# Topic Exploration Pack

# Citizens and civil law

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## Instructions for teachers

These instructions cover the student activity section which can be found on [page 17](#_Student_Activity). This Topic Exploration Pack supports OCR GCSE (9‒1) Citizenship Studies.

**When distributing the activity section to the students either as a printed copy or as a Word file you will need to remove the teacher instructions section.**

### Learning outcome

This topic is part of the theme ‘rights, the law and the legal system in England and Wales’.

By studying this topic, learners will develop their knowledge and understanding of:

* The purpose of civil law.
* The key differences between criminal and civil law.
* The means by which citizens can resolve civil disputes as consumers and employees.
* The work of tribunals, county courts and the High Court.

Learners can apply their knowledge and understanding from different parts of the specification to the following citizenship questions and issues:

* What citizens’ rights are protected by civil law?
* How can citizens access civil law?
* How easy is it for citizens to achieve justice?
* Is civil law equally accessible to all citizens?

Learners have the opportunity to develop the following skills linked to the specification’s assessment objectives:

* Applying knowledge and understanding to different contexts (AO2).
* Analysing information to help develop an understanding of citizenship issues and debates (AO3).
* Advocating a viewpoint using evidence (AO3).
* Evaluating a viewpoint to reach a reasoned conclusion (AO3).

This topic exploration pack (TEP) can be used alongside the TEP on the criminal justice system.

### Introduction

This TEP encourages learners to consider some key issues of civil justice. (Issues related to criminal law are covered in the topic exploration pack on the legal and justice system.)

Everyone experiences private disputes with other citizens or with organisations and businesses. Most of the time such disputes can be settled informally and without recourse to law. The Government’s policy is to encourage informal ways of settling disputes and promote conciliation while, at the same time making legal action less attractive – mainly by seeking to charge citizens the ‘real’ cost of taking cases to court. One consequence of this approach is the huge reduction in the number of cases taken to an employment tribunal – down by 79% the year after fees were introduced. The societal trend towards increasing litigation that so concerned commentators at the beginning of this century seems to have gone into reverse - certainly as far as small claims and employment cases are concerned. However, the Law Society and Liberty have both expressed concerns about the Government’s approach, arguing that High Court fees act as an unacceptable deterrent to those seeking justice.

Most young people are unlikely to appear in the High Court but many will experience problems in their everyday lives that cause them to consider informal steps to seek redress or even legal action. This TEP introduces young people to some of the ways civil law can be used by consumers and employees to safeguard their interests. (Young people will benefit from this TEP more readily if they have some prior knowledge and understanding of consumer rights, employment rights and equalities legislation.) The TEP also covers the main differences between civil and criminal law, and encourages learners to research and evaluate the extent to which court charges threaten justice.

As part of this exploration, learners should understand the concept of ‘justice’.

In the context of civil law, ‘justice’ means that both the claimant and the respondent achieve the outcomes they deserve according to law. This includes:

* citizens should be able to make their claim without hindrance and have it heard without undue delay
* respondents should have the opportunity to defend themselves properly and time to prepare their case
* judgements should be impartial and timely
* settlements that are in proportion to the damage suffered by the claimant.

### Section 1: What is civil law and how is it different from criminal law?

### Teacher introduction

Criminal law deals with offences that pose a potential threat to the community as a whole. Such crimes include offences against:

* the person e.g. homicide, rape, assault
* property e.g. theft, burglary, fraud
* the state or the Crown e.g. terrorism, smuggling, currency forgery.

The main purpose of criminal law is to prevent people from offending against the community in general and to punish those who do.

On the other hand, civil law aims to solve disputes between individuals, groups of people or organisations. Civil law provides a framework within which the types of dispute below can be settled:

* cases of discrimination under the Equality Act
* consumer rights – usually involving faulty goods or poor services
* employment and other contracts or agreements
* unfair treatment at work
* land and property ownership
* inheritance
* divorce, separation, and child access and custody
* copyright and patents
* accident and injury
* negligence
* tax and benefits
* mental health
* immigration.

