the undertaking is given on oath) or perverting the course of justice.

57.2.4. Where the conduct may amount to a distinct criminal offence (particularly where it could amount to perjury, where the defendant has the right to jury trial) it would normally be appropriate to refer the matter to be investigated by the police, unless the maximum sentence available for the offence would not properly reflect the conduct in question.

Appeals against contempt orders[54]

[53] https://www.cps.gov.uk/legal-guidance/contempt-court-reporting-restrictions-and-restrictions-public-access-hearings

58. Magistrates' Courts decisions may be challenged by way of application for judicial review to the Administrative Court.

58.1. Crown Court: Section 13 (2) (bb) of the Administration of Justice Act 1960 provides for an appeal of an order or decision of the Crown Court to the Court of Appeal.

58.2. Section 159 Criminal Justice Act 1988 provides that a person aggrieved may appeal to the Court of Appeal, with the leave of that Court, against an order made under S 4 or S 11 Contempt of Court Act 1981. The appellant will usually be the press or a broadcasting authority.

58.3. Rule 16A Criminal Appeal Rules 1968 applies to appeals under s 159, Criminal Justice Act 1988 against orders made in the Crown Court restricting or preventing reports of proceedings.

58.4. Rule 16B Criminal Appeal Rules 1968 applies to appeals under s 159, Criminal Justice Act 1988 against orders made in the Crown Court restricting public access to proceedings.

58.5. Where prosecution has taken a neutral stance at the lower court, the same position will be adopted at the Court of Appeal or Divisional Court.

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[54] https://www.cps.gov.uk/legal-guidance/contempt-court-reporting-restrictions-and-restrictions-public-access-hearings#a23

A10: REPRESENTATION

59. The SRA and BAR is an unlawful monopoly as it puts some above the law and hence is a breach of equal access to justice. There is rational reason behind this as much of the work in courts follows the 'scientific method', and for those who are not familiar with the due process of law it can save a lot of time, but only if you have the money!

60. The main problem however is that most officers of the court do not uphold their obligations upon which society entrusts them to follow the rule of law, and each officers of the court must put the court with all relevant law both in favour and dissent of each client's case, and not to knowingly or recklessly mislead the court. Remember the judicial officers can only make it decision only based upon the evidence before the court.

61. The major problem with this public trust is as most – there is a **conflict of interest** between self interest (money and ego) and the public good, which if not used in accordance with the fiduciary obligation is bad faith and hence not equitable and hence to do so is a contempt of court.

62. As all are equal under the law and no one is above the law you have the right of self defence as you see fit.

63. Lawfully, and legally you can grant through a power of attorney to have anyone of your choosing to represent you.

64. Any denial of this right is a contempt of court as it prejudices you!

65. For Council Tax hearings often the Council is not legally represented… and if not then there can be no argument for you to have assistance from whomsoever you wish to speak on your part if and when needed as the Court has set precedence that legal representation is not needed!

General Power of Attorney - section 10 of The Powers of Attorney Act 1971[55].

I, in my own right, [your name] of [your address], hereby express my will in this General Power of Attorney this [day] day of [month] 20[yy].
I have the right to defend myself as best I can and how I choose provided it is reasonable and proportionate is on the foundations of law that '*All are equal under the law*' and '*No one is above the law*'.
Further I have the common law right as expressed by Lord Diplock in *Att-Gen v. Times Newspapers Ltd. [1974] 3 All ER 54*[56] summaries as follows:
"The due administration of justice requires…
***First**: **unhindered access** … **for the determination of disputes as their legal rights and liabilities**…*
***Secondly**:… **free from bias against any party and whose decision will be based upon those facts only that have been proved in evidence adduced before it**…*
***Thirdly: no usurpation by any other person of the function of the court to decide according to law**….*
***Conduct which is calculated to prejudice any of these requirements or to undermine public confidence that they will be observed is contempt of court**".*
This is further affirmed in the Statute of Monopolies 1623[57] that any grants of privilege are unlawful, hence to be restricted to authorised officers of the court to represent me is unlawful, reaffirming common law equal treatment and fairness, partly codified in the Equality Act 2010[58].
Further the Human rights Act 1998 article 6.3(3) affirms I have the right to defend myself in person, or can choose what legal assistance I so wish.
Accordingly I herewith authorise [their name] of [their address] to assist me,
And, at times if I require, to address the court on my behalf in the matter [case number] before the [name of court] [Magistrates/County/Crown/High/Appeal] Court listed to be heard on the [dd/mm/20yy].
Signed: Date:

In the presence of: Signature:

Witness 1(name):

Of (address):

Witness 2 (name):

Of (address):

[55] https://www.legislation.gov.uk/ukpga/1971/27/contents
[56] https://learninglink.oup.com/static/5c0e79ef50eddf00160f35ad/casebook_187.htm
[57] https://www.legislation.gov.uk/aep/Ja1/21/3/contents
[58] https://www.legislation.gov.uk/ukpga/2010/15/contents/enacted

A11: LEGISLATION BY ADMISSION IS NOT LAW

66. Legislation is common law contract (look at any title page (introductory text) of an Act of Parliament [59]), where following a meeting of the minds the respective duties, rights and obligations are created by the consenting parties, namely; the Monarch, the Lords Spiritual (Church of England), the Lords Temporal (House of Lords) and the Commons (Members of Parliament), and hence is enforceable in HMCTS between the consenting parties.
"BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:"

Legislative admissions of which judicial notice must be taken:

67. The First Act of William and Mary 1688[60] (p10) creates the fictions of law, the two Houses of Parliament, and

68. The Bill of Rights 1688[61] (p13) creates the fiction Parliament Assembled and is the contract resulting from the tyranny of the Monarch to be controlled, which defines the respective parties rights and obligations affirming:

68.1. in its first sentence that Parliament Assembled is not sovereign over the people, but admitting the people are the principle and Parliament Assembled is the peoples agent, and it is trite no agent can bind its principle, and

68.2. Continuing that it is the right of the people that when those governing are no longer fit for purpose they can create an alternative governance being each person's 'auntient right and liberties', and

68.3. The legislative body, Parliament Assembled (the Monarch, Lords Spiritual and Temporal and Commons) is the principle of executive body, HM Government, who cannot act without authority of Parliament Assembled as expressed in its Acts, and

[59] https://www.legislation.gov.uk/ukpga/2020/7/introduction/enacted
[60] https://www.legislation.gov.uk/en/aep/WillandMar/1/1?view=extent&timeline=false
[61] https://www.legislation.gov.uk/en/aep/WillandMarSess2/1/2

68.4. Continuing that nothing can be done to the prejudice of the peoples, and

68.5. All who serve the Monarchy are bound to the rights and obligations contained therein, and

68.6. affirming all are equal under the law and no one is above the law, and

68.7. Order following is not lawful excuse[62].

69. The intent of the Coronation Oath Act 1688[63] (p20) is to clarify the rights and obligations of the Monarchy to maintain the Statutes, Laws and customs of all the people and inhabitants.

69.1. In its 1st oath it admits that '**Statutes in Parlyament agreed upon'** (today known as primary legislation) is one constraint on those governing, and the '**law'**, and '**customs'** are 3 different **self imposed constraints on those governing**, and

69.2. affirming all are equal under the law and no one is above the law, and

69.3. Order following is not lawful excuse[64].

70. The Intent of the Act of Settlement 1700[65] (p23) is to further limit the Royal prerogative and better secure the rights and liberties of the people. Section IV in its first sentence admits the **legislative definition of 'law' as 'the peoples birthright'**, and

70.1. each person has the right to seek shelter from the environment without cost from creation, and

70.2. continuing that those governing undertake to do so according to my, and every other persons birthright,

70.3. Affirms 'laws' and 'statutes' are not the same, and

70.4. affirming all are equal under the law and no one is above the law, and

70.5. Order following is not lawful excuse[66].

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[62] *Commissioner of Police of the Metropolis v Raissi: CA [2009] QB 564, [2008] EWCA Civ 1237* at 18 *https://www.bailii.org/ew/cases/EWCA/Civ/2008/1237.html*

[63] https://www.legislation.gov.uk/en/aep/WillandMar/1/6

[64] *Commissioner of Police of the Metropolis v Raissi: CA [2009] QB 564, [2008] EWCA Civ 1237* at 18 *https://www.bailii.org/ew/cases/EWCA/Civ/2008/1237.html*

[65] https://www.legislation.gov.uk/en/aep/Will3/12-13/2

[66] *Commissioner of Police of the Metropolis v Raissi: CA [2009] QB 564, [2008] EWCA Civ 1237* at 18 *https://www.bailii.org/ew/cases/EWCA/Civ/2008/1237.html*

71. The Coronation Oath Act 1688 in the 2nd oath admits that the **judiciary is independent, and it will only act according to law**, which is further admitted by Parliament Assembled in section 3 of the Constitution Reform Act 2005[67] which at 7[68] includes all courts of HMCTS.

71.1. The First Act of Will & Mar. 1688, the Bill of Rights 1688, the Coronation Oath Act 1688 and the Act of Settlement 1700 are constitutional Act authorising the creation and limitations of governance, and hence the officers of Parliament Assembled have no authority to uncreate these are these are its creators binding all who govern under this authority, which includes those governing today.

The Constitutional principles of Parliamentary Sovereignty and the rule of law.

72. This reaffirms the constitutional principles of Sir Edward Coke, William Blackstone and AV Dicey in line with the concept of Parliamentary Sovereignty and the constitutional principle of the rule of law as created by the people in the independent judiciary to control the arbitrary tyrannical power of those governing who undertake to do so according to law, and

72.1. Reaffirms all are equal under the law, and no one is above the law regardless of status, rank or condition, and

72.2. Thereby affirming and protecting each individual's rights and liberties, and

72.3. All Order following is not lawful excuse[69].

Legitimacy of the Bill of Rights - accepted by Parliament Assembled[70]

[67] https://www.legislation.gov.uk/ukpga/2005/4/contents
[68] https://www.legislation.gov.uk/ukpga/2005/4/part/2/crossheading/continued-judicial-independence
[69] *Commissioner of Police of the Metropolis v Raissi: CA [2009] QB 564, [2008] EWCA Civ 1237* at 18 *https://www.bailii.org/ew/cases/EWCA/Civ/2008/1237.html*
[70] https://publications.parliament.uk/pa/cm200506/cmselect/cmtran/748/748we10.htm

73. "As no doubt members will be aware, on 21 July 1993, the Speaker of The House of Commons issued a reminder to the courts. Betty Boothroyd said: "There has of course been no amendment to The Bill of Rights . . . **the House is entitled to expect that The Bill of Rights will be fully respected by all those appearing before the courts**... As you will be aware, **the Bill of Rights is a "constitutional statue"** and may not be repealed impliedly. This was stated in the case Thoburn v City of Sunderland, the decision commonly referred to as the "Metric Martyrs" Judgment. This was handed down in the Divisional Court (18 February 2002) by Lord Justice Laws and Mr Justice Crane. I will paraphrase, but have included a copy of the judgment's relevant sections 62 and 63.

62. "We should recognise a hierarchy of Acts of Parliament: as it were "ordinary" statutes and "constitutional statutes**." The special status of constitutional statutes follows the special status of constitutional rights. Examples are the . . . Bill of Rights 1689 . . .**"

63. "Ordinary statutes may be impliedly repealed. **Constitutional statutes may not** . . ."

This was **upheld by Lords Bingham, Scott and Steyn in an appeal which went to the House of Lords on Monday 15 July 2002**."

Statutes are only supreme over Royal Prerogative

74. The Bill of Right affirms that HM Government is an agent of Parliament Assembled and hence it is self evident that Parliament Assembled as principle can control HM Governments prerogative power by their enactments[71].

"*The existence and extent of prerogative powers is a matter of common law, making the courts the final arbiter of whether a particular type of prerogative power exists.*

Parliament may legislate to modify, abolish or simply put on a statutory footing any particular prerogative power.[72]

Prerogative powers are abolished by clear words in statute or where the abolition is necessarily implied. Three fundamental principles relating to prerogative powers are:[73]

- ***The supremacy of statute law. Where there is a conflict between the prerogative and statute, statute prevails***

[71] https://researchbriefings.files.parliament.uk/documents/CBP-8885/CBP-8885.pdf

[72] For example, the Constitutional Reform and Governance Act 2010 put the regulation of the Civil Service on a statutory basis and introduced a statutory role for Parliament in treaty ratification. The Fixed-term Parliaments Act 2011 also removed the former prerogative power to dissolve Parliament by Proclamation.

[73] See Commons Library Briefing Paper, The Royal Prerogative, for a full discussion

- *Use of the prerogative remains subject to the common law duties of fairness and reason and is therefore subject to judicial review in certain circumstances*
- *While the prerogative can be abolished or abrogated by statute,[74] it can never be broadened.[75]*

Two notable legal challenges were the intended use of prerogative powers to activate Article 50 of the Treaty of the European Union, which was upheld by the Supreme Court, [76] and the prorogation of Parliament advised by the government in 2019, which Justices ruled "null and of no [legal] effect".[77]

Affirmed by the UK Supreme Court which bind all lower courts.

75. This was affirmed in the unanimous 11 judge Supreme Court ruling in *R (Miller) v The Prime Minister and Cherry v Advocate General for Scotland ([2019] UKSC 41)*[78], where the court also reaffirmed:

Parliament is subject to the common law created by the people in the independant judiciary:

75.1. At 31: ***"... the courts have exercised a supervisory jurisdiction over the decisions of the executive for centuries."***, and

75.2. at 32: *Case of Proclamations* (1611) 12 Co Rep 74 that *"... **the King hath no prerogative, but that which the law of the land allowed him**..."* indicating that "*the **limits of prerogative powers*** [the source of authority to govern] ***were set by law and were determined by the courts**."*, and

75.3. at 32: from *Entick v Carrington (**1765**) 19 State Tr 1029; 2 Wils KB 275, 95 ER 807*[79]that: *"...**the Secretary of State could not order searches of private property without authority conferred by an Act of Parliament or the common law**."*, and

Parliament is only sovereign over HM Government:

75.4. at 33: from *R v Inland Revenue Comrs, Ex p National Federation of Self-Employed and Small Businesses Ltd [**1982**] AC 617, 644* [80] Lord Diplock talking about actions of officers or

[74] The Bill of Rights 1688 made it clear that "Parliament could amend or revoke any prerogative power"
[75] See Commons Library Briefing Paper SN03861, The Royal Prerogative
[76] https://www.supremecourt.uk/cases/uksc-2016-0196.html
[77] https://www.supremecourt.uk/cases/uksc-2016-0196.html
[78] https://www.supremecourt.uk/cases/docs/uksc-2019-0192-judgment.pdf
[79] https://www.casemine.com/judgement/uk/5a8ff8d260d03e7f57ecdcfa

departments of central government said: *"....**They*** [HM Government and its agents] ***are accountable to Parliament for what they do so far as regards efficiency and policy, and of that Parliament is the only judge;…"*** continuing that ***"they*** [every individual including officers governing] ***are responsible to a court of justice for the lawfulness of what they do, and of that the court is the only judge.'***.

