

# The english legal system department law general essay

Law



**ASSIGN  
BUSTER**

C: Users\Saiwa Li\Desktop\url. jpg

## **The English Legal System**

### **Department**

Building Surveying

### **Student ID**

N0395775

### **Convenor**

Alan Walker

### **Module Title**

Law

### **Module Code**

PRMD10012Table of Contents

### **Introduction:**

The courts in England and Wales were divided into three main groups, which are the Senior Court, the Subordinate Court and Tribunal. Between these three main groups are distributed into many other different courts. However the assignment task is to describe the most senior and the second most senior court, therefore from this assignment we will explain only the Supreme Court and the Court of Appeal. In this first part of this assignment will demonstrate in detail on how the Supreme Court and Court of Appeal system works under the law of England and Wales. Secondly, there will be a flow chart diagram indicate the hierarchy of the court and its divisions.

<https://assignbuster.com/the-english-legal-system-department-law-general-essay/>

Lastly, there will be an explanation regarding the system of judicial precedent and how that system operates and the importance of the system as a source of law.

## **Senior Court:**

### **The Supreme Court under the law of England and Wales:**

Under the law of England and Wales, the Supreme Court is the ultimate court of appeal for both criminal and civil cases. Moreover according to the Constitutional Reform Act 2005, the previous organisation House of Lords has been taken over by the Supreme Court and begins at October 2009. In turn to have an appeal to the Supreme Court from the Court of Appeal, permission should be granted either from the Court of Appeal or the Supreme Court. In addition, there must be a point of law of general public importance to allow the final appeal from the Court of Appeal to the Supreme Court in criminal cases. There are in total 12 Judges, who sit in the Supreme Court and they are called the Supreme Court 12 Justices; it consists 10 Justices of the Supreme Court; and also the remaining 2 which are the President and the Deputy President of the Supreme Court. Generally, the Supreme Court is seated in jury with at least three judges, and during cases are undertaking it normally listened by five judges. The Supreme Court will be the final decision and the inferior courts should obligate or bound with the decision, this will present a predictable and reliable result in the law.

## **Second Senior Court:**

### **The Court of Appeal under the law of England and Wales:**

The Court of Appeal is the highest court but lower than the Supreme Court in England and Wales. It is divided into two divisions; the Civil and Criminal divisions. Furthermore, it is also called the Court of Criminal Appeal and was replaced by the criminal division of the Court of Appeal in October 1966. The Court of Appeal comprises 38 ordinary sitting Lords Justices and the Lord Chief Justice, Master of the Rolls, President of the Queen's Bench and the Family Division, and the Chancellor of the High Court. Generally, the Court of Appeal is seated with three Judges.

### **Criminal Division:**

The appeal will hear from the Crown Court, High Court in Criminal division, supervise and form by the Lord Chief Justice and the lord justices. The Court of Appeal is bound by decisions of the Supreme Court.

### **Civil Division:**

In Civil division, the appeal will hear from the County Court, High Court and other tribunals. It is chaired by the Master of the Rolls. The Court of Appeal is bound by decisions of the Supreme Court.

## **Senior Court Structure Diagram:**

**Supreme Court**

**Court of Appeal**

**High**

**Court**

**Criminal Division**

**Crown**

**Court**

**Magistrates Court**

**Family Division**

**Civil Division**

**County Court**

**Judicial Precedent:**

**System:**

Judicial Precedent means using the previous legal cases to apply to the cases which have the similar facts in order to make a right decision of the judgement. This system is originated from the English Law. The decision that is made from the Supreme Court will be the final decision and the inferior courts should obligate or bound with the decision, this will present a predictable and reliable result in the law. Also certain courts can allow the judges decision to be precedent, however if there is a strong reason or evidence to support. Moreover it should follow the guidance regarding on the principles from lateral and inferior courts.

## **Ratio Decidendi & Obiter Dicta:**

The decision or judgement of a judge may fall into two parts, the ration decidendi and the obiter dictum. Ratio decidendi is the principle of law which a decision is based. When a judge delivers judgement in a case he outlines the facts which he finds have been proved on the evidence. Then he applies the law to those facts and arrives at a decision, for which he give the ration decidendi. Obiter dictum is the judge may go on to speculate about what his decision would or might have been if the facts of the case had been different. This is an obiter dictum. The binding part of a judicial decision is the ration decidendi. An obiter dictum is not blinding in later cases because it was not strictly relevant to the matter in issue in the original case. However, an obiter dictum may be of persuasive authorit in later cases. A difficulty arises in that, although the judge will give reasons for his decision, he will not always say what the ration decidendi is, and it is then up to a later judge to elicit the ratio of the case.