Parliament decides which types of behaviour should be criminal and which should be covered by civil law. Learners are often surprised that discriminatory practices outlawed by the Equality Act are matters for civil rather than criminal law in the UK when they are classified as criminal offences in some other legal jurisdictions. For a concise discussion of this issue see an article by Lewis Silkin solicitors on age discrimination: <http://www.agediscrimination.info/News/Pages/ItemPage.aspx?Item=510>

Civil law does not involve the Crown or its agents investigating, prosecuting, trying or sentencing ‘offenders’. As a consequence, cases are dealt with through a process that is very different to those that apply to a criminal case.

For a summary of the differences between civil law and criminal law, see <http://www.inbrief.co.uk/legal-system/difference-between-civil-criminal-law.htm>

### Activities

1. Ask learners to decide whether each of the following would be dealt with using criminal law or civil law. Ask them to explain their reasoning.
2. A person sets fire to a neighbour’s shed
3. A worker is discriminated against by their employer because of their sexuality
4. Someone is caught chanting racist slogans at a football match
5. A train passenger punches a railway official in a dispute over a ticket
6. A consumer is unhappy about being overcharged for a faulty TV
7. A driver has driven into another car in a supermarket carpark and fails to report it.
8. Ask learners to study the differences between civil law and criminal law using <http://www.inbrief.co.uk/legal-system/difference-between-civil-criminal-law.htm>. [**Resource 1** (page 16)](#_Resource_1:_Differences) can be used to record the differences.

### Section 2: How can citizens resolve civil disputes?

### Teacher introduction

Citizens are most likely to use civil law when in dispute over issues such as: unsatisfactory goods or services; non-payment of debts; personal injury; employment; breach of contract; housing disputes; family disputes; and bankruptcy. Two of the issue that are most likely to apply to young people are considered below.

Consumer-related problems

Consumer-related problems are very common but can usually be sorted out informally. Where this fails, claimants are encouraged to avoid legal action by using a formal complaint procedure. Such procedures are known as Alternative Dispute Resolutions (ADR) and are usually administered by a mediator or ombudsman service established to settle disputes within a particular industry. The purpose of an ombudsman service is to help consumers and businesses reach solutions without recourse to legal action. The Ombudsman Services website <https://www.ombudsman-services.org/> provides information and advice to consumers with complaints against energy, communications and property companies. They also ‘signpost’ consumers to mediation services linked to other types of business.

For a useful step-by-step guide to resolving a dispute go to <http://www.consumer-ombudsman.org/> and for a factsheet on the work of the Ombudsman click <https://www.ombudsman-services.org/downloads/Aboutus_OS_factsheet.pdf>

Relatively few consumer complaints progress as far as the small claims branch of the county court. Claimants who do use the small claims process must first show that they have tried to resolve their dispute informally and have used an ombudsman (if one exists to cover their complaint) or the Civil Mediation Service. Mediation can take place by phone if both parties agree and may take less than an hour.

See the Ministry of Justice website for more details of the ‘pre-action conduct and protocols’ that apply to a ‘small claim’: <http://www.justice.gov.uk/courts/procedure-rules/civil/rules/pd_pre-action_conduct>. See <http://civilmediation.justice.gov.uk/> for details of the Civil Mediation Service.

The *Consumers’ Association (Which?)* website contains a step-by-step guide to using the small claims process. Most claims are made and settled on line. <http://www.which.co.uk/consumer-rights/action/how-to-use-the-small-claims-court>.

A more detailed guide to taking a case through the small claims process can be found at <http://www.howtotakesomeonetocourt.info/joomla/explaining-the-small-claims-process.html>

### Activities

1. Ask learners to share their experience of consumer-related problems. (They may need to think about the experience of family and friends.) Learners with no examples to share could use the case study in [**Resource 2** (page 17)](#_Resource_2:_Case).
2. Ask learners to design a guide about what consumers can do if they’re unhappy about a product or service. [**Resource 2** (page 17)](#_Resource_2:_Case) provides a template and source of information.

