

BTEC Law Level 3

Unit 2 Internally Assessed

Coursework

Investigating aspects of criminal law and the legal system

Booklet 1

Explore how statutory rules are made and interpreted

Name

Learning Objectives and Success Criteria

Learning Objectives

- Explore how statutory rules are made and interpreted

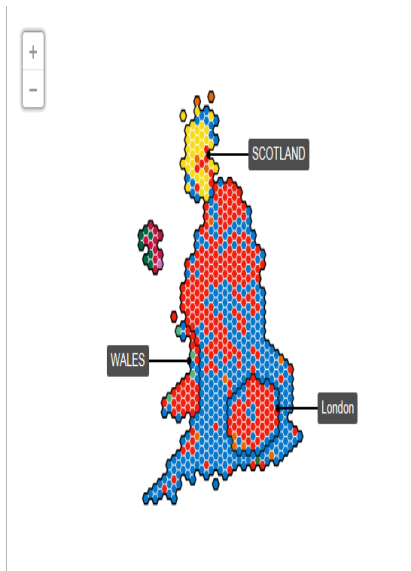
Success Criteria

- Explain how a bill becomes a law through Parliament
- Explain the rules of statutory interpretation
- Analyse the impact external forces and statutory interpretation can have on a law
- Evaluate the law making process in and out of Parliament

A.2 The law making process in Parliament

Acts of Parliament or statutes are made by MPs in the House of Commons and Lords in the House of Lords.

This will cover any law with “Act” in its name, such as the Theft Act, the Fraud Act or the Offences Against the Person Act.



Most laws start life in the House of Commons – This is where our 650 elected Members of Parliament sit. The government is formed from the political party that has the most seats after a general election. To be able to form a government a party needs to have a majority of seats (i.e. 326) This is so that they can win any vote if every other MP votes against them. The map shows the distribution of seats after the last election with each seat shown as same size. Without a majority, it is sometimes very hard to pass a law if other parties do not agree with its content.



UK general election 2017 results

08 June 2017

PARTY	LEADER	SEATS	VOTES %
Conservative Party	Theresa May	317	42.38%
Labour Party	Jeremy Corbyn	262	40.03%
Scottish National Party	Nicola Sturgeon	35	3.04%
Liberal Democrats	Tim Farron	12	7.37%
Democratic Unionist Party	Arlene Foster	10	0.91%

Data from: Wikipedia



Why did the Conservatives have to do a deal with the DUP party following the last general election?

Before a Law is introduced

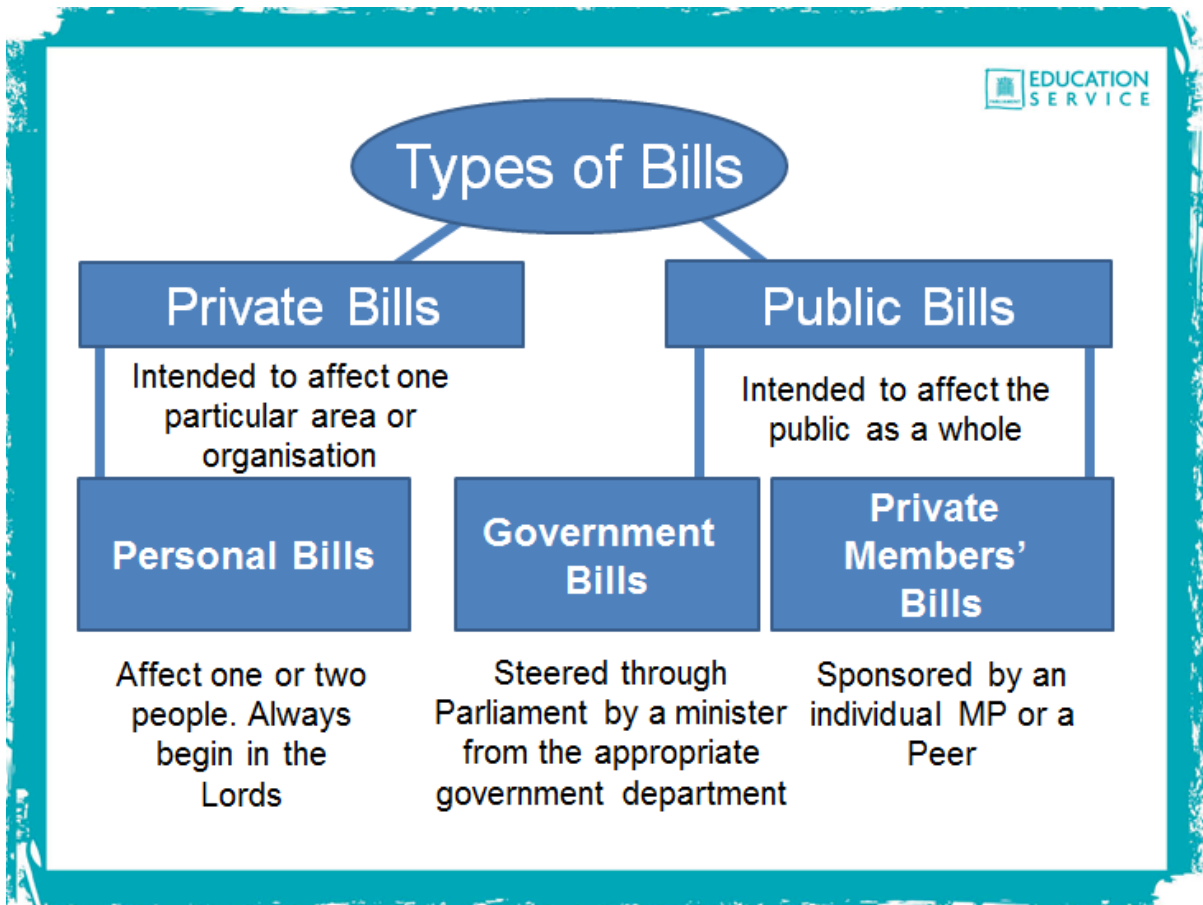
After a General Election, when the new ruling Government is formed, the Queen delivers “[The Queen’s Speech](#)” in Parliament which outlines what the Government intend to do in their time in office. This will include an overview of the new laws they intend to introduce.