75.5. All the admissions by Parliament Assembled and the independent judiciary affirm all are equal under the law and no one is above the law, and

75.6. Order following is not lawful excuse[81].

75.7. Governance is subject to the law of the land, and

75.8. The people create the law of the land in the independent courts.

Under the courts rules of evidence:

76. Until someone can bring creation into a court to provide firsthand cross examinable witness testimony that any individual or group of individuals (such as Parliament Assembled (independent legislature), where ultimately the power lies with 650 MP's, and its agents HM Government (independent executive)) can impose their will on 67 million people then it is self evident that no individual or group of individuals - person/s incorporated or unincorporated has authority to:

76.1. Deny another of their birthright which includes the right to seek shelter from the environment, air, water and food, and

76.2. All are equal under the law, and

76.3. No one is above the law.

[80] https://www.casemine.com/judgement/uk/5a8ff8ca60d03e7f57ecd7b9

[81] *Commissioner of Police of the Metropolis v Raissi: CA [2009] QB 564, [2008] EWCA Civ 1237* at 18 *https://www.bailii.org/ew/cases/EWCA/Civ/2008/1237.html*

B1: OATHS, AFFIRMATIONS AND ATTESTATIONS ARE THE SOCIAL CONTRACT WITH THE PEOPLE!

77. The Oaths Act 1978 affirms at 4 that an oath (or affirmation at 5 and 6 – and equitably an attestation) upon whomsoever gives the undertaking even if it is not in the prescribed form "…he is bound by it if it has been administered in such form and with such ceremonies as he may have declared to be binding…"
    77.1. As equity is substance (the intent) over form.

78. Accordingly, all those governing are bound by their oath to fulfil the duties, rights and obligations undertaken by their freewill, and
    78.1. As the law must be simple, understandable and well known,
    78.2. The oaths, affirmations or attestations taken by the officers who govern and in the judiciary are liable to the people if they act in breach of their undertakings to the people.

79. And hence these are the social contract!

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B2: DUTIES, RIGHTS AND OBLIGATIONS OF OFFICERS OF THE COURT

QC's, Barristers Solicitors, Magistrates legal advisors (used to be called clerks)

Courts are not adversarial – a myth created by the legal profession…

80. The Court is the fiction of law where justice is administered. They cannot act for they have no being. It acts through its agents, the officers of the court which are the justices of the peace (Magistrates and judges) and any one authorised in the legal profession, namely solicitors, barristers and Queens Council (QC's).

All Courts are Courts of Equity…

81. Following the merger of equity and the common law in the Judicature Acts 1873 to 1875, all Courts were granted equitable jurisdiction. Section 49(2) of the Senior Courts Act 1981 [82] affirms in every case before the courts the rules of equity must be applied so as to avoid a multiplicity of suites and thereby make efficient use of the courts resources by not reinventing the wheel in every case. Being the higher authority, both the Magistrates Courts and the Crown Court must abide it.

Common Law:

82. The lawful obligations eloquently expressed, hence quoted in full, by The Lord Chief Justice in *Brett v SRA [2014] EWHC 2974 (Admin)* [83] at 111 expressing:

*"…**misleading the court is regarded by the court and must be regarded by any disciplinary tribunal as one of the most serious offences that an advocate or litigator can commit.** It is not simply a breach of a rule of a game, but a fundamental affront to a rule designed to safeguard the fairness and justice of proceedings. **Such conduct will normally attract an exemplary and deterrent sentence.** That is in part because our system for the administration of justice relies so heavily upon the integrity of the profession and the full discharge of the profession's duties and in part because the privilege of conducting litigation or appearing in court is granted **on terms that the rules are observed not merely in their letter but in their spirit**. Indeed, the reputation of the system of the administration of justice in England and*

[82] https://www.legislation.gov.uk/ukpga/1981/54/section/49
[83] https://www.casemine.com/judgement/uk/5a8ff74460d03e7f57eaa98a

Wales and ***the standing of the profession depends particularly upon the discharge of the duties owed to the court****."*

Legal obligations:

83. QC's, Barristers Solicitors, Magistrates legal advisors (used to be called clerks) all have obligations under the Legal Services Act 2007; Part 1 [84], specifically Section (1) (a) (b) and (h), where, as an "authorised person" at (2), are obliged under (3) to adhere to their "professional principles", as detailed in the Solicitors Regulation Authority SRA Handbook [85] and / or the Bar Standards Board BSB Handbook [86], and / or CILEX Code of Conduct [87] specifically breached his following obligations;
    - 83.1. overriding duty and obligation to uphold the rule of law, and the constitutional principal of the rule of law, and
    - 83.2. their duty to the court which overrides their duty to their client, and
    - 83.3. an obligation to provide the court with all relevant law, including dissenting opinions which may undermine their case (**THIS MEANS EACH OFFICER** AND THEREBY DISPELLING THE MYTH THAT THE UK SYSTEM IS ADVERSERIAL).
        - 83.3.1. obligation not to attempt to deceive or knowingly or recklessly mislead the court, and
        - 83.3.2. obligation to take special care when dealing with litigants in person to use plain language and not to take advantage by bullying and unjustifiable threats or misleading or deceitful behaviour, and
        - 83.3.3. Not to claim what cannot rightfully be claimed, and
        - 83.3.4. Not to create a dispute where none exists.

[84] https://www.legislation.gov.uk/ukpga/2007/29/part/1
[85] https://www.sra.org.uk/solicitors/standards-regulations/
[86] https://www.barstandardsboard.org.uk/uploads/assets/de77ead9-9400-4c9d-bef91353ca9e5345/fdf622a6-ec2a-469f-9e0af0b7a55edcd3/second-edition-test31072019104713.pdf
[87] https://cilexregulation.org.uk/wp-content/uploads/2018/11/2.-Code-of-Conduct-2019.pdf

B3: DUTIES, RIGHTS AND OBLIGATIONS OF JUDICIAL OFFICERS OF THE COURT

'There is . . no such person known to the law as the anonymous JP.'[88]

All judges in courts and tribunals, whether salaried or fee-paid, legal or non-legal, including Magistrates and Coroners

84. The Guide to Judicial Conduct [89] sets out three basic principles guiding judicial conduct.
    84.1. Judicial independence, and
    84.2. Impartiality, and
    84.3. Integrity

Summarised:

85. These principles provide judges with a guide both as to the way in which they discharge their judicial functions and as to the conduct of their private lives to the extent that it affects those functions.

86. They are a distillation of the six fundamental values set out in the Bangalore Principles of Judicial Conduct that were endorsed at the 59th session of the United Nations Human Rights Commission at Geneva in April 2003 and which form the key statement on judicial ethics [90] .

Judicial Independence:

87. Judicial independence is a cornerstone of our system of government in a democratic society and a safeguard of the freedom and rights of the citizen under the rule of law. The judiciary must be seen to be independent of the legislative and executive arms of government both as individuals and as a whole.

[88] Regina v Felixstowe Justices ex parte Leigh: CA 1987 https://swarb.co.uk/regina-v-felixstowe-justices-ex-parte-leigh-ca-1987/

[89] https://www.judiciary.uk/wp-content/uploads/2020/03/Guide-to-Judicial-Conduct-Guide-Fourth-Amendment-2020-v3-1.pdf

[90] The six principles are: independence, impartiality, integrity, propriety, equality and competence and diligence. The Bangalore Principles 2002 can be found in full at http://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf

88. Judges should bear in mind that the principle of judicial independence extends well beyond the traditional separation of powers and requires that a judge be, and be seen to be, independent of all sources of power or influence in society, including the media and commercial interests.

89. **Judges must be immune to the effects of publicity, whether favourable or unfavourable**. **That does not of course mean being immune to an awareness of the profound effect judicial decisions may have, not only on the lives of people before the court, but sometimes upon issues of great concern to the public.**

Impartiality:

90. The judicial oath provides:

"I will do right to all manner of people after the laws and usages of this Realm, without fear or favour, affection or ill-will."

91. In taking that oath, the judge acknowledges that he or she is primarily **accountable to the law which he or she must administer**. Coroners and some fee paid judges do not take the judicial oath, but they too are primarily accountable to the law which they administer.

92. Judges should strive to ensure that their conduct, both in and out of court maintains and enhances the confidence of the public, the legal profession and litigants, in their personal impartiality and that of the judiciary.

93. The question whether an appearance of bias or possible conflict of interest is sufficient to disqualify an officeholder from hearing a case is the subject of Strasbourg, English and Welsh and Commonwealth jurisprudence. English cases include Locobail (UK) Ltd v Bayfield Properties Ltd [2002] QB 451, R v Bow Street Magistrates ex parte Pinochet (No.2) [2000] 1 AC 119, Re Medicaments and Related Classes of Goods (No.2) [2001] 1 WLR 700, M v Islington LBC [2002] 1 FLR 95 and Lawal v Northern Spirit Ltd [2003] UKHL 35.

Integrity:

94. Judges are expected to put the obligations of judicial office above their own personal interests. In practical terms, this means that judges are expected to display:

94.1. **Intellectual honesty**

94.2. **Respect for the law and observance of the law**

94.3. Prudent management of financial affairs

94.4. **Diligence and care in the discharge of judicial duties**

94.5. Discretion in personal relationships, social contacts and activities

95. A judge's conduct in court should uphold the status of judicial office, the commitment made in the judicial oath and the confidence of litigants in particular and the public in general. The judge should seek to be courteous, patient, tolerant and punctual and should respect the dignity of all. **He or she should ensure that no one in court is exposed to any display of bias or prejudice from any source**. In the case of those with a disability, care should be taken that arrangements made for **and during a court hearing do not put them at a disadvantage** [91].

96. **The principles of exercising equality and fairness of treatment have always been fundamental to the role and conduct of the judiciary when carrying out their judicial functions and are inherent in the judicial oath**…

Also of relevance is Behaviour towards court staff and court users:

97. Members of the judiciary should seek to be courteous, patient, tolerant and punctual and should **respect the dignity of all**. They should ensure that **no one in court is exposed to any display of bias or prejudice** on grounds which include but are not to be limited to "race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes". In the case of those with a disability, care should be taken that arrangements made for and during a Court hearing do not put them at a disadvantage. Further guidance is given in the Judicial College's Equal Treatment Bench Book [92]. The duty remains on the judicial officeholder to apply the law as it relates to allegedly discriminatory conduct.

98. **Care should be taken to ensure proper access to justice and equality of treatment where one or both of the parties before the court are unrepresented[93].**

[91] For further guidance see the Judicial College's Equal Treatment Bench Book. https://judicialcollege.judiciary.gov.uk/ mod/book/view.php?id=27208

[92] https://judicialcollege.judiciary.gov.uk/mod/book/view.php?id=27208

[93] See in particular, the requirements set out in CPR 3.1A.

B4: EVIDENCE BASICS

99. The court must reach it decision ONLY based upon the evidence presented before it by the disputing parties, on the balance of probabilities in civil matters and beyond reasonable doubt in criminal matters.

99.1. Summed up by Lord Diplock in Att-Gen v. Times Newspapers Ltd. [1974] [94], ante, outline the various ways in which the due administration of justice:

*"The due administration of justice requires first that all citizens should have **unhindered access** to the constitutionally established courts of criminal or civil jurisdiction for the determination of disputes as their legal rights and liabilities;*

*secondly, that they should be able to rely upon obtaining in the courts the arbitrament of a tribunal which is **free from bias against any party** and whose decision will be **based upon those facts only that have been proved in evidence adduced before** it in accordance with the procedure adopted in courts of law; and*

*thirdly that, once the dispute has been submitted to a court of law, they should be able to rely upon there being **no usurpation by any other person of the function of the court to decide according to law**.*

Conduct which is calculated to prejudice any of these requirements or to undermine public confidence that they will be observed is contempt of court".

Judicial Notice:

100. This is a very powerful tool where Legislation and Court Judgements can be used in Courts as proven fact, and

100.1. Also judicial notice can be used to avoid wasting the courts time when a 'fact' is not reasonably disputable, **and** it is easily verifiable from authoritative sources, or

100.1.1. is commonly known through observation or experience by any person, that it cannot reasonably be doubted, and

[94] https://learninglink.oup.com/static/5c0e79ef50eddf00160f35ad/casebook_187.htm

100.1.2. is requested by one party to the court, or is by the application of knowledge within the court records, and

100.1.3. has the right of rebuttal by the other party (beyond reasonable doubt in criminal cases).

100.2. In the decision of a Divisional Court in *Bracegirdle v Oxley and Cobley* [1947] KB 349 Lord Bingham expressed:

*"**It is obviously perverse and an error of law to make a finding of fact for which there is no evidential foundation.** It is also perverse to say that black is white, which is essentially what the justices did in Bracegirdle v Oxley and Cobley. But it is not perverse, even if it may be mistaken, to prefer the evidence of A to that of B where they are in conflict. That gives rise, in the absence of special and unusual circumstances ... to no error of law challengeable by case stated in the High Court. It gives rise to an error of fact properly to be pursued in the Crown Court."*

Denial of Evidence

101. All Court rules will include forcing both parties to disclose evidence required by each from the other.

101.1. **If either party is denied evidence from the other then that creates prejudice and hence is a contempt of court**

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B5: COURT SENTENCING MUST BE EQUITABLE

102. Equity is triggered by unconscionability, i.e. when something is not fair and just!

102.1. §164 of the Criminal Justice Act 2003 had been superseded by the Sentencing Act 2020[95].

Fine can be no higher than authorised by Parliament Assembled

102.2. § 118 **Availability of fine: magistrates' court**

(1) A fine is available to a magistrates' court dealing with an offender for an offence if under the relevant offence provision a person who is convicted of that offence is liable to a fine.

(2) If under the relevant offence provision the **offender is liable to**—

(a) **a fine of a specified amount**,

(b) a fine of not more than a specified amount,

the amount of the fine—

(i) **must not be more than that amount, but**

(ii) **may be less than that amount** (unless an Act passed after 31 December 1879 expressly provides to the contrary).

Fine cannot be more than the offender can pay at the time of the fine

102.3. § 124 **Fixing of fine: duty of court to inquire into individual offender's circumstances at (1)**

*"Before fixing the amount of any fine to be imposed on an offender who is an individual, a **court must inquire into the offender's financial circumstances**."*

102.4. Further, section 125 (2) reaffirms the Courts obligation under section 124(1) that the fine must take into account the individuals financial circumstances, and

102.5. under the Courts powers at (3) to increase or reduce a fine and at (4) the court **cannot order a fine or surcharge if <u>the individual has insufficient means to pay both</u>**.

[95] https://www.legislation.gov.uk/ukpga/2020/17/part/7/chapter/1

No victim, no harm, no crime hence no fine!

102.6. § 125 **Exercise of court's powers to impose fine and fix amount**

(1) The amount of any fine fixed by a court **must be such as, in the opinion of the court, reflects the seriousness of the offence**.

102.6.1. Section **63 Assessing seriousness,** the Court has the obligation**:**

102.6.2. Where a court is considering the seriousness of any offence, **it must consider** at

(b) any **harm** which the offence:

102.6.2.1. (i) caused,

102.6.2.2. (ii) was intended to cause, or

102.6.2.3. (iii) might foreseeable have caused (due diligence / negligence),

102.6.3. Affirming the rules of equity that in substance:

102.6.3.1. if there is no victim,

102.6.3.2. by impossibility there cannot be any harm, and

102.6.3.3. therefore there is no remedy required (there cannot be a fine).

Affirming the rules of equity are upheld

103. This is in accordance with the Senior Court Act 1981 §49 that equity must be applied in each matter…

103.1. **Ability to pay**… if you cannot pay then they cannot fine you!

103.2. **Seriousness of the offence**…

103.2.1. **This is a check and balance where the courts MUST control any tyrannical motives of those governing** and determine if the legislation has a legitimate aim, alternative measures to achieve that legitimate aim have been considered, and the one which least impacts on any individuals rights has been chosen. If there is no legitimate aim no fine can be charged.