Employment-related problems

Employees are expected to resolve disputes at work through discussion with a line manager, consultation with a trade union or professional association representative and/or the use of the employer’s grievance procedures.

In its document, *Resolving disputes at work* (June 2007), the Trade Union Congress (TUC) states that it:

“ ….. remains firmly committed to the principle that wherever possible disputes should be resolved within the workplace through the use of effective grievance and disciplinary procedures and collective bargaining. Recourse to litigation should be a matter of last resort. The use of informal and formal internal procedures is the most successful route for finding an amicable resolution to disputes. Such procedures assist employees in keeping their jobs and employers in avoiding the costs of recruitment and training of new staff.” <https://www.tuc.org.uk/sites/default/files/extras/disputes.pdf>

Many trade unions include reminders of employment rights on their websites and describe the support available to members with employment-related problems. Unison has one of the most detailed and accessible sites: <https://www.unison.org.uk/get-help/>.

Employment rights are summarised by *Citizens Advice* at: <https://www.citizensadvice.org.uk/work/rights-at-work/>. *Citizens Advice* also provides very useful and up to date guidance about how to resolve a work-related problem <https://www.citizensadvice.org.uk/work/problems-at-work/>.

The *Equality and Human Rights Commission* has a series of guides for people who feel they may have been subject to discrimination at work. These describe people’s legal rights under the Equality Act 2010: <http://www.equalityhumanrights.com/your-rights/employment/guidance-workers>.

If employees are unable to resolve their dispute by using workplace grievance procedures, they should use the ‘early conciliation service’ provided by the *Advisory, Conciliation and Arbitration Service (ACAS)*. The following website includes a short video describing this ‘early conciliation’ service: <http://www.acas.org.uk/index.aspx?articleid=4028>

Employees must try ‘early conciliation’ to resolve their grievance before they can qualify to take their case to an employment tribunal. Employment tribunals are a type of court. (See Section 3 for more details.) See <https://www.gov.uk/courts-tribunals/employment-tribunal> for guidance on making a claim to an employment tribunal.

Claimants must pay a fee in advance. This policy was introduced in 2013 and led to a 79% reduction in claims to employment tribunals compared to the previous year. However, Unison has challenged the legitimacy of tribunal fees. *Unison* was unsuccessful in its Court of Appeal challenge to government policy in 2015 but, in February 2016, was granted leave to take its case to the Supreme Court. See news item from the Shropshire Star: <http://www.shropshirestar.com/shropshire-business/money/uk-money/2016/02/26/union-granted-challenge-to-employment-tribunal-fees-move/>)

### Activities

1. Ask learners to design an employees’ step-by-step guide for dealing with employment-related problems. Learners may use [**Resource 3** (page 19)](#_Resource_3:_Guide) to help them.
2. Ask learners to research the outcome of the Supreme Court’s judgement on employment tribunal fees. (See also the section *How accessible is civil justice?* in teacher introduction to Section 3 below.)

### Section 3: The work of tribunals, county courts and the High Court

### Teacher introduction

Although some civil cases are heard in magistrates’ courts, most are dealt with by tribunals, county courts and the High Court. Citizens Advice offers a clear and concise introduction to different types of court:

<https://www.citizensadvice.org.uk/law-and-rights/legal-system/taking-legal-action/courts-of-law/>

Tribunals

Approximately one million cases each year are heard by around one hundred and thirty different types of tribunal. Tribunals settle a wide range of disputes on such issues as employment, immigration, mental health and criminal injury. They are the busiest type of court in the English and Welsh justice system.

Tribunal members are lay people with the particular knowledge and experience needed to make fair decisions. Tribunal panels normally have three members. The chairperson will have legal training. Tribunals are an informal and relatively quick way of settling disputes.