Before proposals for laws (known as bills) are introduced there is usually consultation with interested parties like professional bodies, pressure groups and voluntary organisations. This ensures the bill has support and will achieve what is needed and recommended.

Proposals for new laws come in the form of a [Green Paper](#) which is the consultation documents – it simply states what the Government intend to do – It contains no detail. People make recommendations during the consultation period which the Government can take note of and change their ideas accordingly. This is followed by a [White Paper](#) which contains a firmer proposal and a draft copy of the law.

A [draft bill](#) is then introduced is a Bill that is published to enable consultation and pre-legislative scrutiny before a Bill is formally introduced into either the House of Commons or House of Lords.

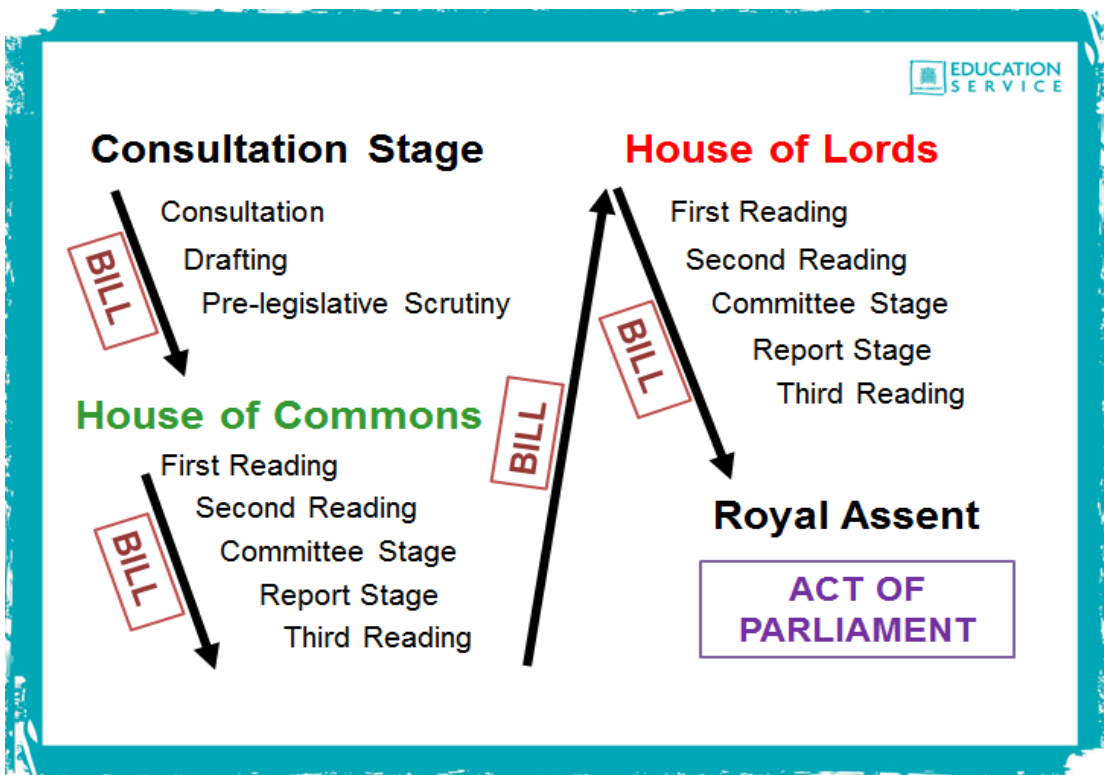
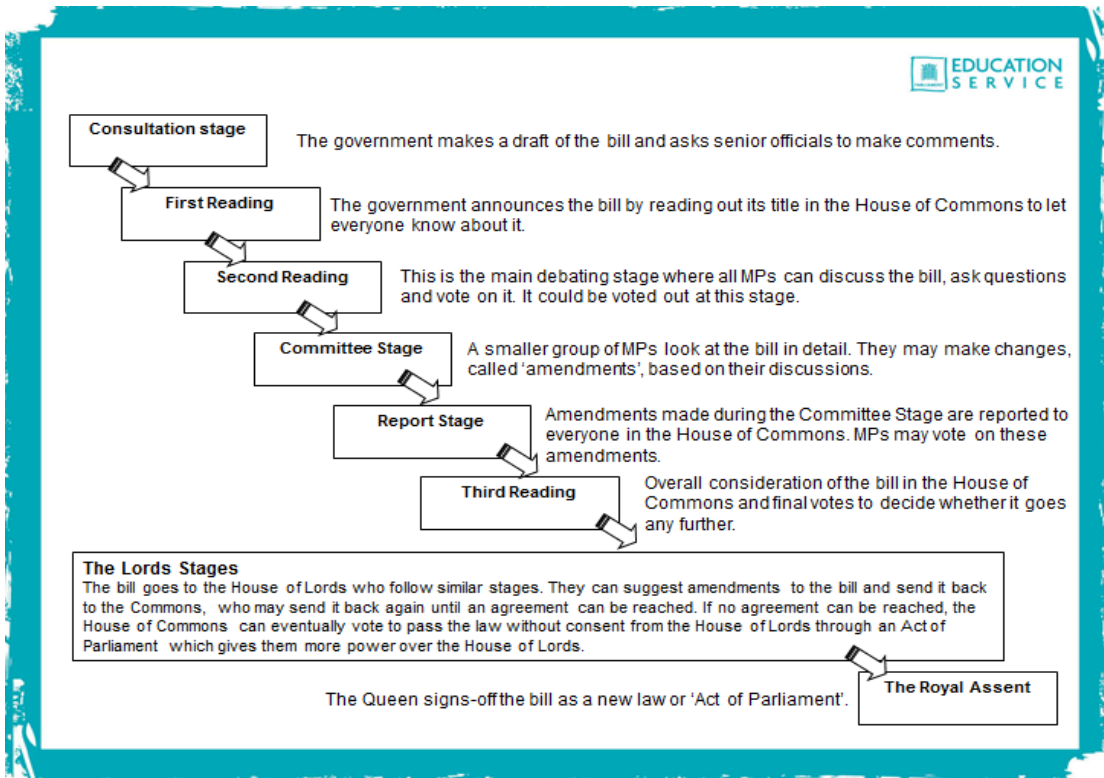
A draft bill is considered, often by a departmental select committee in the Commons or by a joint committee of Lords and Members of the Commons. This allows MPs and Members of the Lords to have early influence on the Bill. This process is known as [pre-legislative scrutiny](#). The diagram on the next page shows where a bill can originate from.



