



Parliament and the UK justice system



Democracy and the rule of law

The rule of law is a foundation stone of the United Kingdom's constitutional democracy and an essential component of a free and democratic society.

In essence, the rule of law means that:

- everyone in the UK – whether a private individual, a company, or a public body – is equally protected by and subject to the law of the land;
- laws will be made in public, and court hearings will generally also be held in public;
- laws should generally be accessible, clear, consistent with each other, reasonably possible to comply with and not retrospective.

Parliament, the Executive (or government), and the Judiciary as the three branches of the state all have separate but important roles to play in upholding the rule of law.

Ultimate sovereign power resides in Parliament, whose primary function is to make laws for society and to scrutinise the work of the government.

The government and other public bodies administer those laws in accordance with the authority conferred on them by Parliament.

Finally, the judiciary ensures that the laws made by Parliament and the common law are properly applied and enforced.

Judicial independence and impartiality are essential aspects of the rule of law so those who appear before the courts, and the wider public, can have confidence that disputes will be decided fairly and in accordance with the law.

The courts are independent of Parliament and the government, and from any other kind of external pressure or control. Judges in the UK do not give judgments that reflect their personal views or political opinions. Rather, they decide the issues before them fairly and impartially, based only on their assessment of the legal and factual merits of a case.

Judges' commitment to judicial independence and impartiality is reflected in the oath they swear when appointed. This states that they will act "without fear or favour, affection or ill will". All those who appear before UK courts can trust that the right to a fair trial will be respected and that cases will be decided in accordance with the law, free from any external influence.



The Judicial Oath etched on the Supreme Court's entrance hall wall

The Constitutional Reform Act, passed by Parliament in 2005, expressly recognises the constitutional principle of the rule of law. The Act safeguards judicial independence by requiring the Lord Chancellor (who is also the Secretary of State for Justice) and other government Ministers to ensure that it is upheld. Like all MPs, they are prevented from seeking to influence judicial decisions. To protect judicial independence, Parliamentarians, irrespective of whether they are in government or not, have strict limitations placed upon them when corresponding with a judge. For example, it would be constitutionally inappropriate for an MP to seek to shape the outcome of a specific case by speaking or writing to a judge about that case.

The UK has an international reputation for upholding the rule of law and is a global centre for dispute resolution. According to two recent studies, the UK is the world's leading centre for international dispute resolution by litigation in the courts and, equally with Singapore, by arbitration. The role of the courts in upholding the rule of law helps to maintain this global confidence in the UK as a stable and rule-governed democracy which is crucial to our prosperity as a nation. As a result of this reputation, the UK has become one of the world's largest markets for legal services, ranked second by revenue only to the USA.

The Supreme Court of the United Kingdom



HM Queen Elizabeth II at the official opening of the Court

The Constitutional Reform Act 2005 provided for the separation of the UK’s most senior judges from the House of Lords, emphasising the separation of powers and the independence of the judiciary.

On 1 October 2009 the Supreme Court opened its doors for the first time in its own building on Parliament Square. The Supreme Court replaced the Appellate Committee of the House of Lords as the UK’s final court of appeal deciding cases of the greatest public importance. The Justices also sit on the Judicial Committee of the Privy Council, which is the final court of appeal for many Commonwealth countries, as well as the UK’s overseas territories, crown dependencies, and military sovereign base areas. Justices are appointed by an independent selection commission, convened by the Lord Chancellor in accordance with rules set out in the Constitutional Reform Act.

The Court has a small body of staff (who are civil servants) and its own budget from HM Treasury. One of the major benefits of moving the Court into its own building has been to improve public access. The Court puts transparency and accessibility at the heart of its work and welcomes many thousands of visitors every year. Anyone can visit the Court and attend a hearing in person. Since the Court opened its doors, it has welcomed over 1 million visitors. The Court broadcasts every appeal and judgment online so that people can watch live, or on demand. In 2023, over 490,000 viewers watched hearings in this way.

It is important that the Court’s role in applying the law is visible and that it is understood. This helps build public trust and confidence in the justice system and the Court’s work, as well as public understanding of the importance of the rule of law in a healthy democracy. The Court therefore provides a range of educational opportunities, including tours of the Court building, meetings with Justices, and debates. Many of these initiatives are targeted at students and aspiring lawyers, and are intended to help broaden the diversity of people entering the legal profession.

How the Supreme Court works

The Court has twelve Justices. They usually hear appeals in panels of five Justices, although the size of the panel can be increased depending on the nature of the appeal.

Like its predecessor, the Appellate Committee of the House of Lords, the Court ensures the law is correctly interpreted and applied across the UK, and that the legal limits on the powers of public bodies are respected.

The Court also has jurisdiction to hear and determine questions relating to the powers and functions of the devolved legislatures and executives in Scotland, Wales and Northern Ireland. This can include reviewing legislation made by the devolved legislatures.