103.2.1.1. Any discount if you pay within 'x' days is admission that the fine is set above any potential harm from a legitimate aim, and

103.2.1.2. hence brings into question as to whether it is merely revenue generating, or

103.2.1.3. an attempt by Parliament Assembled to unlawfully impose their will to control people's behaviour to someone else's agenda!!!

103.2.1.4. The court must hence evaluate the legitimate aim before imposing any fine, and must show evidence of harm having been caused, or intent of causing harm (i.e. a breach of the peace).

103.2.1.5. Did you follow your due diligence???

Why is it lawful for emergency services to go through red lights?

They have flashing lights, make a lot of noise, slow down to ensure it is safe to cross and then proceed with caution = due diligence!

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B6: CUSTODIAL SENTENCES MUST BE EQUITABLE

104. Equity is triggered by unconscionability, i.e. when something is not fair and just!

104.1. The Sentencing Act 2020[96] again affirms custodial sentences are only a last resort (which is rational as it is removing a person's liberties!) and again follows the rules of equity.

229 Power of magistrates' court to imprison for less than specified term

(1) Where a magistrates' court has power to sentence an offender to imprisonment for a period specified by an enactment (whether passed or made before or after this Act), the court may sentence the offender to imprisonment for less than that period.

(2) This is subject to—

(a) section 132 of the Magistrates' Courts Act 1980 (5 day minimum term);

(b) express provision to the contrary in an Act passed after 31 December 1879.

230 Threshold for imposing discretionary custodial sentence

(1) Subsection (2) applies where a person is convicted of an offence which is punishable with a custodial sentence.

This is subject to subsection (3).

(2) The court **must not pass a custodial sentence unless** it is of the opinion that—

(a) the offence, or

(b) the combination of the offence and one or more offences associated with it,

was so serious that **neither a fine alone nor a community sentence can be justified** for the offence.

(3) This section does not apply if the offence is one in relation to which a mandatory sentence requirement applies

(4) Nothing in subsection (2) prevents the court from passing a custodial sentence on the offender if the offender fails to express willingness to comply with a requirement—

(a) which the court proposes to include in a community order, but

(b) which may be included only if the offender expresses willingness to comply with it.

(6) In forming its opinion for the purposes of subsection (2), the court **must take into account all the information that is available to it about the circumstances of the**

[96] https://www.legislation.gov.uk/ukpga/2020/17/part/7/chapter/1

offence, or of it and the associated or offence or offences, including any aggravating or mitigating factors.

231 Length of discretionary custodial sentences: general provision

(1) Subsection (2) applies where a court passes a custodial sentence in respect of an offence. This is subject to subsections (3) to (6).

(2) **The custodial sentence must be for the shortest term** (not exceeding the permitted maximum) that in the opinion of the court is **commensurate with the seriousness** of—

(a) the offence, or

(b) the combination of the offence and one or more offences associated with it.

277 Suspended sentence order for person aged 21 or over: availability

(1) This section applies where, in dealing with an offender for an offence, a court passes a sentence of imprisonment.

(2) A suspended sentence order (see section 286) is available in relation to that sentence if the term of the sentence of imprisonment is—

(a) at least 14 days, but

(b) not more than 2 years.

(3) But a suspended sentence order is not available in relation to that sentence if—

(a) the sentence of imprisonment is one of two or more sentences imposed on the same occasion which are to be served consecutively, and

(b) the terms of those sentences are in aggregate more than 2 years.

B7: EQUITABLE COSTS

105. Equity is triggered by unconscionability, i.e. when something is not fair and just!

105.1. **BE THOROUGH WITH YOUR PRE-ACTION PROTOCOL AS YOU MUST DO ALL REASONABLE POSSIBLE TO SETTLE MATTERS IN THE PRIVATE BEFORE GOING FO PUBLIC DISPUTE RESOLUTION** – this is for both bringing or defending a claim as no party can claim for costs they themselves created as under the dictum from Lord Mansfield in *Montefiori v Montefiori (1762)*[97]

'no man shall set up his own iniquity as a defence, any more than as a cause of action'

105.2. **Cost are discretionary in all courts:** All costs must be **reasonably incurred** which means any party not acting in honour, good faith or unclean hands (their legal and professional obligations detailed elsewhere)

105.3. Costs in civil litigation will either be assessed on the standard basis or the indemnity basis (Civil Procedure Rule 44.3); the default position is the standard basis (CPR 44.3(4)). However, a court may order costs on the indemnity basis if the circumstances of the case justify such an order being made.

105.4. The Court of Appeal has declined to define the circumstances in which a court could or should make an order for costs on the indemnity basis. In *Excelsior Commercial and Industrial Holdings v Salisbury Hamer Aspden & Johnson* [2002] EWCA Civ 879, Lord Woolf, then lord chief justice, at paragraph 30, cited a judgment of Simon Brown LJ in *Kiam v MGN Ltd* (No. 2) [2002] 2 All ER 242 who, at paragraph 12, said:

'I for my part, understand the court there to have been deciding no more than that conduct, albeit falling short of misconduct deserving of moral condemnation, can be so unreasonable as to justify an order for indemnity costs. With that I respectfully agree.

'To my mind, however, such conduct would need to be unreasonable to a high degree; unreasonable in this context certainly does not mean merely wrong or misguided in

[97] http://www.commonlii.org/uk/cases/EngR/1746/363.pdf

hindsight. An indemnity costs order made under part 44 (unlike one made under part 36) does I think carry at least some stigma. It is of its nature penal rather than exhortatory…'

105.5. In *Fitzpatrick Contractors Ltd v Tyco Fire and Integrated Solutions (UK) Ltd* [2008] EWHC 1391 (TCC), Mr Justice Coulson, at paragraph 3(iv), provided some guidance on what circumstances would justify costs being assessed on an indemnity basis. He said: 'Examples of conduct that have led to such an order for indemnity costs include the use of litigation for ulterior commercial purposes… and the making of an unjustified personal attack on one party by the other…'

105.6. **The effect of an order requiring payment of costs on the indemnity basis is to disapply the requirement that**[98]:

105.6.1. in addition to costs being reasonably incurred,

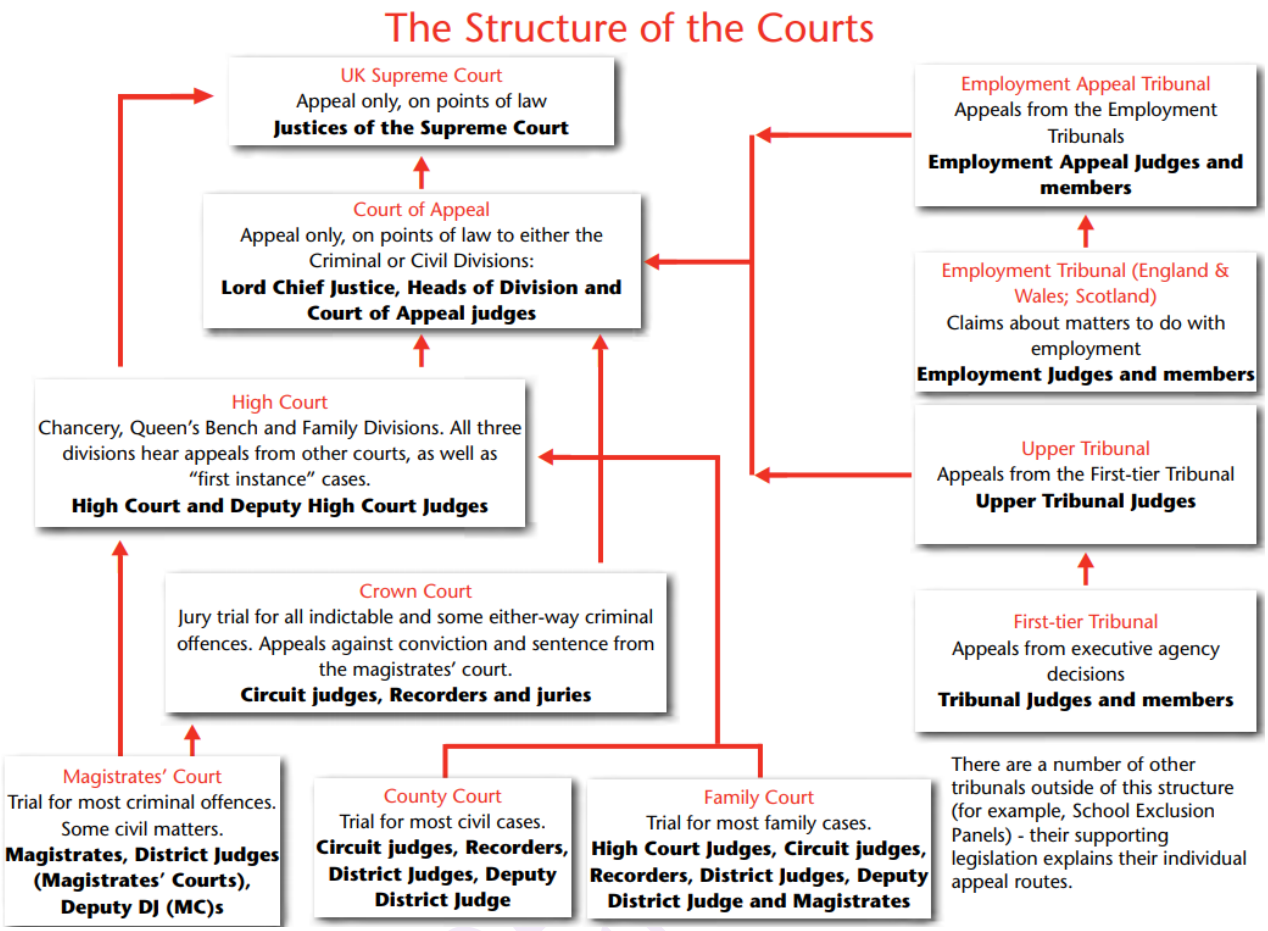
105.6.2. they should also be proportionate to the sums and issues at stake in the litigation, and

105.6.3. in the event of the **assessment judge having a doubt as to whether or not an item of cost has been incurred reasonably,**

105.6.4. the benefit of such doubt should go to the receiving rather than the paying party.

[98] https://www.lawgazette.co.uk/legal-updates/civil-litigation-indemnity-costs/5047464.article

C: STRUCTURE OF UK COURTS



Structure of the courts & tribunal system[99]

106. Magistrates courts ARE NOT A COURT OF RECORD – ask to record (see Recording in Courts)

[99] https://www.judiciary.uk/about-the-judiciary/the-justice-system/court-structure/

LEGISLATIVE AFFIRMED AUTHORITY OF THE COURTS

C2: MAGISTRATES COURT

107. The legislative admission of the Magistrates Courts is affirmed in the Magistrates Court Act 1980[100]

107.1. Magistrates courts ARE NOT A COURT OF RECORD – ask to record (see Recording in Courts).

107.2. 90% to 95% of all claims of harm are dealt with in Magistrates Courts.

107.3. Like all courts:

107.3.1. Can only make their decision based upon the evidence brought before the court, and

107.3.2. it is the individual obligation of each of its legal officers to advise them (the bench) as to correct procedures, the relevant law both in favour of the claimant and in dissent of the claimant's case.

107.3.3. As the officers of the court have an obligation to the rule of law, constitutional principle of the rule of law and to not knowingly or recklessly mislead the court and put the court with all relevant law in favour and dissent of each parties position,

107.3.4. they must at all times assist any party which is not 'legally' represented as not to would be abandoning their office resulting from breaches of their obligations to the court.

107.4. Magistrates are NOT legally trained.

107.5. As there is no legal (legislated by Parliament Assembled) obligation to follow the rules of equity, this is done through the Common Law precedence of the Earl of Oxford Case

[100] https://www.legislation.gov.uk/ukpga/1980/43/contents

1615[101], which binds all lower courts to follow the rules of equity which prevail in the event of a conflict with the common law, thereby granting lawful excuse.

107.6. Any civil or criminal matters can be brought into the Magistrates Court as the rule of law is foundational to a peaceful society.

107.7. Any civil matter (PART II)[102] unless Parliament Assembled chooses otherwise[103].

107.8. Magistrates Courts have authority to hear any summary (Parliament Assembled simply makes this up subjectively as 'minor' or either way offences) criminal matter (PART I)[104], and

107.9. For Either way offences the defendant has the legal right to have a jury trial in the Crown Court.

107.9.1. This is not lawful as the judiciary is independent and not subject to the dictates of Parliament Assembled who have restricted the right to the rule of law by placing arbitrary limits on civil matters that Magistrates Courts can deal with,

107.9.2. thereby socio economically discriminating against the poor in breach of common law equality and fairness, namely in breach of foundational law that all are equal under the law and no one is above the law!

107.9.3. Further this is in direct conflict with the Statute of Monopolies 1623[105] which affirms ANY grants of privilege are unlawful, which is self evident as all are equal under the law and no one is above the law…, and

107.9.4. In breach of section XXIX of Magna Carta 1297[106] but by lawful judgement of his peers or by the law of the land, and

107.9.5. In breach of Liberty of Subjects (1354)[107] but by due process of the law, and

107.9.6. In breach the Bill of Rights 1688[108] conviction by juries ,and

[101] https://www.lawteacher.net/free-law-essays/equity-law/conflict-between-common-law-and-equity-equity-law-essay.php
[102] https://www.legislation.gov.uk/ukpga/1980/43/part/II
[103] https://www.legislation.gov.uk/ukpga/1980/43/section/52
[104] https://www.legislation.gov.uk/ukpga/1980/43/part/I
[105] https://www.legislation.gov.uk/aep/Ja1/21/3/contents
[106] https://www.legislation.gov.uk/aep/Edw1cc1929/25/9/contents
[107] https://www.legislation.gov.uk/aep/Edw3/28/3
[108] https://www.legislation.gov.uk/aep/WillandMarSess2/1/2

107.9.7. section 2 of Article 6 of the Human Rights Act 1998 that everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

107.9.8. By a court accepting this it is bias, and both the legal officers and judicial officers upholding this are abandoning their office which can result in lifetime imprisonment!

107.10. Section 101[109] is unlawful as again Parliament Assembled is attempting to impose its will on the independent judiciary by suggesting Acts of Parliament can create rights and obligations upon whom so ever they wish and goes against the fundamental tenants of law of innocent until proven guilty, as you must prove legislation does not have authority over you.

107.10.1. Further this is in direct conflict with the Statute of Monopolies 1623[110] which affirms ANY grants of privilege are unlawful, which is self evident as all are equal under the law and no one is above the law…, and

107.10.2. In breach of section XXIX of Magna Carta 1297[111] but by lawful judgement of his peers or by the law of the land, and

107.10.3. In breach of Liberty of Subjects (1354)[112] but by due process of the law, and

107.10.4. In breach the Bill of Rights 1688[113] conviction by juries ,and

107.10.5. section 2 of Article 6 of the Human Rights Act 1998 that everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

107.11. By a court accepting this is admission of bias and that the court is not independent, but an unlawful administrative court.

107.12. both the legal officers and judicial officers upholding this are abandoning their office which can result in lifetime imprisonment!

