**Adversarial trials:**

The courts, as the third branch of government, have two broad aims: ​

* Settling disputes​
* Upholding justice

Justice: society’s concept of fairness​. It requires that legal processes are based on consistent rules applied in an unbiased manner and that individual laws are based on prevailing social values and fundamental human rights.

Natural justice:

The concept of natural justice links to the delivery of justice in court. Natural justice has four key principles: ​

1. impartial adjudication (judge/jury)​
2. hearing both parties ​
3. evidence based decisions ​
4. open trials to deliver public confidence​

The denial of any of these leads to an unfair trial.

Legal rights:

* Both parties to a trial have legal rights, including the right to a fair trial ​
* The accused has additional legal rights to increase their protection- could have life changing consequences​
* One of the most basic legal rights that underpins our legal system is the ‘Golden thread of justice’ which is innocent until proven guilty.

The two major trial systems used around the world are the: ​

* adversarial system ​
* inquisitorial system

Adversarial trial: based on the assumption that the truth is best discovered by contest between the parties in a dispute​.

* Competition brings out the best evidence & argument before an impartial adjudicator​.
* Present best evidence.
* Counter/test the evidence of the other party​.
* The parties are responsible for running the trial, using their wits and resources to reveal the truth.

Inquisitorial trial: based on the assumption that the truth is best discovered through inquiry by an expert impartial adjudicator​.

* It is based on Roman law​.
* search conducted by inquisitors or investigators​.
* Inquiring judges discover the truth by locating evidence that supports one party’s or the others version of truth​.

Disputes: a disagreement about something. It can be as severe as those where a party accuses another of severe wrongs against them. The judiciary is the ultimate form of dispute resolution. Most disputes are resolved before court. The types of dispute resolution are:

* Private and public.
* Private and civil.
* Torts.
* Contracts.
* Other private law matters.

Private disputes: involve alleged wrongs committed by one party against another, such as:

* loss or damage caused by negligence (a failure to take sufficient care).
* Loss of others’ quiet enjoyment caused by excessive disturbance.
* Loss or damage to another’s reputation.
* breach of contract.

Public disputes: are about the meaning and application of statutes, constitutions or disputes involving the government, including:

* administrative disputes.
* taxation disputes.
* criminal disputes.
* and constitutional disputes.

Private law: concerns private relations between legal persons. Legal persons may be natural or artificial persons such as corporations. Private disputes between legal persons usually involve an allegation that one party has wronged another. They have little consequences for the law public, except if it creates new common law by setting new precedent.

Tort: a French word meaning ‘wrong’. Examples of torts are:

* negligence.
* nuisance; and
* defamation.

Tort disputes arise where one party accuses the other of causing them loss or damage.

Contracts: legal agreements between parties. A contract has four components:

1. An ‘offer’ by one party.
2. ‘Acceptance’ by the other party.
3. An ‘intention’ to enter the contract.
4. ‘Consideration’ (usually money).

Disagreements can arise about any of these four parts of a contract.

Other forms of private law that may be influenced more heavily by statutes include:

* Inheritance law.
* Workplace law.
* Health and safety law.
* Family law.

These are considered private law because their primary influence is upon the parties themselves and not the broader community.

Alternative Dispute resolution:

* Negotiation.
* Mediation.
* Mediators.
* Conciliation.

Negotiation: Involves the disputing parties talking to each other until ta resolution is agreed. They may agree to differ, to compromise, or they can reach consensus. There is no third party, so the two parties are in direct negotiation. It’s the cheapest form of ADR

Mediation: A compulsory precursor to WA civil law trials since 2010. Mediators are trained in dispute resolution, and they act as a neutral and impartial third party acting between the parties. Mediators assist the parties in finding common ground by helping them clarify their disagreement and reach a settlement. They do this by engaging in dialogue with the parties, hearing both sides, and gathering information to assist resolution. Mediation is useful when the relationship between the parties has deteriorated to the extent that they are unable to negotiate. Family disputes are an example of this. Mediation is flexible and non-binding.

Conciliation: A natural and impartial third party assists the disputing parties to find an agreement. However, a conciliator is more active than a mediator. They seek an optimal solution rather than any agreeable solution. Consequently, conciliators make proposals for settlement and attempt to drive the parties towards the best resolution for both. Ultimately the power to still resolve is within the parties.

