

Access to justice and funding

Sources of legal advice:

Help lines, citizens advice bureaux, law centres, trade unions, schemes run by lawyers.

Advice in criminal cases:

Anyone held as a suspect or questioned at a police station has the right to free legal advice. There is a duty solicitor scheme which operates 24 hours a day. Advice can be given in person or over the phone, or you could be your own solicitor.

Public funding in criminal cases:

Criminal legal aids are run by the legal aid agency in the ministry of justice. The agency has contracts with solicitors. In order to obtain representation, the defendant must qualify under two tests; interests of justice test, and means test.

Interests of justice test:

A defendant will only get funding if he can show that at least one of these applies; if found guilty he would lose his liberty/livelihood, or suffer serious damage to his reputation; the case involves a point of law; the defendant is unable to understand the proceedings/-state the case; the case involves tracing, interviewing, or cross-examination of witnesses; or its in the interests of another person to be represented.

Means test- magistrates court:

Anyone on income support, under 16, or under 18 and in full-time education will pass the test. Others may qualify if their gross annual income is below a certain threshold.

Access to justice and funding (cont)

Means test- crown court:

Most defendants receive legal aid. It is free for those with low incomes, and those on higher incomes can receive aid but will have to pay a contribution depending on their disposable income. If the defendant is found not guilty then the contribution is refunded.

Access to justice requires an open system of justice so that people are able to fund the costs of taking legal action or defending themselves in a criminal case.

Criminal courts

Summary offences:

These are relatively minor offences that are only tried in the magistrates courts. For example, assault, battery, and motoring offences.

Triable-either-way offences:

These are the middle of 'seriousness', they can be tried in both the magistrates and crown court. They could be S47, S20, or theft.

Indictable offences:

These are the most serious offences, they are tried in the crown court before a judge and jury. These could be murder, manslaughter, S18, or robbery.

Jurisdiction of the magistrates court:

They try summary offences and some triable-either-way offences. They have a preliminary hearing for indictable offences to determine bail and legal aid applications. They can also issue arrest and search warrants.

Criminal courts (cont)

Jurisdiction of the crown court:

They try indictable offences and some triable-either-way offences. They carry out sentencing if sent by the magistrates court to do so. They also hear appeals from the magistrates court by defence against conviction and/or sentence.

Appeals from the magistrates court:

Appeal to the crown court, or appeal by way of case stated law to the administrative court.

Appeals to the crown court:

Defendant had an automatic right to appeal. If the defendant pleaded guilty then he can only appeal against sentence. The case is completely reheard by a judge and two magistrates. If there's a point of law to be decided on then there can be a further case stated appeal to the administrative court.

Appeal by way of case stated:

Appeals from the crown court:

Allowing an appeal:

Appeals by the prosecution:

Appeals to the Supreme Court:



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