107.12.1. **This equally can be used to force the Magistrates Court by rebuttal that legislation cannot create rights or obligations and MUST be granted by the Court as a lawful cause of action must first be established before any matter can proceed to trial of the facts…**

[109] https://www.legislation.gov.uk/ukpga/1980/43/section/101
[110] https://www.legislation.gov.uk/aep/Ja1/21/3/contents
[111] https://www.legislation.gov.uk/aep/Edw1cc1929/25/9/contents
[112] https://www.legislation.gov.uk/aep/Edw3/28/3
[113] https://www.legislation.gov.uk/aep/WillandMarSess2/1/2

Entering a plea

108. By entering a plea you are agreeing the charge is lawful (you can change a not guilty to no case to answer at court to recover…).

108.1. If you do not agree the charges are lawful (no cause for their action as no harm has been caused or intended to be caused) and you want to argue points of law, then enter a plea as follows:

"I am unable to enter a plea as there is no lawful cause of action.
No sentence (fine or forfeiture) can be imposed in accordance with the Sentencing Act 2020[114] *as no evidence has been presented in accordance with Section* ***63 Assessing seriousness, where*** *the Court has the legal obligation when considering the seriousness of any offence,* ***it must consider*** *at (b) any* ***harm*** *which the offence (i) caused, (ii) was intended to cause, or (iii) might foreseeable have caused (due diligence / negligence). Further the court has no authority to impose any fine or forfeiture unless a jury so decides in accordance with the Bill of Rights 1688.*
Accordingly there is no case to answer."

109. **If you enter a guilty plea** then a single justice procedure will be completed to fill in the paperwork.

110. **If you enter alternative plea**, a single justice procedure may be called to ensure all parties have disclosed all evidence required by the other, and narrow down the issues before the court, and it will be listed for a hearing.

111. Section 98: Evidence must be given under oath unless Parliament Assembled chooses otherwise[115].

111.1. This is not lawful as the judiciary is independent and not subject to the dictates of Parliament Assembled who have restricted the right to the rule of law by placing arbitrary constraints on the due process of law.

111.2. By a court accepting this it is bias, and both the legal officers and judicial officers upholding this are abandoning their office which can result in lifetime imprisonment!

[114] https://www.legislation.gov.uk/ukpga/2020/17/part/7/chapter/1
[115] https://www.legislation.gov.uk/ukpga/1980/43/section/98

Costs

112. When the judgment in the case has been delivered, the judge must deal with the cost of the case. This may include:

112.1. the fees of any lawyers,

112.2. court fees paid out by the parties,

112.3. fees of expert witnesses,

112.4. allowances that may be allowed to litigants who have acted in person (without lawyers), earnings lost and

112.5. travelling and other expenses incurred by the parties and their witnesses.

112.6. **The general rule is that the unsuccessful party will have to pay the successful party's costs** but the judge has a wide discretion to depart from this rule.

112.7. They may decide, for example, that the unsuccessful party should pay only a proportion of the successful party's costs or that each party should bear their own costs.

112.8. The judge may hear representations about this at the end of the case.

112.9. SO MAKE SURE YOU FOLLOW A FAIR AND JUST PRE-ACTION PROTOCOL… some are listed in the CPR

Magistrates Court Rules

113. The rules set out generalities such as designated officers, laying information or a complaint and detail.

Magistrates Court Civil Procedure Rules:

113.1. Magistrates' Courts Rules 1981 SI 1981 No 552 (as amended) upto date January 2020[116], and

113.2. For updates and links to rules and forms[117].

114. All courts follow the same Criminal Procedure Rules (CrimPR# followed by the section thereof):

114.1. The Criminal Procedure Rules 2020[118], and

[116] https://www.justice.gov.uk/courts/procedure-rules/criminal/magistrates-courts-rules-1981.pdf
[117] https://www.gov.uk/guidance/updates-on-other-procedure-rules-for-magistrates-courts-and-the-crown-court
[118] https://www.legislation.gov.uk/uksi/2020/759/contents/made

114.2. For updates and links to rules and forms[119].

Specific procedures to know

115. Magistrates' Courts Rules 1981 SI 1981 No 552 (as amended)[120] up to date January 2020 apply to both Civil and Criminal cases if any omissions appear in the Criminal procedure rule.

115.1. Specific Criminal Procedure rules are dealt with below, and they apply to all criminal cases in all courts.

115.2. ALL court documents at 4A can be kept by the designated officer under conditions imposed by the court:

115.2.1. Hence e.g. The Councils designated officers can keep all council tax related documents, or

115.2.2. for any case anyone brings with leave of the court as the prosecutor you may be directed to keep the court file.

115.3. The trial of information or complaint is at 14 as follows:

Summary Trial:

115.3.1. **if the defendant appears** under section 53 of the Magistrates Court Act 1980[121] shall hear first the evidence of the complainant and then the defendant and based upon that either make the order for which the complaint is made or dismiss the complaint

115.3.2. **if the defendant does not appear, has been correctly served** the complainant is enters their evidence and you do not defend yourself then based upon the evidence you had the opportunity to defend yourself but chose not to so you will end up with a summary judgement in favour of the complainant.

115.3.3. **If the complainant does not** appear unless evidence has been entered the court

[119] https://www.gov.uk/guidance/announcements-from-the-criminal-procedure-rule-committee
[120] https://www.justice.gov.uk/courts/procedure-rules/criminal/magistrates-courts-rules-1981.pdf
[121] https://www.legislation.gov.uk/ukpga/1980/43/part/II/crossheading/hearing-of-complaint

may dismiss the complaint.

115.3.4. **If neither party appears** the court may dismiss the complaint.

115.4. **Hearing of Complaint:**

115.4.1. The complainant shall call their evidence before the court , then

115.4.2. The respondent may cross examine, then

115.4.3. The respondent shall call their evidence, then

115.4.4. The complainant may call evidence to rebut the respondents evidence, then

115.4.5. The respondent has an opportunity to rebut the rebuttal,

115.4.6. Then with leave of the court one more round **always ending with the respondent**

Appeals from the Magistrates Court

116. You can only appeal to the same or higher Court where the decision you want to appeal was made, and you cannot have two appeals regarding the same matter in more than one court.

117. **Grounds for appeal are <u>anything which prejudiced your defence</u>:**

117.1. **errors in law which include any procedural error, or**

117.2. **That the court could not rationally reached its conclusion based upon the evidence before it, or**

117.3. **New evidence or other facts.**

118. MCA1980 **section 142 Power of magistrates' court to re-open cases to rectify mistakes etc** [122]-

118.1. The court may vary a sentence or other order and you must show why there has been a miscarriage of justice.

118.2. There is no time limit.

119. MCA1980 **section 108 Right of Appeal to Crown Court**[123] - If you pleaded guilty then you can only appeal the sentence, if not then you can appeal conviction and sentence.

[122] https://www.legislation.gov.uk/ukpga/1980/43/section/142
[123] https://www.legislation.gov.uk/ukpga/1980/43/section/108

119.1. For a criminal appeal use Part 34 of the CrimPR[124], and the linked form for conviction and sentence[125], or sentence[126].

120. MCA1980 **section 111 Statement of Case by Magistrates Court[127]** - This forces the Magistrates to explain with logic and reason how they reached their decisions.

120.1. If you are aggrieved by the conviction, order, determination or other proceedings on grounds it was wrong in law (this can be procedural such as decision could not reasonably be reached based upon the evidence before the court) or in excess of jurisdiction (beyond the authority of the court) you can apply for the court to prepare a statement of case for the opinion of the High Court, and

120.2. **This application must be made within 21 days.**

120.3. The court in has 21 days from the application to state a case or not (section 77 of the Magistrates Court Rules this applies to both criminal and civil procedures)[128].

120.3.1. If the court refuses to state a case it must provide you with a certificate for the same and you can force them to state a case under section 111(6) of the MCA1980[129].

120.4. **For Civil procedure** - If the court state a case it must send the draft to the applicant within 21 days(rule 77(1)), and

120.4.1. Within 21 days of receipt of the draft each party can make representations (rule 77(2)), and

120.4.2. Within 21 days the Court must submit the final case (rule 78).

120.5. **For Criminal Procedure** there is no time limit specified for the court to prepare the statement of case, however in default the 21 days must apply as that is not only restricted to civil matters, and the draft must be in the format found in the CrimPR 35.3[130], and

120.5.1. CrimPR 35.3(3) Within 15 days of the court deciding to state a case must provide all parties with a draft, and

120.5.2. CrimPR 35.3(6) parties served a draft must respond within 15 days, and

120.5.3. CrimPR 35.3(7) the court must provide final statement of case.

[124] https://www.legislation.gov.uk/uksi/2020/759/part/34/made
[125] https://www.gov.uk/government/publications/appeal-against-conviction-or-conviction-and-sentence
[126] https://www.gov.uk/government/publications/appeal-against-sentence-only
[127] https://www.legislation.gov.uk/ukpga/1980/43/section/111
[128] https://www.justice.gov.uk/courts/procedure-rules/criminal/magistrates-courts-rules-1981.pdf
[129] https://www.legislation.gov.uk/ukpga/1980/43/section/111
[130] https://www.legislation.gov.uk/uksi/2020/759/part/35/made

120.6. The court may refuse to state a case (within 21 days of application) under MCA1980 section 111(5) then ask for a certificate for the same, and

120.6.1. Apply to the High Court for an order mandamus to force the lower court to state their case as to how they reached their decisions!

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C3: THE COUNTY COURT

121. The legislative admission of the County Courts is affirmed in the County Court Act 1984[131].

121.1. County Courts are Courts of record.

122. **Section 23 limits equitable jurisdiction**, however the Court MUST follow common law precedence and apply Equity in all matters in accordance with of the Earl of Oxford Case 1615[132], which binds all lower courts to follow the rules of equity which prevail in the event of a conflict with the common law, thereby granting lawful excuse.

122.1. Parliament Assembled is attempting to impose its will on the independent judiciary by suggesting Acts of Parliament can create rights and obligations upon whom so ever they wish and goes against the fundamental tenants of law of innocent until proven guilty, as you must prove legislation does not have authority over you.

122.2. Further this is in direct conflict with the Statute of Monopolies 1623[133] which affirms ANY grants of privilege are unlawful, which is self evident as all are equal under the law and no one is above the law…, and

122.3. In breach of section XXIX of Magna Carta 1297[134] but by lawful judgement of his peers or by the law of the land, and

122.4. In breach of Liberty of Subjects (1354)[135] but by due process of the law, and

122.5. In breach the Bill of Rights 1688[136] conviction by juries ,and

122.6. section 2 of Article 6 of the Human Rights Act 1998 that everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

122.7. By a court accepting this it is bias, and both the legal officers and judicial officers upholding this are abandoning their office which can result in lifetime imprisonment!

Jurisdiction to hear cases

123. County Courts only deal with civil matters[137] such as:

[131] https://www.legislation.gov.uk/ukpga/1984/28/contents
[132] https://www.lawteacher.net/free-law-essays/equity-law/conflict-between-common-law-and-equity-equity-law-essay.php
[133] https://www.legislation.gov.uk/aep/Ja1/21/3/contents
[134] https://www.legislation.gov.uk/aep/Edw1cc1929/25/9/contents
[135] https://www.legislation.gov.uk/aep/Edw3/28/3
[136] https://www.legislation.gov.uk/aep/WillandMarSess2/1/2

123.1. Businesses trying to recover money they are owed;

123.2. Individuals seeking compensation for injuries;

123.3. Landowners seeking orders that will prevent trespass.

124. Civil matters, for example, pub licensing, can also be dealt with by magistrates.

125. More complex cases or those involving large amounts of money will appear at the High Court; the vast majority of civil cases take place in the County Courts.

126. Before trying a civil case the judge reads the relevant case papers and becomes familiar with their details.

127. The vast majority of civil cases tried in court do not have a jury (libel and slander trials are the main exceptions) and the judge hears them on their own, deciding them by finding facts, applying the relevant law to them – and there may be considerable argument about what that law actually is – **and then giving a reasoned judgment**.

128. Judges also play an active role in managing civil cases once they have started, helping to ensure they proceed as quickly and efficiently as possible. This includes:

128.1. encouraging the parties to co-operate with each other in the conduct of the case;

128.2. helping the parties to settle the case;

128.3. encouraging the parties to use an alternative dispute resolution procedure if appropriate and;

128.4. controlling the progress of the case.

Costs

129. When the judgment in the case has been delivered, the judge must deal with the cost of the case. This may include:

129.1. the fees of any lawyers,

129.2. court fees paid out by the parties,

129.3. fees of expert witnesses,

[137] https://www.judiciary.uk/you-and-the-judiciary/going-to-court/county-court/

129.4. allowances that may be allowed to litigants who have acted in person (without lawyers), earnings lost and

129.5. travelling and other expenses incurred by the parties and their witnesses.

129.6. **The general rule is that the unsuccessful party will have to pay the successful party's costs** but the judge has a wide discretion to depart from this rule.

129.7. They may decide, for example, that the unsuccessful party should pay only a proportion of the successful party's costs or that each party should bear their own costs.

129.8. The judge may hear representations about this at the end of the case.

129.9. SO MAKE SURE YOU FOLLOW A FAIR AND JUST PRE-ACTION PROTOCOL… some are listed in the CPR

County Court Rules

130. County Court Civil Procedure Rules[138]: These are NOT up to date, and legislation.go.uk does not keep them up to date, but force you to pay private organisations if you want up to date versions[139] which is socio economic discrimination!

131. The Civil Procedure Rules apply to County Courts[140]

132. References to rules are made as CPR#, where # is the rule number. The more important ones are discussed below.

Appeals from the County Court

133. Appeals on errors in law, excess jurisdiction (a breach of any rules) or that the decision could not be reached by a reasonable person based upon the evidence presented before the court is to the High Court within 21 days, failing which you need good reason!

133.1. You will need permission to appeal, so if not granted at the hearing it must be applied for.

133.2. An excellent link for procedure is found here[141].

[138] https://www.legislation.gov.uk/uksi/1981/1687/contents/made
[139] https://www.legislation.gov.uk/contributors
[140] https://www.justice.gov.uk/courts/procedure-rules/civil
[141] https://www.advicenow.org.uk/guides/appealing-against-county-court-decision#:~:text=If%20you%20object%20to%20the,legal%20mistake%20has%20been%20made.

C4: THE FAMILY COURTS

134. The Family Courts are a division of the High Court[142].

Jurisdiction to hear cases

135. The Family Court handles[143]:

135.1. parental disputes over the upbringing of children

135.2. local authority intervention to protect children

135.3. decrees relating to divorce or the dissolution of a civil partnership

135.4. financial support for children after divorce or relationship breakdown

135.5. some aspects of domestic violence

135.6. adoption

135.7. special guardianship

135.8. surrogacy

135.9. forced marriage protection

135.10. female genital mutilation protection

135.11. Family matters are dealt with in the Family Court or in the Family Division of the High Court. The Family Court judiciary is made up of lay magistrates, District Judge (Magistrates Court), District Judges, Circuit Judges and High Court Judges. The court is based on 43 local centres (each presided over by a 'Designated Family Judge') and at the Royal Courts of Justice.

135.12. Magistrates undergo specialist training before they sit in the Family Court, where procedures are very different from the criminal courts.

135.13. There are two types of case concerning children: public and private law.

136. Judges also play an active role in managing civil cases once they have started, helping to ensure they proceed as quickly and efficiently as possible.

[142] https://www.gov.uk/courts-tribunals/family-division-of-the-high-court
[143] https://www.judiciary.uk/you-and-the-judiciary/going-to-court/family-law-courts/

Costs

137. When the judgment in the case has been delivered, the judge must deal with the cost of the case. This may include:

137.1. the fees of any lawyers,

137.2. court fees paid out by the parties,

137.3. fees of expert witnesses,

137.4. allowances that may be allowed to litigants who have acted in person (without lawyers), earnings lost and

137.5. travelling and other expenses incurred by the parties and their witnesses.

