

How statutes are interpreted by the courts in the uk

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This is where the court applies and relates to Legislation. Judges use four core moralities when inferring to statute:\n

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- The literal Rule \n \t
- The golden Rule \n \t
- The Mischief Rule \n \t
- The Purposive approach. \n

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The Literal Rule

\n\nThe literal rule is the rule used to interpreting statutes. It is the initial rule that Judges apply, before any other statute is interpreted. While apply this law, judges use the exact words, without averting from its true significance. The words written in a statute are in an ordinary, conventional and literal meaning. Because of the use of the precise words, judges may use a dictionary to familiarise themselves with the words. The advantages of the literal is that the decisions using this rule can demonstrate issues with the legislation system, which parliament can later pass an amendment within this Law.\n\nA Disadvantage of the literal Rule is that it can lead to imbalanced and injustice results. An example of this rule used in a case is Fisher v Bell (1961). Under the offensive weapons act of 1959, it is an offence to offer certain violent weapons for trade. When Bristol shopkeeper, James Bell displayed a flick knife in his store window. When the case was conveyed at hearing it was concluded that Bell could not be convicted given the certain literal meaning of the statute. The law of agreement (contract)

states that having an item in a window of a store is not a purpose of sale but is an invitation to treat. Given the literal definition of this statute, Bell could not be convicted. Other cases that were taken to court under the literal rule were: R v Harris (1836), Fisher v Bell (1961), Whitely v Chappell (1868), Railway v Berriman (1946).

The Golden Rule

The golden rule is an alteration of the literal rule, as it allows the Judge to look beyond the literal statute if the practise of the rule would due to an absurd judgement. This is a narrow method which is used when a word from the statute has more than one meaning, as it has both a constricted and broad approach. The advantages for the golden rule has is that it can rule out any absurdities, where the unjust results could follow, produced by the literal Rule.

The disadvantages of the golden rule is that there is no clear definition of what existence or to what extent of the obscurity. This means that the rule is unpredictable, making difficulties for clients to be advised by their Lawyers. An example that falls under the golden rule is Alder v George (1964).

The rule was used in the case of Adler v George (1964) to exclude an absurd result. Under section 3 of the Official Secrets Act 1920, it was an offence to obstruct HM Forces in the area of a prohibited place. Mr Frank Adler had in fact been arrested whilst obstructing such forces within such a prohibited place (Markham Royal Air Force Station, Norfolk). He disputed that he was not in the vicinity of an outlawed place as he was actually in a prohibited place. The court applied the golden rule to extend the literal wording of the statute to cover the action committed by the defendant. If the

literal rule had been applied, it would be absurd for a person to be liable if they were near to a prohibited place and not if they were actually in it, as someone protesting near the base would be committing an offence whilst someone protesting in it would not. His conviction was therefore supported. Other cases that fell under the golden rule are: R v Allen (1872), Re Sigsworth (1935), Adler v George (1964).\n

The Mischief Rule

\n\nThe mischief rule was newly formed during the heydon's Case (1584). This specific case allows judges to examine the previous Laws in demand to determine what the ' mischief' the Act was intended to treat. The advantages for the mischief rule is that it was written appropriately so it has been permitted of by the Law Commission in 1969 over the literal and golden rule. This rule also excludes any unusual or unreasonable outcomes. The disadvantages are that the mischief rule in courts is not always easy to identify, what parliament intended to remedy. Also the mischief rule was established in the 16th century, so it is out of date and the purposive approach is more suitable to custom now.\n\n\nAn Example of a Mischief rule is the: Corkery v Carpenter (1951). In 1951, Shane Corkery was sentenced to one month's sentence for being drunk in public, whereby he was in full control of a Bicycle. At about 2. 45 p. m. on 18 January 1950, the defendant was drunk and was pushing his pedal bicycle along Broad Street in Ilfracombe. He was consequently indicted and found guilty under section 12 of the Licensing Act 1872 with being drunk in charge of a carriage. The 1872 Act made no actual mention to bicycles. The court elected to use the

mischief rule to agree the problem. The purpose of the Act was to avoid people from using any practice of transport on a public highway whilst under the state of being intoxicated. The bicycle was undoubtedly a method of transport, thus the user was in the approved manner and was charged. Other types of cases where the Mischief Rule was used: *Smith v Hughes* (1960).

The Purposive Approach

The purposive approach is the statutory interpretation which originates from the European Court of Justice. At this point in time the court's were not just seeking to see what the void was in the old law, but how the making of a decision, to what parliament were intended to achieve.

The advantages of the purposive Approach is that this rule is mostly used in EU courts. This can vary of a advantage due to the referendum vote in June 2016 to leave the EU. The disadvantages of the purposive approach is that, it is unconstitutional as it is undemocratic, for instance it is giving considerable amount of authority to unelected Judges.