In recent years, governments have reduced the number of cases tribunals hear by promoting conciliation (see activity 2) and deterring frivolous claims through the introduction of fees.

Tribunals share some features of a normal court of law including, in most cases, the requirement that claimants and respondents must give evidence under oath. Anyone lying can be charged with perjury (a criminal offence) and punished through a criminal court. Experienced judges in Upper Tribunals hear any appeals against the decisions of local tribunals.

For more on tribunals see <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about#our-courts>

County courts

County courts deal with civil matters such as: financial or housing disputes; family issues; personal injury; and breach of contract. Most cases are brought by people attempting to recover debts or trying to gain reasonable compensation for an unsatisfactory product or service. Such cases are dealt with through the county court’s ‘small claims’ track.

Claimants have to pay a fee when making their claim - the amount depends on the monetary value of the claim. A copy of the claim is sent to the respondent. The respondent can oppose the claim or reach a settlement ‘out of court’. Most claims are settled without the need for a court hearing. If a case does go to court, both parties (claimant and respondent) present their case to a judge. Each party is sent a copy of the judge’s decision. This judgement also sets out the action that each party must take to resolve the dispute.

If the claimant wins, they can ask the court to collect any payments from the respondent using court bailiffs if necessary. If the debt isn’t paid within seven days, a court bailiff will visit the respondent’s home or business, to see if anything can be sold to pay the debt. The ‘winning’ party can usually expect their legal and court costs to be paid by the ‘losing’ party.

(Claimants and respondents do not need to attend a hearing when claims have a value of £10,000 or less. In such cases court proceedings usually take place using written evidence online. If there is a hearing, claimants and respondents can represent themselves, or pay for a barrister or solicitor to represent them. Courts may also permit a relative, friend or advice worker to speak on a claimant’s behalf.)

County courts also deal with sensitive family cases involving issues such as divorce and adoption. These cases are heard in a family court where specialist judges preside.

For more on county courts see <https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/county-court/>

### Activities

1. Ask learners to locate the court or tribunal that would deal with the cases listed in [**Resource 4** (page 20)](#_Resource_4:_Finding). They should use the website <https://courttribunalfinder.service.gov.uk/search/> for assistance. (This activity extends learners’ knowledge of the range of civil courts and the types of case heard in those courts.)
2. Ask learners to identify the advantages of settling a claim ‘out of court’. The solicitor’s website at <http://www.stephensons.co.uk/site/individuals/srvdisputes/small_claims_guide/small_claims/> contains useful information for this activity. The site also includes a video guide to the county court.

The High Court

The High Court deals with significant civil cases that are thought to be beyond the scope of tribunals, county courts or family courts.

There are three ‘divisions’ of the High Court:

* **Chancery** – deals with business and property-related disputes, and patents.
* **Queen’s Bench** – mainly deals with claims for damages caused by personal injury, slander, libel, negligence and breach of contract.
* **Family** – deals with legal protection of children, international child abduction, forced marriage and female genital mutilation.

All three divisions hear appeals from lower courts, as well as important “first instance” civil cases. Judgements made by judges in the High Court can be challenged in the Court of Appeal or Supreme Court.

For more on the High Court and its divisions see <https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/high-court/>

To study recent High Court judgements go to <https://www.judiciary.gov.uk/court/high-court/>

For a diagram of the English and Welsh court structure, see <https://www.judiciary.gov.uk/wp-content/uploads/2012/08/courts-structure-0715.pdf>

### Activities

1. Ask learners to use [**Resource 5** (page 21)](#_Resource_5:_Court) to construct a guide to courts in England and Wales. (Criminal and civil courts should be included in the guide.)

How accessible is civil justice?

Learners may have already considered whether it is just and fair to levy fees on claimants who wish to bring their case to a tribunal or other civil court. Learners may now wish to consider further the question of how far the law is accessible to all citizens.