The Supreme Court plays an important role in the interpretation, application, and development of the law, making decisions that are relevant to everyday lives and that help shape our society.

There is no automatic right of appeal to the Supreme Court. To reach the Court, a case must usually raise an arguable point of law of general public importance. As the highest court of appeal, its decisions are binding on all the lower courts.

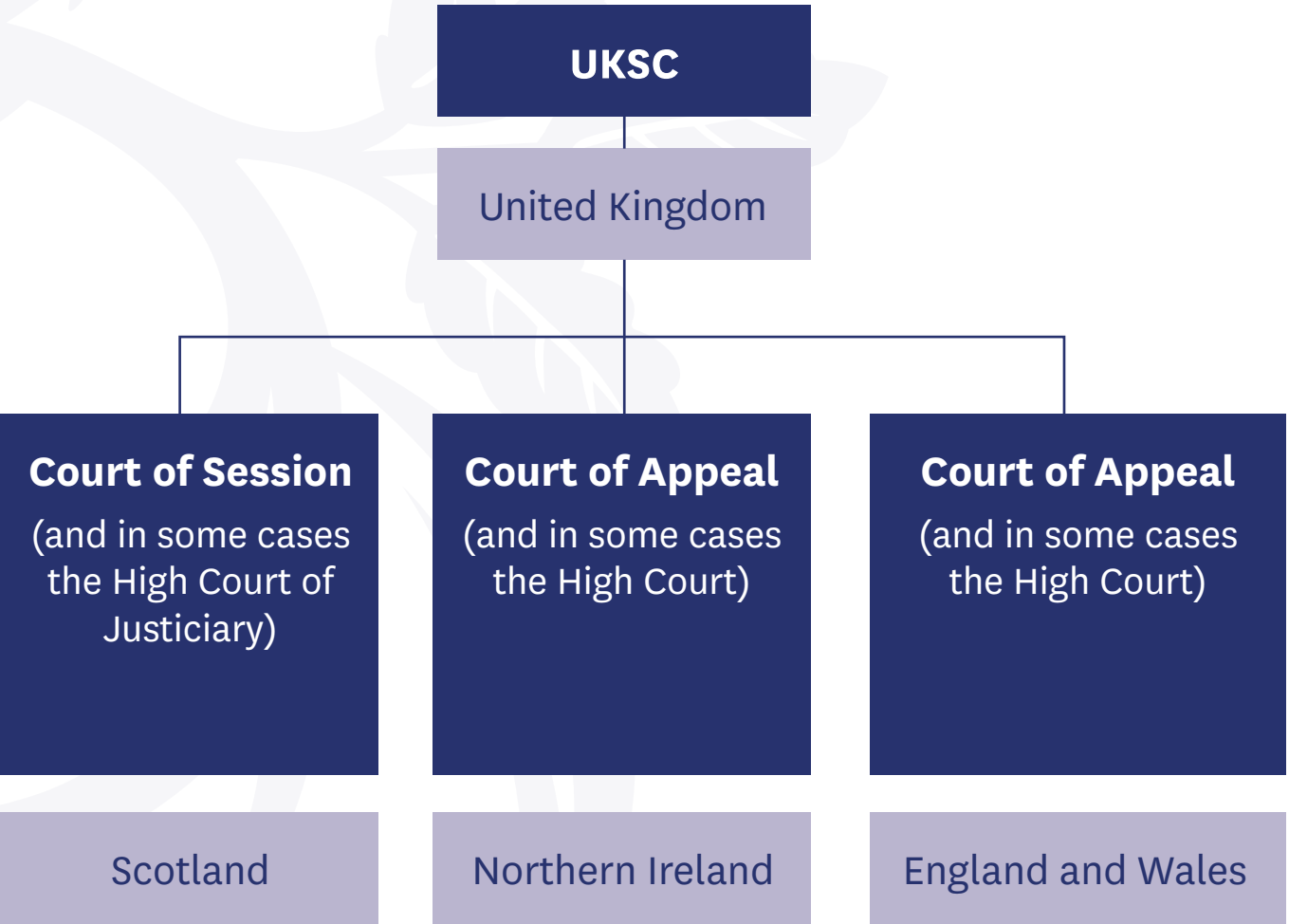
Unlike supreme courts in some other jurisdictions, the UK Supreme Court hears cases across all areas of the law, and not just those which raise constitutional issues. The subject matter of the appeals heard by the Supreme Court ranges from tax and commercial law to family, employment, criminal and public law. Unlike the US Supreme Court, the UK Supreme Court does not have the power to strike down primary legislation made by Parliament in Westminster.