Types of Bill

- **Public Bill** = Proposals for laws related to whole country, and normally introduced by Government. Main type of bill.
 - **Private Bill** = Proposals for laws related to only a small number of people or corporations (organisations). This does not apply everywhere.
- **Private Members' Bill** = Proposals for laws proposed by individual MPs. Can be public or private. Very rarely get passed, but sometimes 'good ones' crop up. One example was the Abortion Act which legalised terminations in England

The Passage of a Public Bill through Parliament



Stage	Meaning
First Reading	A formal process where the name of the Bill and its main aims are read out – there is no debate at this stage
Second Reading	The main debate of the whole Bill – debates the principles of the Bill rather than specific details. i.e. debate what it is for rather than how it will achieve the aim. At the end of the debate there is a vote as to whether the Bill should be taken to the next stage.
Committee Stage	The Bill is examined in detail by a committee of between 20 and 50 MPs who proportionally represent the political parties in the House of Commons. (i.e. if the government have 70% of the seats in the House of Commons, they will have 70% of members of the committee.) The committee go through each point in the Bill and look at what needs changing
Report Stage	The committee report back with its suggested amendments and each one is voted on to see if the change is agreed
Third Reading	This is for the final vote for the Bill to be passed by the House
House of Lords	The bill then passes to the House of Lords – their power is limited. Any changes they propose will then be considered by the House of Commons. The House of Lords can only block a Bill once. If they block it the House of Commons can introduce the same bill in the next session of Parliament. If they agree to it again, the Act bypasses the House of Lords and can become law without their approval. The last time the House of Lords tried to block a Law was the 2004 Hunting Act which made hunting foxes with packs of hounds illegal.
Royal Assent	A formal procedure where the Queen gives her approval. This is a formality, the Queen will always give her approval.

AI. Influences on Parliament

Parliament is subjected to pressure from various different sources, all of which aim to influence the decisions they make, including the introduction of new laws. Below are some of the organisations that influence Parliament

Pressure and Cause Groups

Pressure groups are “organisations of groups of people who share similar beliefs on a subject”. They can be either for or against something, depending on the cause. They can range in size from international organisations such as Greenpeace, to a small band of local residents campaigning against an issue that is specific to them – there are many different small-scale pressure groups in Lincolnshire campaigning against plans to build wind-turbines in the Lincolnshire countryside. They campaign for changes in law

A ‘cause group’ is a pressure group that campaigns for broader, longer-term changes to be made. Greenpeace and Friends of the Earth are two examples of ‘cause groups’, who seek to promote the values of looking after the environment and continually apply pressure on law-makers to change environmental policies and legislation. Trade unions can also be classed as pressure groups – they apply pressure on decision makers and seek to promote a cause that is in their members’ interest. These are known as ‘interest’ groups. The Trade Union Congress campaigns for workers’ rights, whilst the National Union of Students (NUS) campaigns for the rights of students – they campaigned vociferously, against the tuition fee increase by organising large scale campaigns throughout the country. Their efforts failed.