137.6. **The general rule is that the unsuccessful party will have to pay the successful party's costs** but the judge has a wide discretion to depart from this rule.

137.7. They may decide, for example, that the unsuccessful party should pay only a proportion of the successful party's costs or that each party should bear their own costs.

137.8. The judge may hear representations about this at the end of the case.

137.9. SO MAKE SURE YOU FOLLOW A FAIR AND JUST PRE-ACTION PROTOCOL… some are listed in the CPR

Family Court Rules

138. Family court procedures rules[144] can be found at https://www.justice.gov.uk/courts/procedure-rules/family/rules_pd_menu

Appeals from the Family Court

139. Appeals on errors in law, excess jurisdiction (a breach of any rules) or that the decision could not be reached by a reasonable person based upon the evidence presented before the court is to the High Court.

139.1. Appeal to a circuit judge sitting in the family court if:

139.1.1. one or more lay justices sitting in the family court made the decision

139.1.2. a judge of district judge level sitting in the family court made the decision

139.2. Appeal to a judge of High Court judge level sitting in the family court if:

[144] https://www.justice.gov.uk/courts/procedure-rules/family/rules_pd_menu

139.2.1. a district judge or senior district judge of the Family Division sitting in the family court in financial proceedings made the decision

139.3. Appeal to a High Court judge sitting in the High Court if any of the following sitting in the High Court made the decision:

139.3.1. District judge of the High Court

139.3.2. Deputy district judge

139.3.3. Senior district judge of the Family Division

139.3.4. District judge of the Family Division

139.3.5. Costs judge

139.3.6. A person appointed to act as a deputy for a costs judge

139.3.7. A circuit judge or recorder sitting in the family court,

139.4. Appeal to the Court of Appeal if any of the following made the decision:

139.4.1. A circuit judge or recorder sitting in the family court where the appeal is from:

(a) a decision or order in proceedings under:

(i) Part 4 or 5 of, or paragraph 19(1) of Schedule 2 to, the Children Act 1989

(ii) the Adoption and Children Act 2002

(b) a decision or order relating to contempt of court, where that decision or order was made in, or in connection with, a type of proceedings referred to in (a) above

(c) a decision or order made on appeal to the Family Court (a 'second appeal')

139.4.2. Judge of High Court judge level

139.4.3. Any other judge sitting in the Family Court not referred to above

139.4.4. Judge of the High Court sitting in the High Court (including a person acting as such a judge in line with section 9(1) or (4) of the Senior Courts Act 1981

139.4.5. Appeal to a judge of High Court judge level if:

139.4.6. A costs judge made the decision

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C5: THE SENIOR COURTS

140. The legislative admission of the Senior Courts is affirmed in the Senior Courts Act 1981[145] ("**SCA1981**") and cover:

140.1. The Crown Court, and

140.2. The High Court, and

140.3. The Appeal Court.

141. Section 49 legally obliges all senior Courts to apply the rules of equity which prevail over the common law in the event of conflict with the common law.

142. All Senior Courts are Courts of record

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145

C5.1: CROWN COURT

Jurisdiction to hear cases

143. Crown Courts deal with more serious criminal civil matters[146] with trial by jury such as:

143.1. Murder,

143.2. Rape

143.3. Robbery, and

143.4. Appeals against conviction and sentencing from Magistrates Courts, and

143.5. Cases referred to it from the Magistrates Court.

144. Judges also play an active role in managing cases once they have started, helping to ensure they proceed as quickly and efficiently as possible. This includes:

144.1. encouraging the parties to co-operate with each other in the conduct of the case;

144.2. helping the parties to settle the case;

144.3. encouraging the parties to use an alternative dispute resolution procedure if appropriate and;

144.4. controlling the progress of the case.

Costs

145. When the judgment in the case has been delivered, the judge must deal with the cost of the case. This may include:

145.1. the fees of any lawyers,

145.2. court fees paid out by the parties,

145.3. fees of expert witnesses,

145.4. allowances that may be allowed to litigants who have acted in person (without lawyers), earnings lost and

145.5. travelling and other expenses incurred by the parties and their witnesses.

145.6. **The general rule is that the unsuccessful party will have to pay the successful party's costs** but the judge has a wide discretion to depart from this rule.

[146] https://www.judiciary.uk/you-and-the-judiciary/going-to-court/county-court/

145.7. They may decide, for example, that the unsuccessful party should pay only a proportion of the successful party's costs or that each party should bear their own costs.

145.8. The judge may hear representations about this at the end of the case.

145.9. SO MAKE SURE YOU FOLLOW A FAIR AND JUST PRE-ACTION PROTOCOL… some are listed in the CPR

Crown Court Rules

146. The Crown Court is bound by the following rules

146.1. The Criminal Procedure Rules 2020[147], and

146.1.1. For updates and links to rules and forms[148].

146.1.2. References to rules are made as CrimPR#, where # is the rule number. The more important ones are discussed below.

146.2. The Civil Procedure Rules apply to County Courts[149]

146.2.1. References to rules are made as CPR#, where # is the rule number. The more important ones are discussed below.

Appeals from the Crown Court

147. Appeals for both Civil and Criminal matters on errors in law, excess jurisdiction (a breach of any rules) or that the decision could not be reached by a reasonable person based upon the evidence presented before the court is to the High Court.

147.1. The High Court avoids hearing Crown Court Appeals it seems at all cost!

147.1.1. It will only deal with **appeals on points of law or excess of jurisdiction**, and does so forcing you into complex judicial review which they avoid unless clearly breaches of duty have occurred in the lower courts, but even then they are selective…

147.1.2. This is a blatant prejudice against people with limited financial resources which is a contempt of court.

[147] https://www.legislation.gov.uk/uksi/2020/759/contents/made
[148] https://www.gov.uk/guidance/announcements-from-the-criminal-procedure-rule-committee
[149] https://www.justice.gov.uk/courts/procedure-rules/civil

147.2. **SCA1981 section 28 For opinion of the High Court by Statement of Case by Crown Court**[150]

147.2.1. If you are aggrieved by the conviction, order, determination or other proceedings on grounds it was wrong in law (this can be procedural such as decision could not reasonably be reached based upon the evidence before the court) or in excess of jurisdiction (beyond the authority of the court) you can apply for the court to prepare a statement of case for the opinion of the High Court, and

147.2.2. **This application must be made within 21 days.**

147.2.3. The court in has 21 days from the application to state a case or not (section 77 of the Magistrates Court Rules this applies to both criminal and civil procedures)[151].

147.2.3.1. If the court refuses to state a case it must provide you with a certificate for the same and you can force them to state a case under section 111(6) of the MCA1980[152].

147.2.4. If the court state a case it must send the draft to the applicant within 21 days(rule 77(1)), and

147.2.5. Within 21 days of receipt of the draft each party can make representations (rule 77(2)), and

147.2.6. Within 21 days the Court must submit the final case (rule 78).

147.2.7. **For Criminal Procedure** there is no time limit specified for the court to prepare the statement of case, however in default the 21 days must apply as that is not only restricted to civil matters, and the draft must be in the format found in the CrimPR 35.3[153], and

147.2.8. CrimPR 35.3(3) Within 15 days of the court deciding to state a case must provide all parties with a draft, and

147.2.9. CrimPR 35.3(6) parties served a draft must respond within 15 days, and

147.2.10. CrimPR 35.3(7) the court must provide final statement of case.

147.2.11. The court may refuse to state a case (within 21 days of application) under MCA1980 section 111(5) then ask for a certificate for the same, and

[150] https://www.legislation.gov.uk/ukpga/1981/54/section/28
[151] https://www.justice.gov.uk/courts/procedure-rules/criminal/magistrates-courts-rules-1981.pdf
[152] https://www.legislation.gov.uk/ukpga/1980/43/section/111
[153] https://www.legislation.gov.uk/uksi/2020/759/part/35/made

147.2.12. Apply to the High Court for an order mandamus to force the lower court to state their case as to how they reached their decisions!

147.3. **SCA1981 section 28 (3)(a) For opinion of the High Court by Appeal otherwise**[154]

147.3.1. This is an option, but to date I have been unable to find out how to do this!

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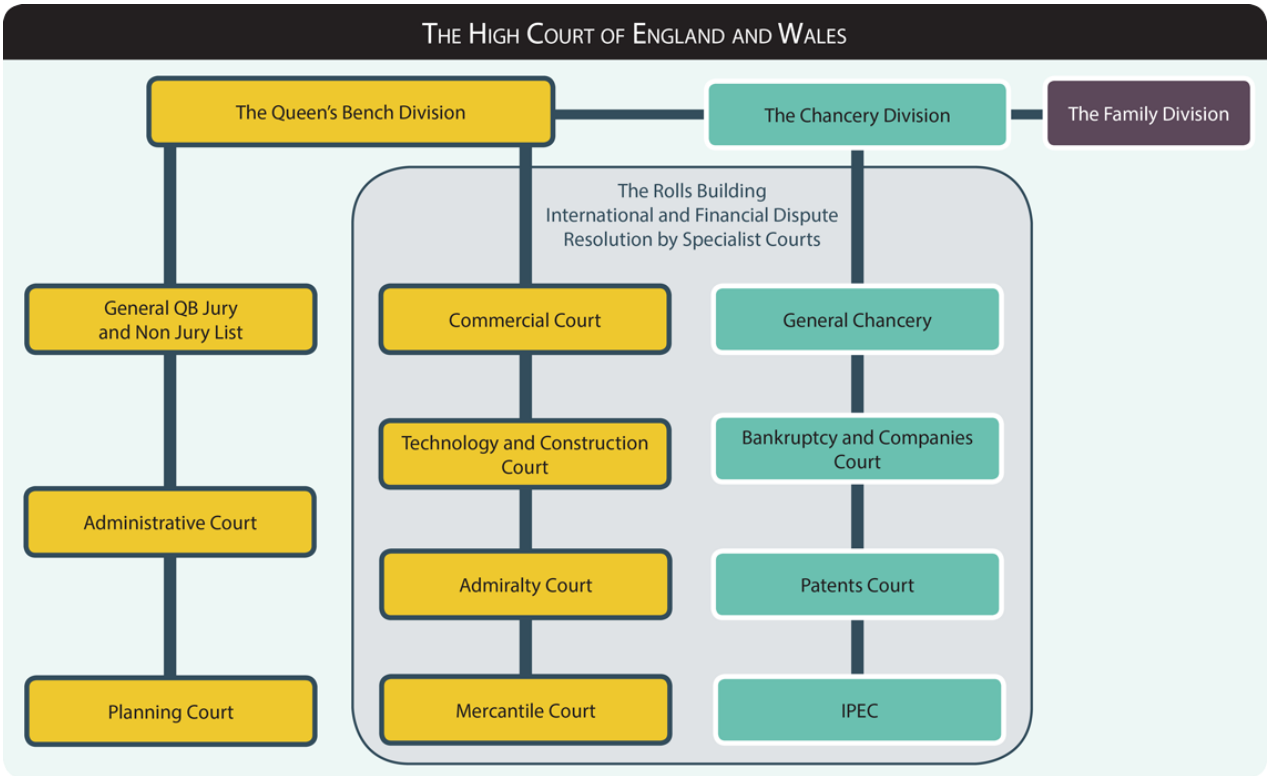
[154] https://www.legislation.gov.uk/ukpga/1981/54/section/28

C5.2: HIGH COURT



Jurisdiction to hear cases

148. High Courts deal with criminal appeals and civil matters[155]

148.1. Appeals against conviction and sentencing from Magistrates Courts, and

148.2. Appeals against conviction and sentencing from Crown Courts on matters of law or excess of jurisdiction, and

148.3. Civil Appeals from the County Court, and

148.4. Is mainly for high value civil claims.

The High Court has 3 divisions[156]

149. Queen's/ King's Bench Division – Civil

149.1. The President of the Queen's Bench Division presides over that Division, which includes both its criminal and civil jurisdiction. Judges who sit in the Queen's Bench Division of the High Court deal with '**common law'** business i.e. actions relating to contract except

[155] https://www.judiciary.uk/you-and-the-judiciary/going-to-court/county-court/
[156] https://www.judiciary.uk/about-the-judiciary/the-justice-system/jurisdictions/civil-jurisdiction/

those specifically allocated to the Chancery Division, and civil wrongs (known as tort). They also hear more specialist matters, such as applications for judicial review.

149.2. Examples of contract cases dealt with by Queen's Bench Division judges are failure to pay for goods and service and breach of contract.

149.3. Judges who sit in the Queen's Bench Division of the High Court deal with actions relating to various different types of tort. These include:

- Wrongs against the person e.g. defamation of character and libel
- Wrongs against property e.g. trespass
- Wrongs which may be against people or property – e.g. negligence or nuisance.

149.4. They also deal with matters that involve both contract and tort, such as personal injury cases which show negligence and breach of a contractual duty of care. Other cases dealt with may be crimes as well as torts, such as assault.

149.5. The Queen's Bench Division also contains:

- The Commercial Court
- The Admiralty Courts; and administers
- The Technology and Construction Court

149.6. High Court judges who sit in these courts hear cases involving prolonged examination of technical issues, for example, construction disputes.

149.7. Judges of The Queen's Bench Division also sit in the Employment Appeals Tribunal.

150. High Court – Chancery Division

150.1. The Division is headed by the Chancellor of the High Court, and is based at the Rolls Building (off Chancery Lane/Fetter Lane).

150.2. At the Rolls Building in London, there are currently eighteen High Court Judges attached to the Chancery Division, in addition to the Chancellor of the High Court. The Enterprise Judge, Head of the Intellectual Property and Enterprise Court, is also considered a member of the Division. In addition, there are six judges referred to as Chancery Masters (one of whom is the Chief Master) and five judges referred to as Bankruptcy Registrars (one of whom is the Chief Registrar).

150.3. The areas of work that the Chancery Division deals with are:

- Business and property related disputes
- Competition cases
- Patents claims

- Other Intellectual Property claims, such as Trademarks or Design
- Companies work
- Insolvency claims, both personal and corporate
- Trust claims
- Contentious probate claims
- General Chancery work, including trade and industry disputes and the enforcement of mortgages

150.4. The Division includes:

- The Bankruptcy and Companies Court
- The Patents Court
- Chancery Chambers (Masters)
- The Intellectual Property and Enterprise Court

151. The Family Division.

152. Judges also play an active role in managing cases once they have started, helping to ensure they proceed as quickly and efficiently as possible. This includes:

152.1. encouraging the parties to co-operate with each other in the conduct of the case;

152.2. helping the parties to settle the case;

152.3. encouraging the parties to use an alternative dispute resolution procedure if appropriate and;

152.4. controlling the progress of the case.

Costs

153. When the judgment in the case has been delivered, the judge must deal with the cost of the case. This may include:

153.1. the fees of any lawyers,

153.2. court fees paid out by the parties,

153.3. fees of expert witnesses,

153.4. allowances that may be allowed to litigants who have acted in person (without lawyers), earnings lost and

153.5. travelling and other expenses incurred by the parties and their witnesses.

153.6. **The general rule is that the unsuccessful party will have to pay the successful party's costs** but the judge has a wide discretion to depart from this rule.

153.7. They may decide, for example, that the unsuccessful party should pay only a proportion of the successful party's costs or that each party should bear their own costs.