The view of the Houses of Parliament from the Supreme Court

The UK justice system

The UK does not have a single unified justice system. Instead, there exists one for England and Wales, another for Scotland, and a third for Northern Ireland. The UK Supreme Court (UKSC) sits at the apex of each of these systems, hearing appeals in civil cases from all four nations, as well as criminal cases from courts in England, Wales, and Northern Ireland.

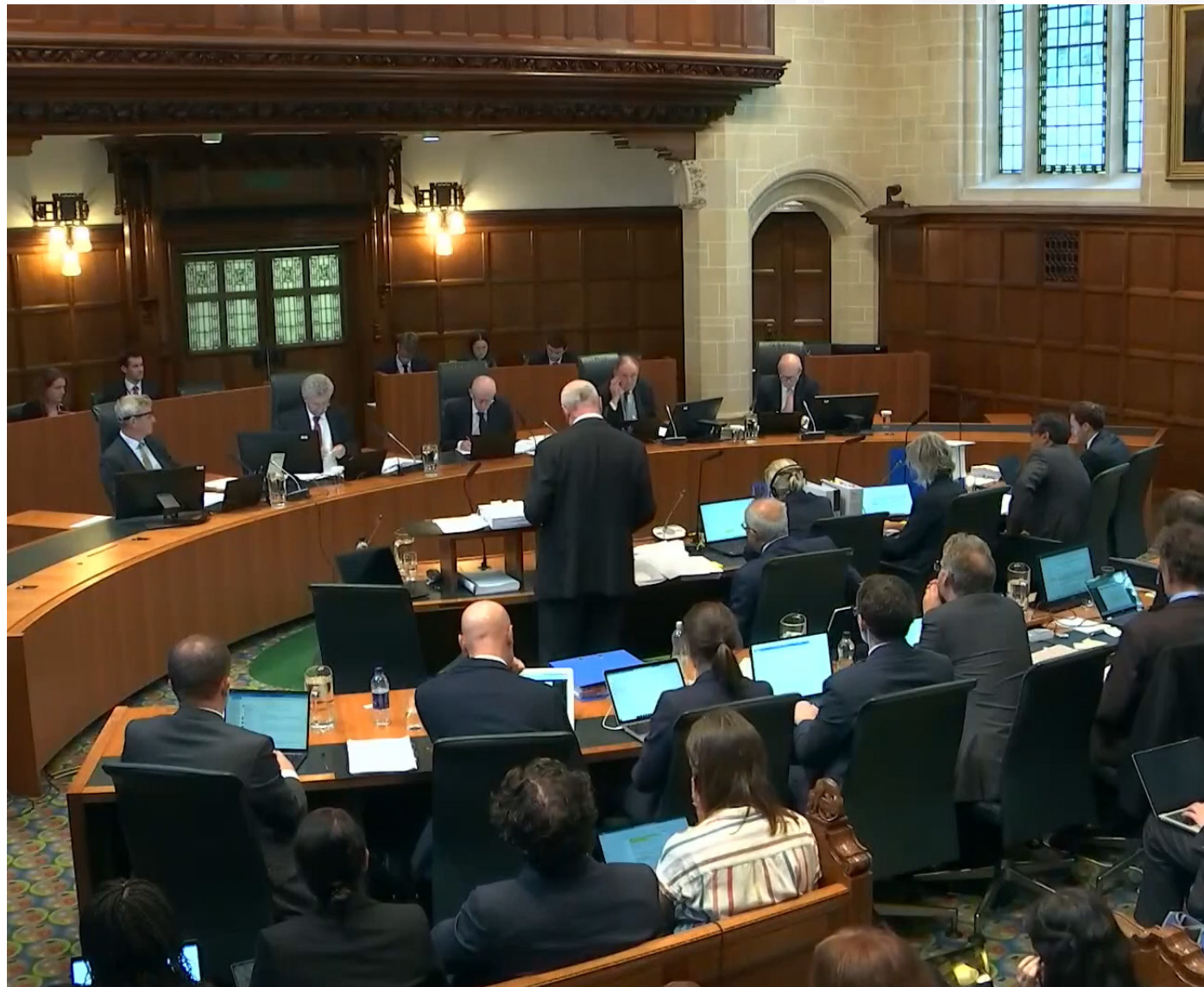


The rule of law and judicial review

A relatively small proportion of the cases heard by the civil courts, and ultimately the Supreme Court, concern challenges to the lawfulness of decisions made by the government and other public bodies by way of judicial review. Judicial review is a process in which the civil courts review the lawfulness of a decision made, or action taken, by a public body. In these cases, the courts perform the vital function of deciding whether the government and other public bodies have exercised their powers and fulfilled their duties in accordance with the law enacted by Parliament and the common law.

Hearing and determining claims for judicial review is an essential part of the UK's constitutional system of checks and balances. Judicial review is a necessary component of Parliamentary democracy through which the courts ensure that public bodies comply with the laws enacted by the sovereign Parliament.