Sometimes, pressure groups can go too far and damage their cause through their actions The Animal Liberation Front (ALF) are an international pressure group campaigning for the ‘liberation and freedom’ of animals. They seek to apply pressure by engaging in acts of violence, particularly as part of their campaign to end experimentation on animals. They planted bombs on the doorsteps of those involved in the experiments, and those who did business with the companies experimenting, injuring many people. A series of arson attacks on factories and laboratories in the U.S between 1996 and 2001 caused \$40m of damage, and led the U.S Government to declare the group ‘terrorists’ .

An example of a successful pressure group was Jamie Oliver’s campaign for healthy school meals. In 2005, celebrity chef Jamie Oliver launched his *Jamie’s School Dinners* show on Channel 4. This launched a campaign



to replace unhealthy, poor quality school dinners with healthier alternatives. So successful was the pressure Jamie Oliver applied on the Labour government, The Education (Nutritional Standards for School Dinners) Regulations 2006 were introduced, which outline the type of food that can be served in schools, and what is banned.

Public Opinion

Laws are made by Government. Government is comprised of elected Members of Parliament – the more MPs a political party has, the more power it has in Parliament to make the laws it wants to. However, this means that government must listen to the opinions of the public. The government serves the people, so it stands to reason that they should listen to them. Public opinion can often be gauged through things such as ‘opinion polls’; these are often conducted by government or other organisations, and serve to find out what the public are thinking on a given issue. From this, it may be possible to make popular changes. Public opinion is often carried and reported by the media (the newspapers, TV, internet etc.); newspapers want to make money, and they are not going to sell newspapers if they do not support what the public is saying. As such, it is sometimes difficult to establish whether the media reports public opinion, or actually plays a role in creating it.

Examples of Public Opinion Campaigns

On 13 March 1996, 43-year old Thomas Hamilton walked into a primary school in Dunblane, Scotland. Armed with four handguns, including two semi-automatic pistols, and 743 bullets, he would perpetrate one of the most horrific crimes in British history. Following a crazed shooting spree in which 109 bullets were fired, he killed seventeen people (sixteen five-year old children and their teacher), before killing himself. At the time, it was legal to own handguns with the appropriate licence. Such was the public outcry; a campaign was set up called the ‘Snowdrop’ campaign. This soon collected over 700,000 signatures calling for the Government to change the law on gun ownership. The media also launched their own campaigns, collecting many more signatures. Gun controls were tightened, and the Government created the Firearms (Amendment) (No. 2) Act 1997, which effectively banned the possession of all handguns in the UK.

The Media

The media includes television, radio, newspapers, magazines and the internet. It can be local or national, and can have a huge influence on law-makers. It is sometimes difficult to establish whether the media *reports* what the public are thinking, or actually *creates* that public opinion itself. The media is extremely important to law-makers; it has the opportunity to reach a huge number of people, and Politicians need to listen to what the public want if they are to stay elected.

Example of Media run campaign – Sarah’s Law

In July 2000, seven year-old Sarah Payne was murdered by Roy Whiting. Whiting was a convicted sex offender and was on the Sex Offender’s Register, and had served time in prison for previous sexual assaults. Despite being on the Sex Offender’s Register, he was entitled to anonymity; the people in the community where he was living knew nothing of his previous crimes, allowing him to easily strike again. Following the murder, he was sentenced to fifty years in prison, later reduced on appeal to forty years. Sarah Payne’s parents were convinced that, had they known about the Sex Offender’s living in their area, Sarah would still be alive.



The News of the World joined with the Payne family to put together a campaign to change the law, allowing people access to the Sex Offender’s Register to see who was living where, with the aim being to prevent a tragedy such as this happening again.



This campaign was hugely successful, and helped generate strong public awareness and public opinion on the issue; over 700,000 signatures were included on a petition handed over to Downing Street, demanding a change in the law.

The campaign resulted in the creation of ‘Sarah’s Law’ – a scheme that allows the public access to a list of registered Sex Offenders living in their local area. This was trailed in 2008 in a few counties, and went nationwide in 2011 as the “Child Sex Offender Disclosure Scheme”.

The Law Commission

The Law Commission is an independent body set up by Parliament and aims to keep law under review, simplify complicated laws, and make recommendations for improvements. It works continuously. It comprises of five lawyers, plus assistants, and it looks at areas of law that need reviewing or developing, and produces consultation papers on its findings. It also looks at old laws to repeal them (remove them). It will often consider opinions, and puts forward its recommendations for new laws, often accompanied by a draft Bill.

The Law Commission is a powerful influence on Government – 68% of its recommendations are put into place, and it is continually looking at improving this rate. They are continually working on different projects, and make valid contributions to law reform.

