

**Answers to self-test questions**

**Chapter 1**

**1. Outline the main differences between criminal law and civil law.**

<b>Criminal law</b>	<b>Civil law</b>
Branch of public law - affects society at large	Private law - affects individuals
Prosecution is brought by <i>the State</i> (the Crown)	An <i>individual</i> sues another individual or a body
A <i>verdict</i> is delivered at the end of the trial. The defendant will usually either be found <i>guilty</i> or <i>not guilty</i>	At the conclusion of a civil trial, there will be a <i>finding</i> that the defendant was either <i>liable</i> or <i>not liable</i>
Criminal law is concerned with the <i>punishment</i> of offenders	Civil law is concerned with <i>compensating</i> the wronged individual
A defendant who has been found guilty ( <i>convicted</i> ) of a criminal offence will be <i>sentenced</i>	A party who has been held liable in civil law will pay <i>damages</i> to the wronged party

**2. What is the distinction between indictable only offences, either way offences, and summary offences?**

Indictable only offences are the most serious offences; summary offences are the least serious offences. Either way offences are of mid-level severity.

**3. In which court is each offence in 2. (above) tried?**

Indictable only offences are triable only in the Crown Court with a jury. Summary only offences are triable in the Magistrates Court without a jury. Either way offences are triable either in the Crown Court or the Magistrates Court.

**4. Briefly describe the criminal justice process and the hierarchy of the criminal courts.**

Where a crime is alleged to have been committed, the police will conduct an investigation into the allegation. If they find a suspect, they may arrest and later charge the suspect. The case may then be passed on to the Crown Prosecution

Service and the suspect will make his first court appearance in the Magistrates' Court. If the case proceeds to trial, the venue will depend upon the classification of the offence charged (see question 3 above). The tribunal of fact will deliver a verdict at the end of the trial. If the defendant is convicted, he will be sentenced accordingly by the judge.

All criminal cases begin in the Magistrates' Court. If a case is tried in the Magistrates' Court, any appeal against conviction or sentence will take place in the Crown Court. If a case is tried in the Crown Court, any appeal against conviction or sentence will take place in the Court of Appeal. Either the prosecution, or a defendant convicted in the Magistrates' Court or the Crown Court, may appeal to the High Court by way of case stated. This procedure applies to appeals on a point of law.

Appeals from the Court of Appeal are now made to the Supreme Court (they used to be made to the House of Lords). Such appeals only take place if the Court of Appeal or Supreme Court grants leave to appeal on a certified question of law of public importance.

**5. What is the “golden thread” in English criminal law? How is the “golden thread” justified?**

The “golden thread” refers to the burden of proof. This quote came from the House of Lords decision in the case of *DPP v Woolmington* (1935). The “golden thread” is that the prosecution must prove the guilt of the defendant.

It is justified on the basis that the prosecution bring the case, so the prosecution must prove it. The prosecution also have more resources available to them to use in their prosecution of the defendant, whereas the defendant has none. Thus, placing the burden of proof on the prosecution goes some way towards balancing out the inequality of arms between the two sides.

**6. What is the meaning of the maxim, *actus non facit reum, nisi mens sit rea*?**

This means “an act does not make a man guilty of a crime, unless his mind be also guilty”. In order to convict a defendant of a criminal offence, it must be established that he committed the *actus reus* of the offence with the relevant *mens rea* and that he had no defence.

**7. Define and distinguish between the terms *actus reus* and *mens rea*.**

*Actus reus* means “guilty act” and *mens rea* means “guilty mind”. The *mens rea* is the mental element of an offence. The *actus reus* elements are the remaining

elements which may comprise conduct or omissions, consequences or circumstances.

**8. Explain the requirement of coincidence.**

The prosecution must prove that the defendant did the *actus reus* of the criminal offence, and that at that time, he also had the *mens rea* of the offence. Thus, the *actus reus* and *mens rea* elements must coincide in order for the defendant to be convicted of an offence.