

Unit 6: ENGLISH LEGAL SYSTEM II

Learning hours: 72 hours

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

Unit description

This unit provides a sound knowledge of the English legal system. After completion of this unit learners should be able to understand the civil process and critically analyse its reforms. Further, the learners should understand and apply the rules of the criminal process regarding the investigation of the crime. The learners are expected to have a sound knowledge regarding the concepts of law.

Summary of learning outcomes

To achieve this unit a learner must:

1. Understand and critically analyse **The Civil Process**.
2. Understand and apply the rules of **The Criminal Process**.
3. Explain and evaluate the **Concepts of Law**.
4. Understand the **European Context** and understand its importance.

Content

1. The Civil Process

Civil Process: The need for reform; The Woolf Report, The civil justice system before 1999; the new civil justice system

Assessment of Woolf Reform: Criticisms of Woolf Reform by different critics, Professor Zander's assessment of the Woolf reform.

2. The Criminal process: Investigation of Crime

The Police and Criminal Evidence Act (PACE) 1984: Powers to stop and search; Powers of arrest; Search upon arrest; Powers of entry, search and seizure; The suspect in detention; The interviewing and questioning of suspects; the Codes of Practice. The Criminal Justice Act 2003.

3. Concepts of Law

Law and rules: Austin: the command theory; Hart : primary and secondary rules; Dworkin: legal principles; the natural law theory; the function of law; Why are laws obeyed?

Law and morals: Law and morality; Changes in law and morality; Differences between law and morality; natural law theory; utilitarianism; Hart and Devlin debate;

4 The European Context

Sources of European Community law: Internal treaties; international treaties; secondary legislation;

The institutions of European Union: Functions of Council of ministers; functions of the European parliament; functions of the European commission; functions of the ECJ

The European Court of Human Rights: Functions of ECHR; Difference between ECJ and ECHR

The European convention of Human rights and Human Rights Act 1998: The scope of convention; Advantages and disadvantages of incorporation

Learning outcomes and assessment criteria

Learning outcomes	Assessment criteria for pass To achieve each outcome a learner must demonstrate the ability to:
1. The Civil Process	<ul style="list-style-type: none"> • Identify the pre 1999 civil justice system and analyse its need for reform • Explain the new civil justice system • Critically analyse the Woolf reform
2. The Criminal process	<ul style="list-style-type: none"> • Understand and summarise the rules relating to police's power to stop and search, arrest and search upon arrest; • Understand and summarise the rules relating to police's power to entry, search and seizure; • Understand and summarise the rules relating to police's power to entry, search and seizure; • Understand and summarise the rules relating to police's power in respect of the suspect in detention and interviewing and questioning of suspects. • Apply the laws relating to PACE and Codes of Practice in a given scenario
3. Concepts of Law	<ul style="list-style-type: none"> • Explain the command theory and critically analyse it. • Explain the functions of law and why laws are obeyed. • Define morality • Distinguish between law and morality • Explain and critically analyse Hart and Devlin debate
4. The European Context	<ul style="list-style-type: none"> • Identify the sources of European Community Law • Explain the roles of EU institutions • Distinguish between ECJ and ECHR • Analyse the advantages and disadvantages of incorporating HRA 1998 into UK law

Guidance on delivery and assessment

Delivery

The outcomes in this unit could be delivered with personal preference. Group work and other active methods of learning can be employed to enhance learners' experience and promote the required understanding. Learners could also take part in a variety of activities e.g. visits, talks, research to access primary sources, case studies, group discussions and moots. The use of case studies and specimen documentation is to be particularly encouraged, both as a means of assessment and as part of the normal learning process. Students may take part in research.

Assessment

Evidence of outcomes may be in the form of:

- Group work
- 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
- Essays

Links

This unit is linked with *English Legal System I* and will provide a better understanding of the English Legal system. Furthermore, this unit will also provide a foundation for all other units.

Resources

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

Centre devised unit