

Introduction to English Law

1 Overview of LSEPI

- Among other things, you will be expected to know the various laws mentioned that apply to the UK (note that this includes EU laws); you will not be specifically tested on US laws.
- You do *not* need to memorize historical dates (e.g. what year the first patent was granted).
- Subject specific knowledge
 - Knowledge about and understanding why Legal, Social, Ethical, and Professional Issues are essential in software production and management.
 - A good appreciation of the complexities and impact of legislation on the professional work environment, to which you are aspiring to enter.
- Subject specific skills
 - Have gained the ability to analyse and discuss a number of current professional issues, e.g.: data protection and use; professional responsibilities; freedom of information; the impact of the digital economy.
 - Ability to discuss and explain key legislation, for example:
 - Computer Misuse Act 1990: <https://www.legislation.gov.uk/ukpga/1990/18/contents>
 - Data Protection Act 2018: <https://www.legislation.gov.uk/ukpga/2018/12/contents>
- Key skills
 - Carefully reading / listening / judging the value of on-line materials
 - Questioning and probing complex issues in a public forum

Pandora's Box: social and professional issues of the information age, by Adams and McCrindle, 2008

- "due to the ubiquity of computer technology, computing professionals must now consider their work in the same way as the nuclear physicists in terms of its potential impact on individuals and society".
- "Despite the huge growth of the computer usage and the Internet access during the last 10 years, to the point where a majority of the population (in industrialized countries) uses a computer and accesses the Internet at least weekly, computers and the Internet remain a mystery to most of those users."
- "Where mystery holds sway, there is always the potential for social reactions (economic, legal and individual) to produce adverse effects on the lives of computing professionals."

2 Law

- "The body of rules, whether proceeding from formal enactment or from custom, which a particular state or community recognizes as binding on its members or subjects..." [1]
- ... "a set of rules which form a pattern of behaviour of a given society"
- ... 'a set of rules that can be enforced in a court' [2]
- The laws are different in different countries. Examples:
 - Divorce
 - Sale of alcohol

3 Criminal Law

- “represents society’s view of the minimum standard of acceptable behaviour” [2]
- Criminal law defines:
 - What constitutes a crime
 - * In general: behaviours prohibited by the state because it threatens / harms / endangers the public safety / welfare
 - The mechanisms for deciding innocence / guilt of an accused person
 - Appropriate punishment:
 - * A range from which an authority makes a selection
 - * Person must be found guilty beyond a reasonable doubt

4 Civil Law

- Deals with disputes between legal persons
 - A compensation may be awarded to the victim that has gone through the process of ‘incorporation’ by:
 - * Royal Charter <http://privycouncil.independent.gov.uk/royal-charters/> (example: Durham University, 1837)
 - * Act of Parliament <http://www.parliament.uk>
 - * Registering as company
- Q. What constitutes a legal person?
 - A legal person could be companies and organisations, hence civil laws apply to them in the same way it applies to a natural person
- Court proceedings are known as *litigation*
 - Must be initiated by the party (*plaintiff*) of the dispute who feels wronged by the *defendant*
 - For a plaintiff to win a case, he/she/it must show that his/her/its claim is correct *on the balance of probabilities* (i.e. > 50%)

5 Criminal Law vs Civil Law

- Differences between criminal law and civil law relate to the standard of proof and burden of proof:
 - In criminal law, the court must prove the offender is guilty beyond all reasonable doubt. Where in civil law the plaintiff has to prove his/her/its claim is correct on the balance of probabilities.
 - In a criminal case, the burden of proof lies on the prosecution. The defendant is innocent until proved guilty. Whereas in a civil case, both parties present their argument and must convince the court of their correctness. (probability of correctness is used to determine the winner)

6 Where Does the Law Come From?

- Common Law
 - Not written
 - Based on previous rulings (precedents) by judges
 - Not found in other countries, e.g. in continental Europe
 - Experience shared between some countries (e.g. commonwealth countries)
- Statute Law
 - Written
 - Set by governments
 - * Acts of Parliament - legislation
 - Some common law became statute law (e.g. the Theft Act 1968)
- Think of an example of a statute law related to computing

7 The Legislative Process in the UK

- Two-chamber legislature
- The British legislature is known as “parliament”
- House of Commons (the lower house)
 - Democratically elected (650 MPs) every five years
 - Usually the initiator of a bill (but not always)
 - Will accept or reject changes made by the House of Lords
 - <http://www.parliament.uk/education/about-your-parliament/mps-lords-monarch/>
 - <https://www.youtube.com/watch?v=SlPSA0a4vR4>
- House of Lords (the upper house)
 - Aristocrats, life peers, bishops, hereditary peers
 - Approval of a bill will result in an Act of Parliament
 - Modification will result in the bill go back to the House of Commons
 - Democracy: it cannot disapprove a bill that has passed 2 times from the House of Commons
 - Normally small in size

8 Public input to statute law

- Green Paper
 - Also known as consultation document
 - A discussion document intended to initiate public consultation on a particular topic: (participatory democracy)
 - Explains why the government wants to create a new law
 - Invites opinions/ideas/proposals from interested individuals/organizations (e.g. BCS) who have expertise in the topic
 - Example: http://ec.europa.eu/internal_market/copyright/docs/copyright-infso/greenpaper_en.pdf
- White Paper
 - More public consultation
 - However: more specific and detailed than the green paper
 - Signifies a clear intention of the government to pass a new law
 - <http://www.out-law.com/page-10147>

9 Act of Parliament

- A Bill (<https://www.parliament.uk/education/teaching-resources-lesson-plans/from-bill-to-law/>)
 - A proposal for discussion in Parliament
 - * Available for debate and modification
 - * Intended for approval (by voting)
 - Primary Legislation
 - * Law made by the legislative branch of the government (Parliament)
 - * Discussed / debated
 - * Parliament cannot examine every law in detail
 - Secondary Legislation (or delegated legislation)
 - * Detailed regulation introduced without full discussion

- * Follows the marriage method (proposals placed in the House of Commons library)
- * Law allows the government to slightly change / update a law without pushing through a completely new Act of Parliament
- * e.g. Copyright, Design and Patents Act 1988 (protecting semi-conductor chip design): https://www.legislation.gov.uk/ukpga/1988/48/pdfs/ukpga_19880048_en.pdf
- Royal Assent
 - The final step for a bill to become law (Act of Parliament) is the formal approval by the Queen
 - * Power of veto (however: last veto in 1708)
 - <http://www.parliament.uk/about/how/laws/passage-bill/lords/lrds-royal-assent/>
 - <https://www.youtube.com/watch?v=RUKSyuw6f7s>
- The people
 - Can challenge laws in the courts
- <https://www.youtube.com/watch?v=iM4CKYCrW7Y>

References

- [1] Home : Oxford English Dictionary.
- [2] Peter Shears. *James' Introduction to English Law*. Oxford University Press, USA, London ; Charlottesville, Va, 13 edition edition, February 2005.