The Law Commission takes views from judges, lawyers, Government Departments, the voluntary and business sectors, and the general public, before deciding which laws to review (called 'projects'). When selecting projects to undertake, the Law Commission will also consider how important the law is and the resources needed to effectively review the law. Once a review is complete, a report is given to the Government minister responsible for that area of law, and this allows the recommendations to be debated and changes to be implemented

Task: Title Booklet 1 Page 11

Choose a law you want to look at – This can either be one outlined in the further reading list, one below, or can be one of your own choosing. You must:

- Give an overview of the law
- Outline how the law would have passed through Parliament
- Identify and briefly explain key outside influences on the content and formation of the law
- Identify and briefly explain how these influences impacted its progress into law.
- These should be done in note form, bullet points etc. and does not need to be in full sentences and paragraphs – You will need these notes for your first assignment though!

Name of Law	What it's about
Sarah's Law – sex offender disclosure scheme	A law that allows the public access to a list of sex offenders living in their area. Introduced after campaigns in the media following the murder of Sarah Payne by a previously convicted sex offender.
Protection of Freedoms Act 2012/Protection from Harassment Act 1997	How the law relating to stalking was introduced
Firearms (Amendment) Act 1997 and Firearms (Amendment No 2) Act 1997	Introduction of laws to ban ownership of handguns in UK following the Dunblane Massacre and media campaigns

Other laws you could look at which have been controversial or come about after media campaigns and public pressure include ban on fox hunting, use of a mobile phone when driving, healthy school meals, changes to laws affecting immigrants earning less than £35,000 and their right to stay in the UK, single sex marriage.

A3. Statutory Interpretation

Statutory Interpretation refers to how the law created by Parliament is actually interpreted in courts. Judges have to have the power to interpret a written law because sometimes laws can be unclear due to words having several meanings, some words not having a clear meaning, changing times and society affecting the relevance of laws written a long time ago.

The four main ways statutes are interpreted are the literal rule, the golden rule, the mischief rule and the purposive approach. These give the judge an increasing amount of power to make sense of a law and apply it the facts of the case in front of them.

Each allows judges to look at what is actually written in the law and try to interpret what the law actually is. They can then apply the facts of the case to the law more accurately. Once a statute has been interpreted in a certain way, precedent is formed in the same way we saw earlier in the unit.

These rules are needed because a law can never be written to predict all the different situations that could apply to it. Judges need to have the powers to determine whether a law actually covers the set of circumstances of a case. Methods of Statutory interpretation are shown on the following pages

The Literal Rule interprets the law by using the plain, ordinary meaning of words as they written in the statute. It takes the literal meaning of the word. It is the first rule used when interpreting laws – If the wording is clear and unambiguous; the courts had to follow the wording.

R V JUDGE OF THE CITY OF LONDON COURT (1892)

- Lord Esher: *'If the words of an Act are clear then you must follow them even though they may lead to a manifest absurdity. The court has nothing to do with the question whether the legislature has committed an absurdity.'*

DUPORT STEEL V SIRS (1980)

- Lord Diplock: *'Where the meaning of the statutory words is plain and unambiguous it is not then for the judges to invent fancied ambiguities as an excuse for failing to give effect to its plain meaning because they consider the consequences for doing so would be inexpedient, or even unjust or immoral.'*

<http://www.bitsoflaw.org/legal-system/statutory-interpretation/revision-note/degree/construction-literal-rule>

The following cases show how the literal rule has been applied

WHITLEY V CHAPPELL [1868]

- D impersonated a dead person in order to vote
- it is illegal to impersonate any person entitled to vote
- a dead person is not entitled to vote
- D was acquitted

LNER V BERRIMAN (1946)

- C widow of a railway worker made compensation claim
- her husband was killed by a train when carrying out track '*maintenance*'
- by statute compensation only available when '*relaying or repairing*' tracks claim failed

<http://www.bitsoflaw.org/legal-system/statutory-interpretation/revision-note/degree/construction-literal-rule>

Both these cases show an example where the wording of the law was clear, but a result which many would feel was unjust resulted.

Advantages to the literal rule are

1. Easy to apply
2. Fair in as much as it will always be applied without any deviation
3. It ensures Parliament, not judges, remain as the supreme law maker
4. Highlights where the law has been poorly drafted

PARTRIDGE V CRITTENDEN [1968]

- D advertised some species of protected birds for sale **Protection of Birds Act 1954**: illegal to '*offer for sale*' protected birds
- under contract law an advert is an '*invitation to treat*' not an '*offer for sale*'
- D not guilty

The outcome of this case led to the wording of the Act being changed in Parliament

Disadvantages to the literal rule are

1. Creates loopholes in laws

PROCTER & GAMBLE V HMRC [2008]

- C (manufacturer of Pringles) claimed D (HMRC) had wrongly charged VAT on product
- **VAT Act 1994**: 17.5% VAT to be paid on '*potato crisps, potato sticks, potato puffs and similar products made from the potato, or from potato flour, or from potato starch*'
- held product not potato crisps because less than 50% potato content & made from dough
- also distinguished from crisps by packaging & '*unnatural shape*'
- C won & Pringles not subject to VAT

2. Means that 'bad' precedents are created which must be followed in other courts
3. Can lead to an injustice
4. Fails to consider the complex English language
5. Follows what the law actually says rather than what the law meant
6. Ignores common sense and the experience of judges

However, the powers of the judges were extended with the formation of the **Golden Rule**. This gave courts the power to interpret beyond the literal meaning when adopting the literal meaning would result in an “absurd” outcome. It gave the courts the power to look for another meaning that avoided an absurd result.