153.8. The judge may hear representations about this at the end of the case.

153.9. SO MAKE SURE YOU FOLLOW A FAIR AND JUST PRE-ACTION PROTOCOL… some are listed in the CPR

High Court Rules

154. The High Court is bound by the following rules

154.1. The Criminal Procedure Rules 2020[157], and

154.1.1. For updates and links to rules and forms[158].

154.1.2. References to rules are made as CrimPR#, where # is the rule number. The more important ones are discussed below.

154.2. The Civil Procedure Rules apply to High Courts[159]

154.2.1. References to rules are made as CPR#, where # is the rule number. The more important ones are discussed below.

Appeals from the High Court

155. Appeals for on errors in law or excess jurisdiction (a breach of any rules) or that the decision could not be reached by a reasonable person based upon the evidence presented before the court is to the Appeal Court and are beyond the scope of this manual.

[157] https://www.legislation.gov.uk/uksi/2020/759/contents/made
[158] https://www.gov.uk/guidance/announcements-from-the-criminal-procedure-rule-committee
[159] https://www.justice.gov.uk/courts/procedure-rules/civil

C5.3: APPEAL COURT

156. This is beyond the Scope of this manual, however a good resource is: https://www.judiciary.uk/you-and-the-judiciary/going-to-court/court-of-appeal-home/

157. Appeals from the Appeal Court go to the Supreme Court.

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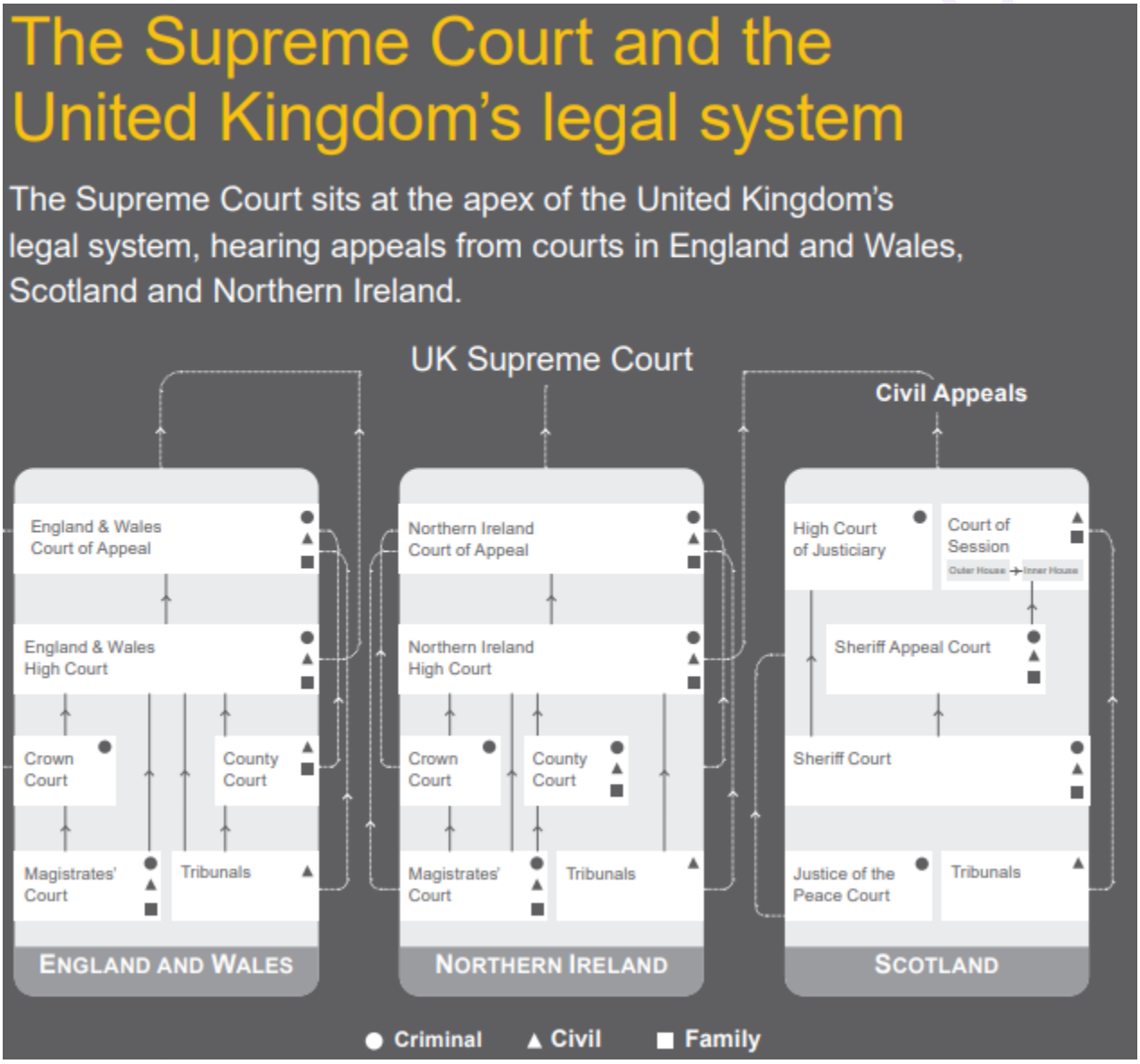
C6: SUPREME COURT

158. The Legislative Constituting Authority of the Supreme Court expressed in the Constitutional Reform Act 2005[160].

Information copied from https://www.judiciary.uk/about-the-judiciary/the-justice-system/the-supreme-court/ unless referenced otherwise.



159. There had, in recent years, been mounting calls for the creation of a new free-standing Supreme Court separating the highest appeal court from the second house of Parliament, and removing the Lords of Appeal in Ordinary from the legislature. On 12 June 2003 the Government announced its intention to do so.

[160] https://www.legislation.gov.uk/ukpga/2005/4/contents

159.1. Before the Supreme Court was created, the 12 most senior judges – the Lords of Appeal in Ordinary, or Law Lords as they were often called – sat in the House of Lords.

159.2. The House of Lords was the highest court in the land – the supreme court of appeal. It acted as the final court on points of law for the whole of the United Kingdom in civil cases and for England, Wales and Northern Ireland in criminal cases. Its decisions bound all courts below.

159.3. As members of the House of Lords, the judges not only heard cases, but were also able to become involved in debating and the subsequent enactment of Government legislation (although, in practice, they rarely did so).

159.4. The creation of a new Supreme Court means that the most senior judges are now entirely separate from the Parliamentary process.

159.5. It is important to be aware that the new Supreme Court is a United Kingdom body, **legally separate from the England and Wales courts as it is also the Supreme Court of both Scotland and Northern Ireland**. As such, it falls outside of the remit of the Lord Chief Justice of England and Wales in his role as head of the judiciary of England and Wales.

159.6. The new Supreme Court opened for business in October 2009, at the start of the legal year.

160. The Supreme Court has its own rule and procedures:
https://www.supremecourt.uk/procedures/index.html

161. The Supreme Court live streams and archives its cases including judgements:
https://www.supremecourt.uk/cases/index.html

162. Further details are beyond the Scope of this manual, however a good resource is their website:
https://www.supremecourt.uk/index.html

163. Appeals from the Supreme Court go to the Monarch who can grant clemency.

D1: IMPORTANT CIVIL PROCEDURES RULES

164. The Civil Procedure Rules[161] were introduced in 1997 to simplify the procedures and use plain English. They extend to most cases in the **Supreme** Court, all cases in the **Appeal** and **High** and **County Courts**.

165. It is not worth buying paper copies as they are free on the internet and are broken down into 4 main sections:

165.1. **The Rules**, abbreviated as CPR# where the # refers to the rule or sub rule, and

165.2. **Practice Directions**, abbreviated as CPR PD# where the # refers to the rule or sub rule which give more or specific details, and

165.3. **Pre-Action Protocols** which are designed to assist disputing parties to resolve as many issues as possible so as to narrow issues for the court to resolve (these are important as this is private dispute resolution, and if parties do not constructively engage (unclean hands) to attempt to resolve the dispute, or at least to narrow the issues then that is dishonourable and the party who fails to participate may be penalised even if they win the case for costs as equitably they could have settled the dispute without having to go to court.

165.4. **Forms** which standardise submissions and format.

166. They are well laid out and fair and just and simple to use. Below I only refer to generally important rules applicable to all civil cases as opposed to specific rules which are very specific to certain cases.

PART 1 is the most important – Overriding objective[162]

167. At 1.1(1) The overriding objective is to deal with cases **justly** and then immediately contradicts itself with… and at **proportionate cost**. Justice is foundational to society and no cost can be put on keeping the peace!!!

[161] https://www.justice.gov.uk/courts/procedure-rules/civil
[162] https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part01

168. This as far as practicable at 1.1(2) includes at (a) ensuring that the parties are on an equal footing and can participate fully in proceedings, and that parties and witnesses can give their best evidence;

169. Remember the basics at all times as the rules of equity prevail – **Honour** = my word is my bond; **Good faith** = I do not put self interest above that of any other; **Clean hands** = I do no fraudulent misrepresentation. This does not only apply to officers granted legal privilege but as all are equal under the law and no one is above the law it applies equally to all who go to the courts for public dispute resolution!

Service of documents CPR6[163]

170. Simply so that all parties are on an equal footing the court and all parties must be served all court documents.

171. Section 6 details different service methods and some specifics for certain situations.

Civil Procedure of Disclosure of Documents CPR31[164]

172. Disclosure and inspection of documents use 31.2 which either exist or had existed including those which are or were under their control, unless at 31.3 they no longer have control, or they have a right to withhold inspection, or it would be disproportionate to disclose.

172.1. A document at 31.4 is information recorded by any means, and 31.5 requires disclosure unless the court directs otherwise and each party 14 days before the first case management hearing must support by a statement of truth they have disclosed all relevant documents including but not limited to at 31.6 documents they rely upon and documents in support of and those adversely affecting either parties case, including a reasonable search of all documents unless by making a statement why what class or category would be unreasonable. This at 31.9 includes copies of altered documents.

[163] https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06
[164] https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part31

172.2. Each party must provide the other a list including those they claim a right to withhold, those no longer in their control and what happened to those, including the identity of the person making the statement.

172.3. Disclosure obligations continue until the proceedings are completed, and failure to disclose is dealt with by 31.12 Specific Disclosure or inspection

172.4. Applications can be made to the court for **disclosure before proceedings** start at 31.16 including disclosure by a party not part of the proceedings. where (a) the respondent is likely to be a party to subsequent proceedings; or (b) the applicant is also likely to be a party to those proceedings; and at (d) with the intent to:

(i) dispose fairly of the anticipated proceedings;
(ii) assist the dispute to be resolved without proceedings; or
(iii) save costs.

172.4.1. Disclosure before proceedings have started can be made under section 33 of the Supreme Court Act 1981 (c.54) or section 52 of the County Courts Act 1984 (c.28),

172.5. Authenticity of documents can be challenged at 32.19

172.6. PD31 4.4 places an obligation on the legal representative acting for a party giving disclosure to "endeavour to ensure that the person making the disclosure statement... understands the duty of disclosure under Part 31". In Wagstaff v Colls [2003] EWCA Civ 469 it was stated, " ...it is the solicitor who is in charge of deciding what documents are or are not to be disclosed... he cannot hide behind his client's instructions. If he cannot persuade his client to comply with what is right in the circumstances, the solicitor must withdraw from the case."

172.7. If a party fails to comply with the disclosure requirements, any order or judgment that is made in the claim could be struck out (see Rybak v Langbar international Ltd [2010] EWHC 2015).

172.8. The duty to disclose is on-going until proceedings are concluded (see CPR 31.11). If, following disclosure, further documents come to light, there is a duty to immediately notify the other party.

Civil Procedure of witness evidence CPR32[165]

173. Facts which need to be proved at trial by witnesses must be at a public hearing, and at

[165] https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part32#32.19

any other hearing in writing is permitted provided it is supported by a statement of truth, or video link if permitted by court.

173.1. At trial a written witness statement containing issues of fact to be decided at the trial must be served on all parties at 32.4 unless directed otherwise by the court. At 32.5 This must be spoken into 'existence' unless the court directs otherwise. The witness statement will stand as 'evidence in chief' unless directed otherwise. New evidence can be given with leave of the court at trial. If the witness statement is not supported in person for cross examination then the opposing party may put the witness statement in as hearsay evidence. Failure to serve a witness statement may result in the court denying the right to give oral evidence at 32.10.

173.2. All witnesses may be cross examined during the witness giving evidence.

173.3. The same rules apply for affidavits.

173.4. False evidence is serious contempt of court!

173.5. NOTICE TO ADMIT FACTS at 32.18 and NOTICE TO ADMIT OR PRODUCE DOCUMENTS at 32.19 are powerful tools, to be served no later than 21 days before the trial, but the party with leave of the court may withdraw admissions.

173.6. NOTICE TO ADMIT OR PRODUCE DOCUMENTS at 32.19 is another powerful tool, to be served by the latest date of submitting witness statements or within days of disclosure, whichever is later[166].

173.7. A notarial act or instrument at 32.20 may be received in evidence without further proof of authenticity.

173.8. For witness statements and affidavit format see practice direction 32[167].

Hearsay evidence CPR33[168]

174. Anything which is not firsthand testimony CPR33.1, and must serve notice why the source is not being called, and if granted is still cross examinable at 33.4 by application no more than 14 days after notice of intended reliance on hearsay evidence.

175. Anything which is not firsthand testimony CPR33.1, and must serve notice why the source is not being called, and if granted is still cross examinable at 33.4 by application no more

[166] https://www.civillitigationbrief.com/2014/10/20/challenging-the-authenticity-of-documents-the-importance-of-knowing-the-rules-a-few-points-from-the-cases/
[167] https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part32/pd_part32
[168] https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part33

than 14 days after notice of intended reliance on hearsay evidence.

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D2: IMPORTANT CRIMINAL PROCEDURES RULES – ALL COURTS

176. All courts follow the same Criminal Procedure Rules:

176.1. The Criminal Procedure Rules 2020[169], and

176.2. For updates and links to rules and forms[170].

176.3. References to Criminal Procedure Rules is CrimPR#, where # is the rule number

176.4. All UK courts must apply the rules of equity whether legally expressed or not as lower courts are bound by higher court decision, and hence must follow the common law precedence of the Earl of Oxford case 1615[171] and

176.4.1. apply the rules of equity which prevail in the event of a conflict with the existing common law precedence, where

176.4.2. equity is triggered by unconscionability where an existing precedence is not fair or just.

176.4.3. Hence remedy must reflect harm caused, and this is legislatively obliged in section 63 of the Sentencing Act 2020[172] = 'mercy in all judgements' where the Court has the legal obligation when considering the seriousness of any offence, **it must consider** at (b) any **harm** which the offence (i) caused, (ii) was intended to cause, or (iii) might foreseeable have caused (due diligence / negligence).

176.5. This means that as the court must reach its decision only based upon the evidence before it that **the claimant must evidence a victim, and the harm that was actually done, intended to be done or was reasonably foreseeable to have occurred. Without this no fine or forfeiture can be imposed making this perfectly equitable**.