Court fees were first introduced in 2003 but in 2015 fees were increased significantly to reflect court running costs and in order to protect the national budget at a time of austerity. See <https://www.gov.uk/government/consultations/court-fees-proposals-for-reform>

People can get help with court fees if their income and savings are below certain thresholds. See <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex160a-eng-20160212.pdf>

However, some people with incomes or savings above the thresholds and with legitimate claims may be deterred from proceeding. By paying a fee, claimants put their money at risk because, if the claimant loses, he or she forfeits the fee. In 2015 the Law Society opposed increases in court fees on the grounds that justice was being compromised. See <http://www.lawsociety.org.uk/news/press-releases/increases-in-court-fees-will-impact-access-to-justice-july-2015/>

Government Legal Aid is available to people with low incomes wishing to use civil law to resolve ‘serious’ problems. See https://www.gov.uk/legal-aid/eligibility for eligibility and <http://www.lawsociety.org.uk/for-the-public/paying-for-legal-services/legal-aid/> for a list of qualifying issues. (Note that civil legal aid is different from criminal legal aid.)

There is some concern that cuts in government legal aid spending have made justice inaccessible to large sections of the population. See Liberty’s Justice Within Reach campaign: <https://www.liberty-human-rights.org.uk/campaigning/other-campaigns/justice-within-reach>

Note that court fees for criminal cases – paid by defendants – were introduced in April 2015 but then scrapped the following December on the grounds that they would obstruct justice. See <https://www.politicshome.com/home-affairs/articles/story/michael-gove-abolishes-controversial-court-fees>

### Activities

1. Ask learners to use the web links above to research and evaluate the viewpoint that court fees obstruct justice. This activity could be organised as a debate.

### Suggested answers to worksheet questions

### Resource 1: Differences between criminal law and civil law

| **Feature** | **Criminal Law** | **Civil Law** |
| --- | --- | --- |
| **Purpose** | The purpose of [criminal law](http://www.inbrief.co.uk/test/index.htm#crime) is to ensure that every citizen knows the boundaries of acceptable conduct in the [UK](http://www.inbrief.co.uk/legal-system/british-constitution.htm). | The purpose of civil law is to resolve disputes involving individuals, organisations and businesses. |
| **Who investigates?** | The police. | The claimant – possibly assisted by their solicitor or by a representative from a trade union or non-governmental organisation. |
| **Who starts proceedings?** | The Crown Prosecution Service (CPS). | The individual, organisation or business who feels that they have been wronged will start the court action themselves – usually with the help of a legal representative. |
| **Who pays for the investigation and the proceedings?** | The state. | The claimant or their representatives. Claimants with low incomes or on benefit can ask for financial help. |
| **Burden of proof** | The CPS has to prove guilt ‘beyond reasonable doubt’ and the jury has to be satisfied that the prosecution has done this. | The claimant has to show that on the ‘balance of probabilities’ the defendant wronged him/her in the way that had been claimed. |
| **Venue** | Criminal courts (magistrates’ court or Crown Court). | County courts, High Court. |
| **Outcome** | Conviction or acquittal. | A judgement as to the merits of the claim and the action the respondent must take to resolve the matter (if appropriate). |
| **Remedy** | The offender will be punished and may be expected to compensate their victim. | If the claimant’s case is upheld the defendant must remedy his or her wrong to the claimant. This will usually involve restoring the claimant to the position they were in before the problem began. A civil case does not lead to imprisonment or the imposition of a fine by the state. |