A **narrow interpretation** allowed an ambiguous meaning to be replaced with an interpretation to avoid the absurd outcome. The following case raised an ambiguous meaning of the word “marry”

R V ALLEN (1872)

- **Offences against the Person Act 1861** offence of bigamy defined: *'Whosoever being married, shall marry any other person during the lifetime of his spouse...'* 1861 shall commit the offence of bigamy
- literal reading of Act makes bigamy an impossibility as cannot legally *'marry'* when still married
- court interpreted *'marry'* to mean going through the ceremony of marriage

<http://www.bitsoflaw.org/legal-system/statutory-interpretation/revision-note/degree/construction-golden-rule>

This case showed that the literal rule being followed would create an absurd outcome as no one could ever meet the requirements of the offence if the literal meaning of the word “marry” was taken.

A **wider interpretation** was allowed when there was no ambiguity over wording, but to apply the words in their literal meaning would produce an absurd outcome.

RE SIGSWORTH (1935)

- D murdered his mother who had not made a will
- **Administration of Justice Act 1925**: her estate would be inherited by her next of kin (D)
- no ambiguity but court held next of kin could not inherit if had murdered the deceased

ADLER V GEORGE [1964]

- D gained access inside a RAF base to protest
- **Official Secrets Act 1920**: an offence to be protesting *'in the vicinity of'* a prohibited place
- RAF base was a prohibited place
- D argued as was inside base, therefore not *'in the vicinity of'*
- D convicted by magistrate

<http://www.bitsoflaw.org/legal-system/statutory-interpretation/revision-note/degree/construction-golden-rule>

Advantages to the Golden Rule

1. Any loophole in the law can be closed
2. It uses common sense to apply the law
3. Ensures that what Parliament intended is considered
4. Maintains Parliamentary supremacy as words only interpreted differently if an absurd outcome would result

Disadvantages of the Golden Rule

1. Gives judges more power (though some might argue this is a good thing as they are the experts in using the law and MPs in Parliament are not. The power is now also extended to allow judges to add words to legislation where there has been an obvious drafting error)

INCO EUROPE V FIRST CHOICE DISTRIBUTION (2000)

- Lord Nicholls: *'The court must be able to correct obvious drafting errors. In suitable cases, in discharging its interpretative function the court will add words, or omit words or substitute words... This power is confined to plain cases of drafting mistakes. The courts are ever mindful that their constitutional role in this field is interpretative. They must abstain from any course which might have the appearance of judicial legislation. A statute is expressed in language approved and enacted by the legislature.'*

2. Only works for where absurd decisions would result – it does not give judges the power to eliminate injustices (as in *Partridge v Crittenden*)
3. There is no definition of the meaning of the word “absurd” – it was up to a judge to decide what was considered to be an absurd outcome, which man felt led to an undemocratic process and inconsistencies.
4. “The golden rule is little more than a safety-valve to permit the courts to escape from some of the more unpalatable effects of the literal rule. It cannot be regarded as a sound basis for judicial decision-making...” A quote from Professor Zander a highly respected legal scholar makes it clear that he does not think the rule is the best solution.

The Mischief Rule was introduced for cases where it is not clear what activity the law is trying to prevent. The Mischief Rule was defined in Haydon's Case as shown below:

HEYDON'S CASE (1584)

- defined the mischief rule
- stated that court must consider the law was before the statute was passed to understand why it was passed
- then interpret the statute in such a way to ensure that the gap is covered and remedy the mischief

<http://www.bitsoflaw.org/legal-system/statutory-interpretation/revision-note/degree/construction-mischief-rule>

Therefore to apply the mischief rule, the judges will look at what they feel the law was trying to do and interpret it accordingly.

CORKERY V CARPENTER (1951)

- D rode a bicycle whilst drunk
- **Licensing Act 1872**: offence to be drunk in charge of a '**carriage**' on highway
- held mischief intended to be addressed was drunks on the highway being in charge of transport
- D guilty

ELECTORAL COMMISSION V WESTMINSTER MAGISTRATES' COURT [2011]

- only persons named on the electoral register may make donations to political parties
- **Political Parties, Elections & Referendums Act 2000** S58(2): '**The court may, on an application made by the Commission, order the forfeiture by the party of an amount equal to the value of the donation.**'
- United Kingdom Independence Party (UKIP) received donations from a person not on the register, although he was entitled to be
- Court of Appeal: used literal approach & ordered UKIP to repay all the money donated (£349,216)
- UKIP appealed to Supreme Court
- Supreme Court held that mischief was to prevent foreign donors from funding UK political parties, so mischief had not occurred
- to reflect fault (taking money from someone not on register) UKIP ordered to repay only the money received once they knew donor was not on register (£14,481)

Advantages of the Mischief Rule

1. It looks at the intent of a law not just the actual wording – therefore paying attention to why Parliament passed the law, therefore still allowing Parliamentary supremacy when it comes to being a law maker
2. In a law commission report on the interpretation of statutes in 1969, its findings were that it was more suitable than both the literal rule and golden rule and should be the only method used.

