

Unit 5: English Legal System I

Learning hours: 60 hours

Unit level : H1(H1 or H2 for BTEC Higher Nationals only)

Unit description

This unit provides an introduction to the English legal system. It develops learners' knowledge of the court structure, court procedures, funding and legal personnel. Alternative methods of settling disputes are also covered, as are the sources of law, their development and interpretation. It also provides an introduction to the legal formalities required for the formation of the different business entities, their management and dissolution.

Summary of learning outcomes

To achieve this unit a learner must:

- 1 Investigate the **civil and criminal courts**, their structure, operation and **alternative methods of dispute resolution**
- 2 Identify sources of **legal advice and funding**, including the roles of different **legal personnel**
- 3 Explore the relevant importance of the different **sources of law**, together with **rules of interpretation**
- 4 Investigate legal personality with emphasis on **business entities**.

Content

1 Civil and criminal courts and alternative methods of dispute resolution

Criminal courts: classification of crimes and methods of trial; magistrates court — jurisdiction, personnel, procedure; Crown Court — juries, their role and structure, jurisdiction, procedure; grounds for appeal, Court of Appeal, House of Lords, European Court of Justice

Civil courts: Small Claims Court and jurisdiction; County Court and High Court, jurisdiction of both, and allocation of cases to tracks, grounds for appeal, Court of Appeal, House of Lords, European Court of Justice

Alternative dispute resolution: meaning — conciliation, mediation and arbitration; advantages and disadvantages, tribunals and enquiries

2 Legal advice, funding and legal personnel

Legal advice and funding: sources of legal advice, Duty Solicitor Scheme, funding, conditional fees

Legal personnel: solicitors and barristers, roles and training, overview of the judiciary

3 Sources of law and rules of interpretation

Sources of law: judicial precedent, statute, delegated legislation — meaning, how they operate, advantages and disadvantages; Rules of Statutory Interpretation; European law — types of law

Differences between common law and equity: role of equity today

4 Business entities

Meaning and examples: sole traders, partnerships, companies

Advantages and disadvantages: of types of legal business entity

Legal requirements: for the formation of sole traders, partnerships, and companies

Provisions: relating to the running/management of businesses eg rights/duties of partners, directors and creditors; dissolution of business entities

Learning outcomes and assessment criteria

Learning outcomes	Assessment criteria for pass To achieve each outcome a learner must demonstrate the ability to:
1 Investigate the civil and criminal courts , their structure, operation and alternative methods of dispute resolution	<ul style="list-style-type: none"> • understand the differences between criminal and civil law • identify the role of individual courts and assess their effectiveness within the court structure • apply knowledge of court roles to live case/case study material and present findings • explain the meaning of ADR and assess its usefulness
2 Identify sources of legal advice and funding , including the roles of different legal personnel	<ul style="list-style-type: none"> • identify sources of legal advice • assess implications of changes in funding • understand and assess the role of solicitors, barristers and judges
3 Explore the relevant importance of the different sources of law , together with rules of interpretation	<ul style="list-style-type: none"> • understand the current day importance of the sources of law • apply knowledge of the sources of law to a case study and present findings • assess the effectiveness of the rules of interpretation
4 Investigate legal personality with emphasis on business entities	<ul style="list-style-type: none"> • evaluate the legal principles which can influence choice of business entity • assess the difference with regard to management of partnerships and companies

Guidance on delivery and assessment

Delivery

Each section will require lectures to provide an introductory factual framework. Learners should then take part in a variety of activities eg visits, talks, research to access primary sources, case studies, group discussions and moots.

A good starting point for delivery is outcome 1. Visits to a variety of courts generate discussion, and enable learners to visualise the courts, their personnel, and the procedures and types of cases dealt with. It may then be preferable to continue with outcome 3, as some of the cases seen in the courts will generate discussion on the law involved, and explanation of Statutes, Judicial Precedent and Delegated Legislation will follow naturally. It is important when looking at the rules of interpretation to use live case examples to explain the different results, which can result from the application of different rules. Outcome 2 also follows on from the court visits and looks at where advice can be sought, how it can be funded, and what responsibilities the different legal personnel have. Finally outcome 4 looks at the formation of businesses, and the legal requirements involved. This outcome is free standing, but useful in cases where learners are not opting for further law units.

Assessment

The assessment(s) should aim in a structured way to test the different unit outcomes. They will develop and test a variety of skills and encourage use of primary and secondary legal materials.

Examples of assessment could include:

- a record of a visit to a court/tribunal with an analysis of the role of that institution
- a case study including a number of incidents, which require advice on the particular courts which would deal with the incidents, the availability of advice, funding and personnel
- a case study on a source of law
- a report on proposed or recent legislation
- an oral presentation on some aspect of the legal system
- a case study on a business including choice of business entity, advantages/disadvantages, management, dissolution.

Links

This unit forms the foundation for all the other specialist law units: *Unit 26: Business Law, Unit*

27: Common Law II and *Unit 28: European Law*. It examines the structure of the legal system, the sources of law, funding and personnel. This is an essential introduction to the specialist law units covering contract, tort, European law and business law.

The formation, management and dissolution of business entities section is a useful introduction to the company unit.

The sources of law section looks types of EU law and the court structure of the ECJ which is a useful introduction to *Unit 28: European Law*.

Resources

Learners should have access to a learning resource centre with a good range of legal text and case books. These should be supported by journal, statutes and law reports. Good newspapers are also necessary because of the topical nature of law.

Learners will also benefit from visits to courts, and parliament. Crown courts are usually excellent in arranging tours, and talks by resident judges. Magistrates, solicitors and barristers are usually willing to talk collectively to groups of learners.

Support materials

Textbooks

Darbyshire P — *Nutshells English Legal System* (Sweet & Maxwell, March 2001) ISBN: 0421742801

Elliot and Quinn — *English Legal System* (Longman, April 2002) ISBN: 0582473136

Ingman T — *The English Legal Process* (Blackstone, August 2000) ISBN: 1841740284

Martin J — *English Legal System* (Hodder & Stoughton Educational, June 2002) ISBN: 0340848545

Slapper and Kelly — *English Legal System* (Cavendish, August 2001) ISBN: 1859416578

Smith and Keenan — *Advanced Business Law* (Prentice Hall, January 2000) ISBN: 027364601X

Stychin C — *Legal Method: Text and Materials* (Sweet & Maxwell, April 1999) ISBN: 0421634707

Websites

www.bbc.co.uk/law

BBC

www.bized.co.uk

provides case studies appropriate for educational purposes

www.cjsonline.org

Criminal Justice System

www.courtservice.gov.uk

The Court Service www.cps.gov.uk

The Crown Prosecution Service

www.criminal-justice-system.gov.uk

Criminal Justice System

www.dca.gov.uk

Department for Constitutional Affairs

www.eurunion.org

European Union in the US

www.lawcom.gov.uk

The Law Commission

www.legalservices.gov.uk

Legal Services Commission

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