176.6. This is affirmed in the Criminal Procedure Rules overriding objective.

[169] https://www.legislation.gov.uk/uksi/2020/759/contents/made
[170] https://www.gov.uk/guidance/announcements-from-the-criminal-procedure-rule-committee
[171] https://www.lawteacher.net/free-law-essays/equity-law/conflict-between-common-law-and-equity-equity-law-essay.php
[172] https://www.legislation.gov.uk/ukpga/2020/17/part/7/chapter/1

176.7. The Practice Directions[173] give more details and what forms must be used (equity is substance over form so if you cannot find the correct form then make your own) and are at https://www.gov.uk/guidance/rules-and-practice-directions-2020#Anchor2

PART 1: The overriding objective[174]

177. **CrimPR 1.1 - (**1) The overriding objective of this procedural code is that criminal cases be **dealt with justly**. (2) Dealing with a criminal case justly includes— (a) **acquitting the innocent and convicting the guilty**; (b) **dealing with the prosecution and the defence fairly**; (c) **recognising the rights of a defendant**, particularly those under Article 6 of the European Convention on Human Rights; (d) respecting the interests of witnesses, victims and jurors and keeping them informed of the progress of the case; (e) **dealing with the case efficiently and expeditiously**; (f) ensuring that appropriate information is available to the court when bail and sentence are considered; and (g) dealing with the case in ways that take into account— (I)the gravity of the offence alleged, (ii) the complexity of what is in issue, (iii) the severity of the consequences for the defendant and others affected, and (iv) the needs of other cases.

177.1. The biggest problem faced in the Magistrates Court is the Courts Officers fail to follow the rules which ***"…are observed not merely in their letter but in their spirit…"*** [175]

PART 2: Magistrates Court Legal Advisor[176]

178. CrimPR 2.4 obliges the Legal Advisor (previously Clerk of the Court) at (2)(b) the powers to act under section 28(1) of the Courts Act 2003 to

(a) **to give advice to justices of the peace about matters of law (including procedure and practice)** on questions arising in connection with the discharge of their functions, including questions arising when the person is not personally attending on them, and

[173] https://www.gov.uk/guidance/rules-and-practice-directions-2020#Anchor2
[174] https://www.legislation.gov.uk/uksi/2020/759/part/1/made
[175] https://www.casemine.com/judgement/uk/5a8ff74460d03e7f57eaa98a
[176] https://www.legislation.gov.uk/uksi/2020/759/part/1/made

(b) to bring to the attention of justices of the peace, at any time when the person thinks appropriate, **any point of law (including procedure and practice) that is or may be involved in any question so arising.**

178.1.1. This means the court MUST answer your questions if you have any, and point out the law that arises out of your questions!

PART 3: Conduct prior to trial or an appeal[177]

179. **CrimPR 3.13.** In order to manage a trial or an appeal, the court—must establish, (a) with the active assistance of the parties, **what are the disputed issues**.

PART 4: Proof of service[178]

180. All parties must have the same information.

181. **CrimPR 4.12.** The person who serves a document may prove that by signing a certificate explaining how and when it was served.

181.1. If you have not been served a document which is claimed to have been served you evidence this with a Statutory Declaration[179] saying the same.

PART 5: Supply to a party of information or documents from records or case materials[180]

182. CrimPR **5.7.**—(1) This rule— (a) applies where— (i) a party wants information, or a copy of a document, from records or case materials kept by the court officer (for example, in case of loss, or to establish what is retained), or (ii) a person affected by an order made, or warrant issued, by the court wants such information or such a copy; but

(b) does not apply to— (i) a recording arranged under rule 5.5 (Recording and transcription of proceedings in the Crown Court), (ii) a copy of such a recording, or (iii) a transcript of such a recording. The details of how to get them are contained therein.

182.1. CrimPR 5.8 applies for supply of information to the public.

[177] https://www.legislation.gov.uk/uksi/2020/759/part/3/made
[178] https://www.legislation.gov.uk/uksi/2020/759/part/4/made
[179] https://www.gov.uk/government/publications/statutory-declarations
[180] https://www.legislation.gov.uk/uksi/2020/759/part/5/made

PART 6: Sound recording and electronic communication[181]

183. CrimPR **6.9.**—(1) This rule applies where the court can give permission to—

(a) bring into a hearing for use, or use during a hearing, a device for— (i) recording sound, or (ii) communicating by electronic means; or (b) publish a sound recording made during a hearing.

(2) The court may give such permission— (a) on application; or (b) on its own initiative.

(3) A person who wants the court to give such permission must— (a) apply as soon as reasonably practicable; (b) notify— (i) each party, and (ii) such other person (if any) as the court directs; and (c) explain why the court should permit the use or publication proposed.

183.1. See section on recording as denial is denial of your right of self defence.

PART 7 detail the procedure to start a prosecution in the Magistrates Court[182]

184. This equally applies to Private Criminal Prosecutions.

PART 8: Initial Details of Prosecution Case[183]

185. This is their evidence to bring their case.

185.1. They will only serve the IDPC a few days before trial which does not allow sufficient time for you to defend yourself adequately which is acting with unclean hands, causing you alarm and distress.

185.2. They are legal professionals and this is in breach of their overriding legal duties (see DUTIES, RIGHTS AND OBLIGATIONS OF OFFICERS OF THE COURT)

185.3. If you are not legally represented, then immediately put in an application for adjournment on grounds that you will need at least 3 times as long to respond under the overriding objective of the court to ensure parties are on an equal footing, , and even if you are then you still need to make sure you understand the claims and evidence against you!

[181] https://www.legislation.gov.uk/uksi/2020/759/part/6/made
[182] https://www.legislation.gov.uk/uksi/2020/759/part/7/made
[183] https://www.legislation.gov.uk/uksi/2020/759/part/8/made

PART 9: Your right to trial by jury[184]

186. Parliament Assembled is not authorised to direct the courts in any manner as that affirms court bias which prejudices a party, and in any event the court must uphold your right to trial by jury under the Bill of Rights 1688 which Parliament Assembled and HM Government must uphold.

186.1. BUT THEY DENY YOU THIS RIGHT… which is unlawful. Justice is foundational to a peaceful society, and any denial of this right is a crime against you!

186.2. No person has the authority to deny you your right to trial by jury.

PART 15 Forcing Disclosure[185].

187. THESE RULES ARE BIAS AND CONTEMPT OF COURT AS THEY PREJUDICE THE DEFENDANT BY MAKING EVIDENCE SUBJECT TO FILTRATION TO ACOID DISCLOSURE!

187.1. The relevant practice directions are https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/923967/crim-proc-rules-2020-part-15.doc, and

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/924044/crim-practice-directions-IV-disclosure-2015.pdf

187.2. *"Where the investigation began on or after 4th April, 2005, sections 3 and 7A of the 1996 Act(**14**) require the prosecutor—* (a) *to **disclose prosecution material not previously disclosed that might reasonably be considered capable of undermining the case for the prosecution against the defendant** or **of assisting the case for the defendant** —* (i) ***in a magistrates' court, as soon as is reasonably practicable after the defendant pleads not guilty**, or* (ii) ***in the Crown Court, as soon as is reasonably practicable after the case is committed or transferred for trial**, or after the evidence is served where the case is sent for trial, or after a count is added to the indictment; and in either case (a) **if there is no such material, then to give the defendant a written statement to that effect**; and after that (a) in either court, to disclose any such material— (i) whenever there is any, until the court reaches its verdict or the prosecutor decides not to proceed with the case, and (ii) **in particular, after the service of the defence statement."***

[184] https://www.legislation.gov.uk/uksi/2020/759/part/9/made
[185] https://www.legislation.gov.uk/uksi/2020/759/part/15/made

187.3. You force disclosure under CrimPR 15.5 Defendant's application for prosecution disclosure –

(1) This rule applies where the defendant— (a) **has served a defence statement** given under the Criminal Procedure and Investigations Act 1996; and (b) **wants the court to require the prosecutor to disclose material**.

(2) The defendant must serve an application on— (a)the court officer; and (b) the prosecutor.

(3) The application must— (a) describe the material that the defendant wants the prosecutor to disclose;

(b) explain why the defendant thinks there is reasonable cause to believe that— (i) the prosecutor has that material, and (ii) it is material that the Criminal Procedure and Investigations Act 1996 requires the prosecutor to disclose; and (c) ask for a hearing, if the defendant wants one, and explain why it is needed.

(4) The court may determine an application under this rule— (a) at a hearing, in public or in private; or (b) without a hearing.

(5) The court must not require the prosecutor to disclose material unless the prosecutor— (a) is present; or (b) has had at least 10 business days in which to make representations.

PART 20 – Hearsay Evidence[186]

188. **CrimPR 20.3 Opposing the introduction of hearsay evidence.—**

(1) This rule applies where a party objects to the introduction of hearsay evidence.

(2) That party must— (a) **apply to the court to determine the objection**; (b) **serve the application** on— (i) the court officer, and (ii) each other party; (c) serve the application **as soon as reasonably practicable**, and in any event not more than 10 business days after (i) service of notice to introduce the evidence under rule 20.2, (ii) service of the evidence to which that party objects, if no notice is required by that rule, or (iii) the defendant pleads not guilty whichever of those events happens last; and (d) **in the application, explain**—(i) which, if any, facts set out in a notice under rule 20.2 that party disputes, (ii) **why the evidence is not admissible** (simply there is no means to determine its merits beyond reasonable doubt!), and (iii) any other objection to the evidence.

[186] https://www.legislation.gov.uk/uksi/2020/759/part/20/made

(3) The court—(a) may determine an application— (i) at a hearing, in public or in private, or (ii) without a hearing; (b) must not determine the application unless the party who served the notice—(i) is present, or (ii) has had a reasonable opportunity to respond; (c) may adjourn the application; and (d) may discharge or vary a determination where it can do so under—(i) section 8B of the Magistrates' Courts Act 1980(**5**) (ruling at pre-trial hearing in a magistrates' court), or (ii) section 9 of the Criminal Justice Act 1987(**6**), or section 31 or 40 of the Criminal Procedure and Investigations Act 1996(**7**) (ruling at preparatory or other pre-trial hearing in the Crown Court).

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D3: DEFAULT JUDGEMENT

189. Under the courts own rules of evidence until someone can bring the creator (whatever that may be to anyone) into a court to give first hand cross examinable testimony that any individual or group of individuals has the right to impose their will on another individual or group of individuals, then it is self evident that:

189.1. All are equal under the law, and

189.2. No one is above the law, and

189.3. All are entitled to equal benefit of the creator's creations, and

189.4. No individual or group of individual can impose their will upon another individual or group of individuals, and

189.5. Every individual has a obligation to explore this common reality without causing another harm, and

189.6. Every individual has the right to enforce others do not cause harm.

190. The creator endowed us with a conscience which is universal and that allows us to determine right from wrong (harm), and

190.1. We have an equal right to follow our conscience, and

190.2. Equity is triggered when an action goes against the conscience.

191. When someone believes another is causing harm, they must inform them to keep the peace, and

191.1. That creates an obligation to keep the peace and immediately cease their belief, and failing to desist by continuing to do so without resolving the dispute is a trespass upon the harmed people, and

191.2. If matters cannot be settled in private then society must resolved the dispute to return to peace.

192. Society will invite you to resolve the dispute in a court, and

192.1. If you do not engage, the complainant will be granted their remedy provided it is reasonable and proportionate to the claimed harm in default, and

192.2. You have the automatic right to appeal any judgement made in default.

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E: INTO THE SNAKE PIT

IF AT ANYPOINT THEY STOP ANSWERING YOUR QUESTIONS:

Are you denying me the right to defend myself, and thereby prejudicing me, and therefore being in contempt of court.

Would you play a game without knowing the rules?

Equal Treatment Bench Book

*'…I will do right to all manner of people after **the laws** and usages of this realm, without fear or favour, affection or ill will.'*

193. **All judicial officers are bound by this which is part of their training!**

194. Is the bench familiar with the Equal treatment Bench Book? **YES / NO**

194.1. Can the bench confirm Fair treatment is a fundamental principle embedded in your judicial oath? **YES / NO**

194.2. Did you voluntarily bind yourself to your judicial oath? **YES / NO**

Introductions:

195. You have my name, **Can the bench please confirm their names Magistrates / Judges name's:**

195.1. **IF REFUSED:** Can the legal officer please confirm to the bench that '*There is... no such person known to the law as the anonymous JP.'* as ruled by the appeal court in *Regina v Felixstowe Justices ex parte Leigh*: CA 1987 [187]

195.2. **Can I please have the Courts Legal officer (used to be Clerk of the Court) name:**

What is the benches role?

196. Can the bench confirm its role is to uphold the due process of law as summarized by Lord Diplock in *Attorney-General vs Times Newspaper Ltd* [1974] 3 All ER 54[188]? **YES / NO**

[187] Regina v Felixstowe Justices ex parte Leigh: CA 1987 https://swarb.co.uk/regina-v-felixstowe-justices-ex-parte-leigh-ca-1987/

[188] https://learninglink.oup.com/static/5c0e79ef50eddf00160f35ad/casebook_187.htm

196.1. **Can you confirm that includes the courts to be free from bias against any party? YES/NO**

196.2. **Can you confirm the next role of the court is to determine the disputing parties' respective rights and liabilities to one another to establish if there is a lawful reason we are here today? YES/NO**

196.2.1. Can you confirm the following procedure has been correctly understood by myself of the Courts Rules, being my right to defend myself:

196.2.2. Firstly, the complainant provides evidence to support lawful basis of their believed right and my obligation? **YES / NO**

196.2.3. Do I then have the right to cross examine that evidence? **YES / NO**

196.2.4. Do they then have the right for further cross examination? **YES / NO**

196.2.5. Do I then have the right for final cross examination? **YES / NO**

196.2.6. Therefore does any unrebutted evidence stand as fact? **YES / NO**

196.3. **Can you confirm the next role of the court is for the complainant to prove I breached my lawful obligations? YES /NO**

196.3.1. Can you confirm the following procedure has been correctly understood by myself of the Courts Rules, being my right to defend myself:

196.3.2. Firstly, the complainant provides evidence to support their belief I breached my obligation? **YES / NO**

196.3.3. Do I then have the right to cross examine that evidence? **YES / NO**

196.3.4. Do they then have the right for further cross examination? **YES / NO**

196.3.5. Do I then have the right for final cross examination? **YES / NO**

196.3.6. Therefore does any unrebutted evidence stand as fact? **YES / NO**

196.4. **Can you confirm the next role of the court is for me to prove I did not breach my lawful obligations? YES /NO**

196.4.1. Can you confirm the following procedure has been correctly understood by myself of the Courts Rules, being my right to defend myself:

196.4.2. Firstly, I provide my evidence to support my belief I did not breached my obligation? **YES / NO**

196.4.3. Do they then have the right to cross examine that evidence? **YES / NO**

196.4.4. Do I then have the right for final cross examination? **YES / NO**

196.4.5. Therefore does any unrebutted evidence stand as fact? **YES / NO**

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196.5. **Can you confirm that your determination can only be based upon facts proven in the evidence presented before you? YES /NO**

196.6. **Can you confirm any breach of this due process of law by any party is a contempt of court if it harms me? YES / NO**

What is the legal advisor's role?