Disadvantages of the Mischief Rule

1. It has been argued that the judiciary are taking the role of being supreme law maker

ROYAL COLLEGE OF NURSING V DHSS (1981)

- Lord Edmund-Davies: criticised the '*redrafting with a vengeance*' of the Abortion Act 1967

Royal College of Nursing v DHSS [1981] 2 WLR 279

The Royal College of Nursing brought an action challenging the legality of the involvement of nurses in carrying out abortions. The Offences Against the Person Act 1861 makes it an offence for any person to carry out an abortion. The Abortion Act 1967 provided that it would be an absolute defence for a medically registered practitioner (ie a doctor) to carry out abortions provided certain conditions were satisfied. Advances in medical science meant surgical abortions were largely replaced with hormonal abortions and it was common for these to be administered by nurses.

Held:

It was legal for nurses to carry out such abortions. The Act was aimed at doing away with back street abortions where no medical care was available. The actions of the nurses were therefore outside the mischief of the Act of 1861 and within the contemplated defence in the 1967 Act.

<http://www.e-lawresources.co.uk/Royal-College-of-Nursing-v-DHSS.php>

2. Can sometimes be difficult to determine exactly what the mischief is that the law was trying to eliminate.

The Purposive Approach has emerged recently as a slight modification to the Mischief Rule where the judges look at what they believe Parliament meant to achieve. This therefore allows a little more freedom in the judge's interpretation. It does not just look at what gap exists in an old law it, it is making a decision as to what they felt Parliament set out to achieve.

PEPPER (INSPECTOR OF TAXES) V HART [1993]

- Lord Reid: *'To apply the words literally is to defeat the obvious intent of the legislature. To achieve the intent and produce a reasonable result we must do some violence to the words.'*
- Lord Griffiths: *'The days have long passed when the courts adopted a strict constructionist view of interpretation which required them to adopt the literal meaning of the language. The courts now adopt a purposive approach which seeks to give effect to the true purpose of legislation and are prepared to look at much extraneous material that bears upon the background against which the legislation was enacted.'*

SWEET v PARSLEY (1969)

This case involved the courts looking at whether the legislation intended strict liability to be a part of the law as there was not a clear indication provided in the statute. Therefore the courts used purposive approach as they went beyond looking at the gap in the law, but looked at what the intention was behind the law, and exactly what the elements of the crime were in terms of the actus reus and mens rea.

This method is also the method used by most EU countries, and the method used by the European Court of Justice when they interpret EU laws, and when interpreting EU law, our domestic courts use this method.

EUROPEAN COMMUNITIES ACT 1972

- domestic courts obligation to construe law consistently with EU law
- should use purposive approach to do so

R V A [2001]

- **Youth Justice & Criminal Evidence Act 1999** S41(3)(b) prohibits questioning rape V on their sexual behaviour unless contemporaneous
- D wanted question V on their alleged continuing relationship
- House of Lords took purposive approach to comply with **ECHR** Article 6 (right to fair trial)
- stated that appropriate test: whether questioning could obtain evidence relevant to consent
- went beyond words of Act

Advantages of the purposive approach

1. Flexible, allowing courts to rule justly in individual cases – something the other interpretation methods don't always allow for

CUSTOMS & EXCISE COMMISSIONERS V SAMEX [1983]

- Lord Bingham: '*.. creative process of supplying flesh to a spare and loosely constructed skeleton...*'

2. Allows drafting errors to be overcome and where circumstances were not seen by law makers
3. Allows decisions to be made without having to refer a law back to Parliament for redrafting before an outcome can be reached (e.g. Partridge v Crittenden needed law to be re-written as no satisfactory precedent could be created with literal rule.
4. Consistent in terms of bringing the English system in line with the rest of the EU

Pickstone v Freemans plc [1989] AC 66 House of Lords

Miss Pickstone brought a claim against her employer under the Equal Pay Act 1970. She was employed as a warehouse operative and was paid the same as male warehouse operatives. However, Miss Pickstone claimed that the work of the warehouse operatives was of equal value to that done by male warehouse checkers who were paid £1.22 per week more than she was.

The House of Lords decided that the literal approach would have left the United Kingdom in breach of its Treaty obligations to give effect to an EU directive. It therefore used the purposive approach and stated that Miss Pickstone was entitled to claim on the basis of work of equal value even though there was a male employee doing the same work as her.

Under our Equal Pay Act, the claim would not have been allowed because her wage would have been compared to the male doing the same job and paid the same.

Disadvantages of the purposive approach

- I. Many feel it hands too much power to the judiciary in law making – the different opinions are highlighted in the case of *Magor & St Mellons v Newport Borough Council* 1952. Lord Denning, the judge at the trial used the purposive approach saying

'We do not sit here to pull the language of Parliament to pieces and make nonsense of it. We sit here to find out the intention of Parliament and carry it out and we do this better by filling in the gaps and making sense of the enactment than by opening it up to destructive analysis'

He was saying that following the literal rule could destroy the intentions of Parliament. However, when the case was appealed in the House of Lords, Lord Simonds said

'naked usurpation of the legislative function under the thin guise of interpretation...if a gap is disclosed the remedy lies in an amending Act'.