Judicial review claims sometimes require the courts to review decisions that are politically controversial. However, it is important to understand that courts are not concerned with political issues, which must rightly be resolved in the political arena. The courts can only decide the disputes that litigants choose to put before them. Judges endeavour in good faith to arrive at the correct legal solution to the problem that is brought before them.



A case being heard in Courtroom 1 of the Supreme Court

The justice system of England and Wales



The Royal Courts of Justice, London

The justice system of England and Wales has evolved and developed over a thousand years. Different types of cases are dealt with in specific courts and tribunals, each with a different route into the Court of Appeal:

- All criminal cases begin in the Magistrates' Court, with more serious criminal matters being sent to the Crown Court for trial by judge and jury. Appeals from the Crown Court go to the Court of Appeal (Criminal Division).
- Most civil cases begin in the County Court with appeals to the High Court and then to the Court of Appeal. Judicial review claims and higher value cases start in the High Court. The specialist Court of Protection makes decisions on behalf of people who lack mental capacity.
- The tribunals system has its own structure for dealing with cases and appeals in specific areas of law, including employment, immigration and asylum, and tax. Decisions from different chambers of the Upper Tribunal, and the Employment Appeals Tribunal, may also be appealed to the Court of Appeal.

Leadership of the Judiciary in England and Wales

The head of the Judiciary of England and Wales and the President of the Courts of England and Wales is the Lady Chief Justice. Under her, the individual jurisdictions are led by senior members of the judiciary, including:

- The Master of the Rolls and Head of Civil Justice;
- The President of the King's Bench Division;
- The President of the Family Division and Head of Family Justice;
- The Chancellor of the High Court;
- The Senior President of Tribunals; and
- The Senior Presiding Judge.

You can find out more about the justice system of England and Wales here: www.judiciary.uk

The justice system of Scotland



Court of Session, Edinburgh

Scotland has its own distinct court system which is administered by the Scottish Courts and Tribunals Service. Different matters are dealt with by different courts within that system:

- Most civil cases begin in the Sheriff Court, with appeals first to the Sheriff Appeal Court and then to the Inner House of the Court of Session if a point of general public importance is raised.
- Higher value claims and judicial reviews start before a single judge (called a Lord Ordinary) in the Outer House of the Court of Session, with an onward appeal to the Inner House.
- Most criminal cases begin in the Sheriff Court, save for the most serious crimes such as murder and rape. The Sheriff Court conducts both summary trials (ie. before a Sheriff sitting alone) and jury trials. Most trials take place summarily, from which appeals go to the Sheriff Appeals Court. Appeals from a jury trial are to the High Court of Justiciary sitting as an appellate court.
- Less serious crimes are dealt with by Justice of the Peace Courts, where the judge is a lay magistrate appointed from the local community and trained in criminal law and procedure.

- The most serious crimes are prosecuted before a single judge sitting with a jury of 15 people in the High Court of Justiciary, with any appeals to the High Court of Justiciary sitting as an appeal court.

Like England and Wales, these courts sit alongside a system of specialist tribunals which deal with specific areas of law, with appeals going to the Inner House.

Leadership of the Judiciary in Scotland

The Lord President of the Court of Session serves as the head of the Scottish judiciary. He is also known as the Lord Justice General when sitting in the High Court of Justiciary. He is supported by the second most senior judge in Scotland, the Lord Justice Clerk.

You can find out more about the justice system in Scotland here: www.scotcourts.gov.uk



The emblems of the UK are featured on the carpet of the UK Supreme Court

The justice system of Northern Ireland

Northern Ireland has its own distinct court system. Different matters are dealt with by different courts within that system:

- The Crown Court hears all serious criminal cases, whilst the Magistrates' Courts hear less serious criminal cases and can conduct preliminary hearings in some of the more serious cases.
- Civil justice is administered mainly by the County Courts and the High Court. County Courts deal with cases of lesser value, substance, importance and complexity, while the High Court handles more substantial or complex cases.
- The Court of Appeal hears appeals in criminal matters from the Crown Court and in civil matters from the High Court. It also hears appeals on points of law from the County Courts, Magistrates' Courts and certain specialist tribunals dealing with particular areas of law.

Leadership of the judiciary in Northern Ireland:

The Lady Chief Justice of Northern Ireland is the President of the Courts and Head of the Judiciary in Northern Ireland.

You can find out more about the justice system in Northern Ireland here: www.judiciaryni.uk



The Royal Courts of Justice, Belfast

Further information and contacts

The courts and tribunals welcome visits from Members of Parliament. Please do contact the UK Supreme Court or your local court or tribunal to arrange a visit.

To find out more visit:

www.judiciary.gov.uk

www.supremecourt.uk



Members of the public visit the Supreme Court's exhibition



A public tour group being shown Courtroom 1 of the UK Supreme Court