### Resource 2: Case study of consumer problem

| **Steps** | **Web link** | **How this works** | **What you need to do** |
| --- | --- | --- | --- |
| Contact the Ombudsman or similar organisation (This will be possible only if the business/company against which you have a complaint is part of an ombudsman scheme.) | <https://www.ombudsman-services.org/> | The Ombudsman will contact the company and attempt to reach a resolution so that each party is satisfied.  The Ombudsman will aim to reach a resolution within ninety working days of receiving a complete complaint file. Claimants are kept informed of progress. If a company is uncooperative or the Ombudsman cannot reach a resolution that each party is happy with, they will advise claimants about their options. (This may include contacting an organisation like Citizens Advice or Trading Standards, or taking your complaint to a small claims court.) | You must show that you have already used your employer’s complaint procedure if they have one.  You must give the company a reasonable amount of time to deal with your complaint and put it right.  You will need to provide evidence to support your case and follow the instructions on the Ombudsman website. |
| OR Contact the Civil Mediation Service | <http://civilmediation.justice.gov.uk/> | The Civil Mediation Service provides members of the public and businesses with a simple low-cost method of resolving a wide range of civil disputes out of court. Some cases can be settled in as little as one hour using phone communication | Complete step 1 as for the Ombudsman above.  Complete step 2 as for the Ombudsman above.  Find a local mediator from the Civil Mediation Service’s website.  Provide details of your case to the mediator and agree the fee.  Be positive and calm throughout the mediation process. |
| Use the small claims track of the county court | <http://www.which.co.uk/consumer-rights/action/how-to-use-the-small-claims-court> (simple)  OR <http://www.howtotakesomeonetocourt.info/joomla/explaining-the-small-claims-process.html> (advanced) | The small claims track of the county court enables members of the public to claim compensation for faulty goods or poor service, or to resolve other private disputes involving relatively small amounts of money.  A judge hears the case before making legally enforceable judgement on the basis of evidence from both parties. | Complete step 1 as for the Ombudsman above.  Complete step 2 as for the Ombudsman above.  Use an Ombudsman or the Civil Mediation Service before making a ‘small claim’.  Complete the online form stating the nature of your claim.  Pay the court fee.  Get a solicitor or other representative to help you prepare and present your case.  Be positive and calm throughout the settlement process.  Accept the judgement or make an appeal. |

### Resource 3: Guide to dealing with an employment-related problem

|  |
| --- |
| **Step 1: Use your employer’s grievance procedure**   * <http://www.acas.org.uk/index.aspx?articleid=1670> * <https://www.unison.org.uk/get-help/> * Attempt to sort out the problem informally by discussing it with your line manager/employer. * Study your company’s policy on how to raise a grievance. * Ask for advice and support from a friend or from your trade union/professional association. * Collect your evidence and decide what outcome would be fair. * Keep your grievance private and try not to make it personal. * Present your case positively and calmly.   Your employer may resolve your grievance satisfactorily. If you are not happy with your employer’s response, you can consider moving to step 2. |
| **Step 2: Use the ‘early conciliation service’ provided by the Advisory, Conciliation and Arbitration Service (ACAS)**   * <http://www.acas.org.uk/index.aspx?articleid=4028> * Make sure you have tried to deal with the problem using the company’s own processes (see step 1) * Tell ACAS that you intend to make an employment tribunal claim. (You must make your claim within 30 days of the ‘offence’.) * Complete the ACAS notification form. * Discuss your claim with ACAS. * Engage positively and calmly in the conciliation process. Try to reach a fair solution with your employer.   ACAS may help to resolve your grievance satisfactorily. If this is not possible, you can consider moving to step 3. |
| **Step 3: Take your case to an employment tribunal**   * <https://www.gov.uk/courts-tribunals/employment-tribunal> * <http://www.acas.org.uk/index.aspx?articleid=188> * <http://www.careeraddict.com/take-your-employer-to-the-employment-tribunal> (Note that this website fails to mention that ACAS will attempt conciliation before your case is heard at an employment tribunal.) * Make sure you have tried to resolve the problem by using: the company’s own processes (see step 1); and the ACAS conciliation service (see step 2) * Make your claim online or fill in the form. * Pay the fee. Apply for financial help if appropriate. * Arrange for someone to help present your case – a lawyer is best (your trade union or professional association may provide one, or you may be able to pay for a lawyer using any legal protection insurance you may have). * Organise your evidence. * Be positive and calm at the hearing.   If you win, the tribunal can force your employer to pay you compensation, pay your tribunal fees, improve your working conditions and give you your job back if you have been dismissed.  If you lose, you can ask the tribunal to reconsider or appeal to the Employment Appeal Tribunal. Further fees must be paid. |