He was saying that Lord Denning had used the “excuse” of interpretation to take over the role of legislator and that when a problem is uncovered, it should be Parliament that re-writes the law, not a judge assuming what was meant to be written.

Summary

Literal Rule – takes a literal meaning to a word – ensured consistency and limited the powers of a judge. However, now seen an outdated method producing unsatisfactory outcomes (LNER v Berriman)

Golden Rule – Allowed a wider interpretation of words if an absurdity would occur from the literal rule being followed (R v Allen) However had the problem of what was absurd being left to the judge to decide, therefore inconsistent and not seen as “sound basis for judicial decision making”

Mischief Rule – Allowed judges to bridge gaps in old laws – It looks at what the act the law was trying to make illegal and interprets the law accordingly (Electoral Commission v City of Westminster Magistrates Court & UKIP) However it is argued it leads to the judiciary having too much power in the law making process.

Purposive Approach – The method most commonly now used – Allows a judge to look at what they felt the intentions of Parliament were, therefore a method that gives most power to the judges in interpreting law.

What method you feel is most suitable depends largely on your view of how much power the judiciary should have in interpreting what Parliament have written in their statutes.

Lord Bingham justified the purposive approach in 1983 as being a method for flesh to be added to the skeleton law produced in parliament – this view now seems more popular than Lord Simonds 1952 view that the purposive approach gives judges the right to disregard the legislative process to make laws under the guise in interpreting them!

Task! Title: Booklet 1 Page23

You have been asked to write a revision guide for students which should include the following information:

1. The reasons why statutory interpretation is needed
2. An explanation of each method that includes:
 - a. How the method works
 - b. an example of its use
 - c. at least one advantage and one disadvantage of each method
3. Your opinion of whether you think it is right that the purposive approach is the one now generally favoured

The way this is presented is up to you, but it should be done in a style that is useful as a revision aid for law students e.g. spider diagram, bullet points etc. It should therefore not be continuous prose, and needs to have key points clearly identified

Give your opinion on the outcome of the cases of:

- a. Partridge v Crittenden
- b. Adler v George
- c. Electoral Register v Westminster Magistrates' Court & UKIP
- d. Pickstone v Freemans

Discuss whether you agree with the view of Lord Bingham or Lord Simonds regarding the power afforded to judges in the purposive approach and explain why

Glossary

Term	Meaning
Queen's Speech	
Green Paper	
White Paper	
Draft Bill	
Pre legislative scrutiny	
Private Bill	
Public Bill	
Literal Rule	
Golden Rule	
Mischief Rule	
Purposive Approach	

Further Reading

The following websites are useful sources of information and good reference points for your further reading

Website	Content
http://www.parliament.uk/about/how/laws/new-laws/	How laws are introduced
http://www.parliament.uk/education/about-your-parliament/how-laws-are-made/	How laws are made
http://www.itv.com/news/2013-12-23/what-is-sarahs-law-background-to-the-nationwide-scheme/	“Sarah’s law” and how it works – Child Sex Offender Disclosure Scheme
https://www.nspcc.org.uk/services-and-resources/research-and-resources/factsheet-and-briefings/child-sex-offender-disclosure-scheme/undefined/services-and-resources/research-and-resources/factsheet-and-briefings/child-sex-offender-disclosure-scheme/undefined/services-and-resources/research-and-resources/factsheet-and-briefings/child-sex-offender-disclosure-scheme/undefined/services-and-resources/research-and-resources/factsheet-and-briefings/child-sex-offender-disclosure-scheme/	NSPCC guide to “Sarah’s Law”
http://news.bbc.co.uk/1/hi/uk/1709708.stm	A report on the News of The World’s campaign for Sarah’s Law
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/184095/disclosure-scheme-guidance.pdf	Government guidance document on the Child Sex Offender Disclosure Scheme
https://www.theguardian.com/society/2012/apr/10/how-we-changed-stalking-law	Campaign on stalking and the law 2012
http://www.bbc.co.uk/news/uk-20482930	Detail on stalking law introduced 2012
http://www.cps.gov.uk/legal/s_to_u/stalking_and_harassment/#01	Crown Prosecution Guide to stalking law introduced 2012
https://www.crimeline.info/news/new-stalking-offences	Info on the stalking laws 2012
https://aoav.org.uk/2014/dunblane-1996/	How Dunblane shootings led to new laws being introduced
http://www.legislation.gov.uk/ukpga/1997/5/contents	Firearms (Amendment) Act 1997 – brought in after Dunblane
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306000/140423_M_SSC_Act_factsheet_web_version.pdf	Marriage (same sex couples) Act Factsheet
http://researchbriefings.files.parliament.uk/documents/SN00366/SN00366.pdf	Briefing paper on the use of a mobile phone while driving
http://www.bitsoflaw.org/legal-system/statutory-interpretation/revision-note/degree/construction-literal-rule	The literal rule
http://www.bitsoflaw.org/legal-system/statutory-interpretation/revision-note/degree/construction-golden-rule	The golden rule
http://www.bitsoflaw.org/legal-system/statutory-interpretation/revision-note/degree/construction-mischief-rule	The mischief rule
http://www.bitsoflaw.org/legal-system/statutory-interpretation/revision-note/degree/construction-purposive	The purposive rule