

GCE

LAW: CRIMINAL PROCESS THE TRIAL PROCESS

SUGGESTED IDEAS FOR TEACHING/LEARNING



SUGGESTED IDEAS FOR TEACHING AND LEARNING

Teacher /Lecturer:	
Unit:	Component One: The Nature of Law English and Welsh Legal System
Ref. to specification:	Criminal Process
Suggested time allocation:	3 – 8 hours

Course:	AS and A Level Law
Topic:	Criminal Courts
Session:	

Aims & Objectives: At the end of these sessions the student will be able to:

- Explain what is meant by an adversarial system
- Explain how offences are classified
- Describe the criminal court system
- Explain mode of trial
- Explain sending for trial
- Explain plea & case management hearings
- Explain disclosure & plea bargaining
- Assess whether plea bargaining should be allowed
- Explain the trial process/ procedure
- Critically evaluate the system and suggest reforms

Main Teaching and Learning Activities

Teacher/Lecturer Activities:

- Introduce topic and objectives using IWB, PowerPoint or whiteboard
- **Question for students: The English criminal justice system can be described as adversarial. What does this mean?** This should lead in to a discussion of our adversarial system and what this means as opposed to European countries who have inquisitorial systems, this could also include a discussion of recent miscarriages of justice e.g. Cardiff 3, Sally Clarke etc.
- Organize class in to small groups, with flipchart paper or use of interactive whiteboard and ask them to **explain how offences are classified, and to draw a diagram of the criminal court structure** – the feedback session will lead in to a discussion of summary, either way and indictable offences and the court structure, tutor to explain the various courts and their role with the aid of PowerPoint diagram or diagram on board or word document.
- Explain Mode of trial -Triable either way offences – defendant can insist on jury trial, otherwise it is up to the Magistrates- explain how they come to this decision
- **Group work:** Criminal Process exercise – In small groups consider the following, students to give reasons for their answers. If you were charged with burglary, an either way offence, what type of trial would you prefer? Would you want your case to be heard by a professional judge and jury in the crown court or by the magistrate's court? Alternatively one half of the class can cite the arguments for staying in the magistrate's court whilst the other half can cite the arguments for going to Crown.
- Explain sending for trial, plea and case management hearings & disclosure with reference to **Crime & Disorder Act 1998, Criminal justice Act 2003 & Criminal Procedure Rules 2005, Criminal Procedure & Investigations Act 1996.**
- Discuss with students plea bargaining with reference to cases such as **R v Turner (1970) & R v Goodyear (2005)** .**Question for students :Is plea bargaining is in the interests of justice?**

- Explain the trial procedure – prosecution presents first etc. and discuss evidence of bad character and previous convictions – ***CJA 2003 ss101-103 & R v Hanson (2005) Does the defendant get a fair trial if previous convictions are made known to the jury? What are the arguments for and against the allowing of such evidence?***
- If time allows students to role play a ***mock trial***, with roles being allocated for defendant, witnesses, defence and prosecution, judge and jury. Please see accompanying word document – Mock Trial scenario - The trial of Max Hasty. If the class is a small class, another class can be enlisted to play the jury.
- Discuss with the group criticisms of the criminal justice system / process and reforms. Encourage students to consider the role of expert witnesses and the case of Sally Clark (2003) and the role of the media – trial by media and the effect on a potential jury, and all those involved in the justice system.

Student Activities:

- Answering questions to start a discussion of the topic (see question above) and answering questions throughout.
- Small group exercise - identify how criminal offences are classified and the criminal court structure.
- Criminal Process exercise – Which court would you choose if charged with an either way offence? Students to give reasons for their answers.
- Mock trial – students to role play the various parts of defendant, witnesses, defence and prosecution, judge and jury – to fully understand the trial procedure, the students can prepare their case for homework or in class and a whole lesson can be given over to the mock trial.
- Group discussion of criticisms of the criminal justice system / process and reforms needed.

Suggested links / resources:

- PowerPoint
- Handout
- IWB
- Word document Which Court? Exercise
- Word document – Mock Trial – Max Hasty
- Newspaper stories / headlines of cases e.g. Birmingham, 6, Stephen Lawrence etc

Assessment

During the lesson	Group exercises, mock trial and direct questioning illustrate how well the students have understood the criminal process.
Subsequent to lesson	Homework – Plan the case for either the defence or prosecution for a mock trial. Past paper question on the criminal process

TOPIC: Criminal Process

Questions:		Expected answers:
1.	What is meant by an adversarial system?	Adversaries in battle – each side puts their own case, attacking their opponent's evidence by cross examination – judge's role is like that of referee.
2.	What is an inquisitorial system?	Under this system a judge plays a dominant role, collecting evidence, interviewing witnesses, and inspecting documents, the trial is often simply a process of agreeing the investigating judge's findings.
3.	Which system do you think is better?	The answer will depend on the students own views.
4.	What types of offences are summary offences and in which court are they heard?	The more minor offences – heard in the magistrates court (all cases however, start in the magistrates).
5.	What types of offences are either-way offences and in which court are they heard?	More serious than summary e.g. theft, burglary, can be heard in either magistrates or Crown court.
6.	What types of offences are indictable offences and in which court are they heard?	The most serious, e.g. murder, manslaughter, rape – will always be heard in Crown Court.
7.	How do the magistrates decide whether to send to crown court – what factors do you think they take in to account?	How serious the case is, their own sentencing powers, defendant's previous convictions and the plea of the defendant.
8.	Which court would you choose if charged with an either way offence?	Reasons for choosing Crown – <ol style="list-style-type: none"> 1. Better chance of acquittal from a jury 2. Mistaken belief of defendants that they will get a lighter sentence in Crown court 3. Puts off the day of the trial Reasons for choosing magistrates – <ol style="list-style-type: none"> 1. Lighter sentences 2. Less publicity 3. Over with more quickly
9.	What is plea bargaining and is it in the interests of justice?	Negotiations between the prosecution & defence e.g. defendant agrees to plead guilty to a lesser charge or enter an early plea for a lighter sentence. Is it fair? Answers should include - places pressure on the accused to plead guilty when they could be innocent – also offenders should be punished for what they have actually done.

10.	Should evidence of bad character and previous convictions be admitted? What are the arguments for and against the allowing of such evidence?	Allowing such evidence increases the chance of miscarriages of justice, and goes against the presumption of innocence. Juries may not focus on the evidence in question but make a decision on the previous convictions alone – is this a fair trial?
11.	Should confession evidence alone be sufficient to secure a conviction?	The answer will depend on students own opinions but a discussion of miscarriages of justice should take place and the need for a corroboration rule.
12.	Should so much weight be placed on the evidence of expert witnesses?	Again the answer is dependant on students own opinions, but discussion of R v Cark (2003) – cot death case, will aid the discussion.
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