### Resource 4: Finding the right court

| **Civil Cases** | **Where would you take your case?**  **(Answers appropriate to Brighton – postcode BN1)** |
| --- | --- |
| Ending a civil partnership | Brighton and Sussex Family Court |
| Seeking asylum | Richmond-upon-Thames Magistrates' Court |
| Discrimination at work | Croydon Employment Tribunal |
| Gaining possession of a house or flat | Brighton County Court |
| Forced marriage | Brighton & Sussex Family Court |
| Problems with benefits | Brighton Social Security and Child Support Tribunal |

### Resource 5: Court or tribunal?

| **Court or tribunal** | **Cases dealt with** |
| --- | --- |
| Employment tribunal | Deals with most employment disputes |
| Magistrates’ court | Deals with minor criminal offences |
| County court – small claims | Deals with claims to the value of £10,000 or less |
| County court - family | Deals with family issues including divorce and separation |
| Crown Court | Deals with serious criminal offences |
| High Court – Chancery division | Deals with business and property-related disputes, and patents |
| High Court – Family division | Deals with legal protection of children, international child abduction, forced marriage and female genital mutilation |
| High Court – Queen’s Bench division | Mainly deals with claims for damages caused by personal injury, slander, libel, negligence and breach of contract |
| Supreme Court | Is the final place of appeal in the United Kingdom for civil and criminal cases |

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# Topic Exploration Pack

# Rights in conflict

## Student activity section

### Resource 1: Differences between criminal law and civil law

Use the grid below to record the differences between criminal law and civil law. Use information from <http://www.inbrief.co.uk/legal-system/difference-between-civil-criminal-law.htm> and elsewhere to help you fill in the gaps.

| **Feature** | **Criminal Law** | **Civil Law** |
| --- | --- | --- |
| **Purpose** | The purpose of [criminal law](http://www.inbrief.co.uk/test/index.htm#crime) is to ensure that every citizen knows the boundaries of acceptable conduct in the [UK](http://www.inbrief.co.uk/legal-system/british-constitution.htm). |  |
| **Who investigates?** | The police. |  |
| **Who starts proceedings?** |  | The individual, organisation or business who feels that they have been wronged will start the court action themselves – usually with the help of a legal representative. |
| **Who pays for the investigation and the proceedings?** | The state. |  |
| **Burden of proof** |  | The claimant has to show that on the ‘balance of probabilities’ the defendant wronged him/her in the way that had been claimed. |
| **Venue** | Criminal courts (magistrates’ court or Crown Court). |  |
| **Outcome** | Conviction or acquittal. |  |
| **Remedy** |  | If the claimant’s case is upheld the defendant must remedy his or her wrong to the claimant. This will usually involve restoring the claimant to the position they were in before the problem began. A civil case does not lead to imprisonment or the imposition of a fine by the state. |

### Resource 2: Case study of consumer problem

|  |
| --- |
| *On or around 20th March 2016, the owner of Anytown Motors agreed to sell Charlie Smith a car.*  *Charlie was told that the car had had a new engine fitted in October 2015 and had passed its Ministry of Transport (M.O.T.) test at that time. Charlie was pleased about this and offered £2,550 to buy the car.*  *The car dealer and Charlie signed a sale agreement. This included statements that the car had passed an M.O.T. and had a newly fitted engine. The dealer told Charlie that the car was a ‘good runner’.*  *The following week, the car broke down and would not start. Charlie asked the Automobile Association (AA) to inspect the car. They reported that no new engine had been fitted and that it would cost over £1500 to repair.* |

The first stage of dealing with a consumer problem is to put your case in writing via email or by letter.