197. Can the bench confirm the role of the legal officer is as detailed in Section 28 of the Courts Act 2003 as invoked by the Criminal Procedure Rules section 2.4 that:

197.1. Firstly they advise yourselves **about matters of law which includes procedure and practice? YES / NO**

197.2. Secondly, they advise on any point of law that is, or may be involved in any question arising from the proceedings by anyone? **YES / NO**

197.3. Can you confirms as an officer of the Court their legal obligations include:

197.3.1. An overriding duty and obligation to uphold the rule of law, and the constitutional principal of the rule of law? **YES/NO**

197.3.2. their duty to the court overrides their duty to any other person? **YES/NO**

197.3.3. they must provide the court with all relevant law, including that which may undermine either parties case? **YES/NO**

197.3.4. they are under obligation not to attempt to deceive or knowingly or recklessly mislead the court? **YES/NO**

197.3.5. they are under obligation to take special care when dealing with litigants in person to use plain language and not to take advantage by bullying and unjustifiable threats or misleading or deceitful behaviour? **YES/NO**

197.3.6. They cannot claim what have no right to claim? **YES/NO**

197.3.7. They cannot create a dispute where none exists? **YES/NO**

What is the Prosecution / Legal Representative role?

198. Can you confirm they are the same as those of the courts legal advisor? **YES / NO**

198.1. If not legally represented then you can have non-legal representation to speak on your behalf, and if denied then that is bias and a contempt of court[189].

[189] If the prosecution is not legally represented and the court accepts that then the defendant can choose who they want for legal assistance as the court has set precedence!

F: AS'KING' THE RIGHT QUESTIONS

199. **If you do not ask you will not get.** If we ask the wrong questions then we will get the wrong answers, so it is important to have a clear understanding of what you want to know!!! There are various ways this can be used:

199.1. **Set up questions:** By asking in advance you can get admissions upon which at a later stage you can revert back to in order to get further admissions!

199.2. **Notices:** when someone makes a claim they must prove their right and your obligation.

199.3. **Defend against claims in your pre-action protocol:** to establish the lawful basis of a claim if it is not the result of consenting to duties, rights and obligations.

199.4. **In a court to cross examine witnesses:** any person failing to show consent using legislation can be cross examined and you can by their admission highlight that their belief is irrational!

199.5. Use and modify as you feel comfortable, but remember natural law is simple… those who stand on their rights harm no one, those who do not stand on their rights have none!

199.6. Are you bound by legislation? **YES / NO**

199.7. Can you confirm the Justice of Peace Act 1361 ("**JPA1361**") is current statute law? **YES/NO**

199.7.1. Can you confirm the intent of the JPA1361 is expressed:

"…that the People be not by such Rioters or Rebels troubled nor endamaged, nor the Peace blemished, nor Merchants nor other passing by the Highways of the Realm disturbed, nor put in the Peril which may happen of such Offenders."

Governance (Parliament Assembled and HM Government)

200. Can you confirm the Bill of Rights 1688 is current statute law? **YES / NO**

200.1. Can you confirm the first sentence of the BOR1688 admits that the Lords Spirituall and Temporall and Comons claim to *"lawfully fully and freely representing all the Estates of the People"* ? **YES / NO**

200.2. Can you therefore confirm that Parliament Assembled claims to represent the people? **YES / NO**

200.3. Can you confirm the first 2 Articles in "**The Subjects Rights**." Makes the actions of HM Government (the executive authority) subject to the will of Parliament Assembled (legislative authority)? **YES / NO**

200.4. Can you confirm the first sentence of **"The said Rights claimed. Tender of the Crown. Regal Power exercised. Limitation of the Crown."** limits the authority of Parliament Assembled that:

"…noe Declarations Judgements Doeings or Proceedings to the Prejudice of the People in any of the said Premisses ought in any wise to be drawne hereafter into Consequence or Example."? **YES / NO**

200.5. Can you confirm the fourth sentence of **"Acceptance of the Crown…"** limits the authority of Parliament Assembled:

200.6. *"…That all and singular the Rights and Liberties asserted and claimed in the said Declaration* ***are the true auntient and indubitable Rights and Liberties of the People*** *of this Kingdome…"*? **YES / NO**

200.7. And continues: *" and soe shall be esteemed allowed adjudged deemed and taken to be and that all and every the particulars aforesaid shall be firmly and strictly holden and observed as they are expressed in the said Declaration…"*? **YES / NO**

200.7.1. Can you confirm the people's rights and liberties hence restrict the authority of Parliament Assembled? **YES / NO**

200.7.2. Can you confirm that as the people's rights and liberties 'adjudged deemed and taken' hence restrict the authority of the Courts? **YES / NO**

200.8. And continues: *"…And all Officers and Ministers whatsoever shall serve their Majestyes and their Successors according to the same in all times to come."*? **YES / NO**

200.8.1. Can you confirm any Parliament Assembled acting under this source authority is bound by it as expressed? **YES / NO**

201. Can you confirm the Coronation Oath Act 1688 is current statute law? **YES / NO**

201.1. Can you confirm governance is constrained as legally expressed in the first promise in the Coronation Oath Act 1688 to

201.2. '***… govern the Peoples*** [*of the United Kingdom of Great Britain and Northern Ireland,* and its other dominions]***,*** according to:

201.2.1. the Statutes in Parlyament Agreed on? **YES / NO**

201.2.2. And the laws? **YES / NO**

201.2.3. And Customs? **YES / NO**

201.3. Can you therefore confirm that this creates the social contract between those governing and the People which include themselves as all are equal under the law and no one is above the law? **YES/NO**

202. Can you confirm the Act of Settlement 1700 is current statute law? **YES / NO**

202.1. Can you confirm in the first sentence of section IV of the Act of Settlement 1700 Parliament Assembled legislatively defines law as 'the people's birthright'? **YES / NO**

202.2. Can you confirm the first sentence continues that the future monarchs are bound to govern according to the same law? **YES / NO**

202.3. Can you confirm the first sentence continues and binds all officers and ministers to the same law? **YES / NO**

202.4. Are you bound by law? **YES / NO**

202.5. Can you point to any law which grants any individual or group of individuals the right to impose obligations on any other individual or group of individuals?

Independent Judiciary

203. Can you confirm that the jurisdiction of Courts is legally constrained to act according to law as expressed in the second promise in the Coronation Oath Act 1688 to '***… cause Law and Justice, in Mercy, to be executed in all… judgements***.' **YES/NO**

203.1. Can you confirm that this creates the social contract between this Court including its Officers and the People as all are equal under the law and no one is above the law? **YES/NO**

203.2. Can you confirm that that the judiciary is independent? **YES/NO**

203.3. Can you confirm your Oath of Allegiance and Judicial Oath, affirmation or attestation is that you act to uphold the people's respective laws as representatives of the Monarch? **YES/NO**

203.4. Can you confirm therefore that not only is the judiciary independent, but individually each judicial officer is independent as all are equal under the law and no one is above the law? **YES/NO**

203.5. As all are equal under the law, and no one is above the law, can you confirm following orders is not lawful excuse[190]? **YES/NO**

203.6. Can you confirm this Court is bound by the Courts Rules? YES / NO

203.7. Can you confirm this court is bound to comply with decisions from higher courts? **YES/NO**

Joinder to Legislation

204. Can I bind you or any group of individuals to duties, rights and obligations without your or their advice and consent? **YES / NO**

205. Can I be bound to duties and obligations by any individual or group of individuals without my advice and consent? **YES / NO**

206. Are all equal under the law? **YES / NO**

207. Can a agent bind their master without their masters consent?

208. Is the source of your claimed right expressed authority in the legislations introductory text? **YES / NO**

208.1. Is that expressed to be:

"BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows" **YES / NO**

208.2. Is my advice and consent expressed therein? **YES / NO**

208.3. As Parliament Assembled created the rights you claim why do you not go there for remedy?

[190] *Commissioner of Police of the Metropolis vs Raissi:* CA [2009] QB 564, [2008] ECWA Civ 1237 https://www.bailii.org/ew/cases/EWCA/Civ/2008/1237.html

G: GATHERING EVIDENCE - COURT AUDIT SHEET

209. Everybody has an obligation not to knowingly cause another harm, and to ensure that others do not knowingly cause harm.

210. That gives everybody the right to ensure law and order are kept, and anyone denying another that right is knowingly causing society harm.

211. All public actions are done in the name of the people and hence anything other than total transparency is unlawful, an agent cannot bind its principle, and cannot exceed the authority granted.

212. Going into courts is a daunting experience, and by regularly attending a court in the public gallery you can gain confidence and knowledge of what is actually going on, and

213. You can audit what you actually witness, and pass that knowledge on when bad actors are not doing their job properly and are causing harm.

214. All courts are courts of equity, and equity is invoked when an action is unconscionable, and equity will not suffer a wrong without a remedy.

215. All humans are connected by what they feel, and all humans fell the difference between right (fair and just outcome) and wrong (not fair or unjust outcome).

216. Please go into court alone or with a group of likeminded people once a month and together we will return to a peaceful just society under the rule of law, giving bad actors the chance to correct their ways, and if they choose not to then we have the evidence to hold them to account.

217. Once we gather enough evidence we submit it to the Lord Chancellor who has a legal duty to maintain the independence of the Courts, and to the police to investigate, and if they fail to investigate then we due to a failure in the system bring Private Criminal Prosecutions against people not doing their jobs as they are legally bound!

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218. Filling in the Audit sheet is simple…

218.1. If answer is yes then ring it….

218.2. If no then fill in what you witnessed and if you have insufficient space then write the point number of the reverse side and continue there…

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1. **Court Name (number):**	2. **Case number:**
3. **Date:**	4. **Time hearing commenced:** 5. **Time hearing ended:**
6. **Were public denied their right to access the hearing? Yes / No** **If Denied by who (name)?** 6.1. 6.2. 6.3. **If denied why?**	
7. **Complainant / Informant / Claimant:** **1** **2** **3**	8. **Represented by:**
9. **Respondent / Defendant:** **1** **2** **3**	10. **Represented by:**
11. **Section 63 of the Equal Treatment Bench Book requires the Court introduce everyone, and MUST explain each person's role – this means NOT ONLY TEHIR TITLE BUT ALSO THER RIGHTS AND OBLLIGATIONS! Without knowing the rules of the game you will loose!** **See detailed sheet of preliminary Questions which must be explained to the respondent / defendant – do not make assumptions or presumptions!**	
12. **Legal officer / clerk:**	13. **Magistrate / Judge** ***'There is . . no such person known to the law as the anonymous JP.'***[191] **1** **2** **3**
14. **Who is the harmed party?** 15. **Summary of claimed harm and charges:**	
Write point numbers and details on reverse side when more space is required.	

Auditor Name: Court Audit sheet 1 of 6

[191] Regina v Felixstowe Justices ex parte Leigh: CA 1987 https://swarb.co.uk/regina-v-felixstowe-justices-ex-parte-leigh-ca-1987/

16. **Response / plea (delete as appropriate):**
Guilty = charges understood and accepted as lawful cause of action - proceed to trial
Not Guilty: Proceed to Pre-trial
No case to answer: Proceed to Pre-trial (enter details):

17. **Application to representation by Power of Attorney: GRANTED / DENIED**
Everyone has the right to self defence and as all are equal under the law and no one is above the law by Power of Attorney you can grant another authority to assist you including talking on your behalf should you so need. The SRA and BAR are unlawful monopolies who have a conflict of interest which is to make money, and they are granted unlawful privileges in breach of the Statute of Monopolies 1623[192].
If denied why?

18. They often avoid the power of attorney by allowing a 'MeKenzie friend' **GRANTED / DENIED**
If denied why?

19. and in most cases deny rights of audience (to speak) **GRANTED / DENIED**
If denied why?

20. **Application to record proceedings: GRANTED / DENIED**
Everyone has the right to self defence and as all are equal under the law and no one is above the law hence there is no rational reason for you to be denied the right to create your own record if you are the only party that can be prejudiced in a case. This applies to any case. Magistrates Courts are NOT courts of record and therefore to be denied this right would be even more irrational! Under the open justice principle this again would be irrational to be denied this right. Further the Supreme and Appeal Courts set precedence and not only are proceedings archived and publically accessible, but they are also live streamed, and this sets precedence which the lower courts are bound by! Finally to be forced into paying for official transcripts is socio economic discrimination and a breach of the Statute of Monopolies 1623 as it grants unlawful privileges as all are equal under the law and no one is above the law[193]!
If denied why?

Write point numbers and details on reverse side when more space is required.

Auditor Name: Court Audit sheet 2 of 6

[192] https://www.legislation.gov.uk/aep/Ja1/21/3
[193] https://www.legislation.gov.uk/aep/Ja1/21/3

CASE MANAGEMENT / PRE-TRIAL

21. **Not Guilty / cannot enter a plea / evidence fails to show lawful cause of action**
    - 21.1. Claimant states lawful basis of claim **YES / NO**
    - 21.2. Defendant opportunity for rebuttal **YES / NO**
    - 21.3. Claimant opportunity for counter rebuttal **YES / NO**
    - 21.4. Defendant final opportunity for counter rebuttal. **YES / NO**

List each and point of law, and after final rebuttal decide if there is lawful excuse to breach the peace (harm actually done (A), intended (I) or reasonable foreseeable (R)

If denied why?

22. **Does everyone have full disclosure? YES / NO**

List any evidence requested by either party:

If denied why?

23. **If either party needs evidence the court should order by when it must be given to the other party and the hearing must be adjourned. YES / NO**

If denied why?

Write point numbers and details on reverse side when more space is required.

Auditor Name: Court Audit sheet 3 of 6

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TRIAL

24. **Claimant evidence:**
    - 24.1. Cross Examination by defendant **YES / NO**
    - 24.2. Further cross examination by claimant if required **YES / NO**
    - 24.3. Further cross examination by defendant if required **YES / NO**

List each:

Against each your decision on balance of probabilities (BOP) or beyond reasonable doubt (BRD)
If any step denied why?

Write point numbers and details on reverse side when more space is required.

Auditor Name: Court Audit sheet 4 of 6

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TRIAL

25. **Defendant evidence:**
    - 25.1. Cross examination by claimant **YES / NO**
    - 25.2. Further cross examination by defendant if required **YES / NO**
    - 25.3. Further cross examination by claimant if required **YES / NO**
    - 25.4. Further cross examination by defendant if required **YES / NO**

List each:

Against each your decision on balance of probabilities (BOP) or beyond reasonable doubt (BRD)
If any step denied why?

Write point numbers and details on reverse side when more space is required.

Auditor Name: Court Audit sheet 5 of 6

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JUDGEMENT
26. **Judge / Jury decision:** 27. **Description of harm (actus reus):** 28. **State of mind (mens rea):** 29. **Reasoning:**
SENTENCE / REMEDY / REDRESS
30. Must be proportionate to harm caused in accordance with section 63 of the Sentencing Act 2020[194].
COSTS
30.1. Pre action protocol by looser: **YES / NO** 30.2. Cross examination: **YES / NO** 30.3. Final cross examination by looser if required: **YES / NO** **If any step denied why?** **Cost award.**
Write point numbers and details on reverse side when more space is required.

Auditor Name: Court Audit sheet 6 of 6

[194] https://www.legislation.gov.uk/ukpga/2020/17/part/7/chapter/1

LITIGANTS IN PERSON SELF HELP REFERENCES

219. **Advice for Litigants in Person**
https://www.judiciary.uk/you-and-the-judiciary/going-to-court/advice-for-litigants-in-person/

220. **A Handbook for Litigants in Person**
https://www.judiciary.uk/publications/handbook-litigants-person-civil-221013/

221. **July 2022 interim revision of the Equal Treatment Bench Book**
https://www.judiciary.uk/wp-content/uploads/2022/07/Equal_Treatment_Bench_Book_July_2022revision.pdf

222. **The Judge Over Your Shoulder 6th edition**
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1094974/The_Judge_Over_Your_Shoulder_JOYS_guidance_6th_edition.pdf

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