Write a complaint as if you were Charlie in the case study above. (You may write your own complaint if you prefer using a personal consumer-related problem.) Use the Consumer Association (Which?) guidance at <http://www.which.co.uk/consumer-rights/action/letter-to-ask-for-a-faulty-item-to-be-repaired-or-replaced-> If you are using the case study, mention the AA report in your complaint.

There are further steps claimants can take if their written complaint is ignored or rejected.

Use the chart on the next page to find out more about these steps. Record your findings to make your own consumer guide.

| **Steps** | **Web link** | **How this works** | **What you need to do** |
| --- | --- | --- | --- |
| Contact the Ombudsman or similar organisation (This will be possible only if the business/company against which you have a complaint is part of an ombudsman scheme.) | <https://www.ombudsman-services.org/> |  |  |
| **OR** Contact the Civil Mediation Service | <http://civilmediation.justice.gov.uk/> |  |  |
| Use the small claims track of the county court | <http://www.which.co.uk/consumer-rights/action/how-to-use-the-small-claims-court> (simple)  OR <http://www.howtotakesomeonetocourt.info/joomla/explaining-the-small-claims-process.html> (advanced) |  |  |

### Resource 3: Guide to dealing with an employment-related problem

Use the chart below to help you design an employees’ step-by-step guide for dealing with employment-related problems. Each cell includes websites from which to obtain information.

For each step:

* Advise the employee what they should do.
* Describe possible outcomes.

|  |
| --- |
| **Step 1: Use your employer’s grievance procedure**   * <http://www.acas.org.uk/index.aspx?articleid=1670> * <https://www.unison.org.uk/get-help/> |
| **Step 2: Use the ‘early conciliation service’ provided by the Advisory, Conciliation and Arbitration Service (ACAS)**   * <http://www.acas.org.uk/index.aspx?articleid=4028> |
| **Step 3: Take your case to an employment tribunal**   * <https://www.gov.uk/courts-tribunals/employment-tribunal> * <http://www.acas.org.uk/index.aspx?articleid=188> * <http://www.careeraddict.com/take-your-employer-to-the-employment-tribunal> (Note that this website fails to mention that ACAS will attempt conciliation before your case is heard at an employment tribunal.) |

### Resource 4: Finding the right court

Extend your knowledge of the different cases dealt with under civil law, and of the range of courts and tribunals in which those cases are heard.

Use <https://courttribunalfinder.service.gov.uk/search/> to find the right court or tribunal for the cases below. (Use a post code to find the court nearest to your home or school that is able to deal with your case.)

| **Civil Cases** | **Where would you take your case?**  **(Answers appropriate to Brighton – postcode BN1)** |
| --- | --- |
| Ending a civil partnership |  |
| Seeking asylum |  |
| Discrimination at work |  |
| Gaining possession of a house or flat |  |
| Forced marriage |  |
| Problems with benefits |  |

### Resource 5: Court or tribunal?

Make a court guide by allocating the correct description to the appropriate cell on the chart.

Use the following websites to help you: <https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/high-court/> and <https://www.judiciary.gov.uk/wp-content/uploads/2012/08/courts-structure-0715.pdf>

|  |
| --- |
| Is the final place of appeal in the United Kingdom for civil and criminal cases. |
| Deals with serious criminal offences. |
| Deals with most employment disputes. |
| Deals with minor criminal offences. |
| Mainly deals with claims for damages caused by personal injury, slander, libel, negligence and breach of contract. |
| Deals with family issues including divorce and separation. |
| Deals with business and property-related disputes, and patents. |
| Deals with claims to the value of £10,000 or less. |
| Deals with legal protection of children, international child abduction, forced marriage and female genital mutilation. |

| **Court or tribunal** | **Cases dealt with** |
| --- | --- |
| Employment tribunal |  |
| Magistrates’ court |  |
| County court – small claims |  |
| County court - family |  |
| Crown Court |  |
| High Court – Chancery division |  |
| High Court – Family division |  |
| High Court – Queen’s Bench division |  |
| Supreme Court |  |