Arbitration: More rule based and procedural than the other forms. It involves strict rules and procedures that both parties must adhere to during the process. An arbitrator is, therefore, a more formal neutral and impartial third party than either a mediator or conciliator. Arbitration may involve a panel of arbitrators working informally with the parties. Arbitration is also more adversarial than either mediation or conciliation. In this form of alternative dispute resolution, the power of decision making is transferred to the arbitrator. During arbitration, parties may use negation or any other means if necessary. Arbitration was commonly used to resolve industrial and building disputes where conciliation had of failed.

If the parties to a dispute are unable to resolve their dispute using ADR, they are able to move to litigation, which is the final stage of dispute resolution.​ Litigation imposes a legally binding resolution upon the parties. ​Must be prepared to bear the costs of legal action​. Most trials have the following elements:​

* An adjudicator- judge or magistrate​
* The parties- bring the dispute to court and prevent/test evidence​
* Legal representatives- solicitors and barristers​
* Formal court room setting​
* Personnel- court orderlies etc

Standard of proof: The degree of certainty required to demonstrate that the defendant committed a civil wrong or a crime. In a civil dispute this is the ‘balance of probabilities’ and in a criminal dispute ‘beyond reasonable doubt’.

Burden/onus of proof: This is placed on the person who makes a legal claim i.e. the plaintiff (civil) or prosecution (criminal) – they are required to substantiate their claim with evidence.

Remedy: Orders made by a court in a civil dispute to compensate successful plaintiff for the wrong committed against them by the defendant.

Sanctions: The sentences applied by the courts to a person who has been found guilty of an offence​.

Sanctions include: fines, community service, orders and imprisonment.

Plaintiff: The person who brings an action in a civil case, generally to seek damages from another person who has wronged them.

Prosecution: The legal counsel who presents the evidence against the accused. This is done on behalf of the State by the Department of Public Prosecutions.

Defendant: Person, company or organisation that defends a civil action​. Also a person charged with a criminal offence​. They’re known as the accused.

Beyond reasonable doubt: The standard of proof required in a criminal case​. The prosecution must provide evidence to show that there is no plausible explanation of the case other than the guilt of the accused.

Balance of probabilities: This is the standard of proof required in a civil dispute​. The likelihood of one party’s version of events​

Rights of the accused:

* Right to silence: The defendant in a criminal trial does not have to provide evidence at their trial. They have a right to silence. Each party is responsible for running their case in the adversarial trial. To expect the accused defendant to provide evidence against themselves — to self-incriminate — is the same as expecting the defence to assist the prosecution with its case. The burden to prove guilt is entirely the responsibility of the prosecution; the defence does not assist in proving guilt.
* Presumption of innocence: Defendants are entitled to a presumption of innocence. The accuser must prove the accusation. If the accuser fails to achieve the standard of proof required — on the balance of probabilities or beyond reasonable doubt — then the defendant has not been proven liable or guilty and is, thus, presumed innocent. In an important distinction — if the defendant is found ‘not guilty’ or ‘not liable’ they are not proven innocent. The presumption of innocence is a core right that protects a defendant from ‘guilt by accusation’.

Role of judge:

In an adversarial trial, the judge ensures a fair trial by enforcing procedures designed to uphold natural justice and decides the:

* Remedy in the post-trial phase of civil trials.
* Sentence in the post-trial phase of criminal trials.

In the absence of a jury (as in all Western Australian civil and summary criminal cases, and some indictable criminal cases), the judge also finds the facts, meaning they decide liability or guilt based on the evidence (facts) presented.

Role of Jury:

A jury is an impartial adjudicator of the facts of a criminal trial. Juries are composed of 12 of citizens who judge if the prosecution has proven guilt beyond reasonable doubt. In most cases, a jury has to unanimously on the verdict, but a judge may accept a ‘majority decision’ of ten jurors or more. In WA, juries are only used in District and Supreme Court criminal trials. A jury is used to find the facts In indictable criminal cases, unless the defendant requests a judge only trial because circumstances may make it impossible to empanel 12 impartial jurors. For example, a highly publicised case that draws a large amount of media attention may make it impossible to find 12 citizens who have not already been exposed to news about the case. Prior awareness can undermine the capacity if the parties to receive a fair trial. Juries complement the judge, and take over the role of deciding criminal guilt, leaving the judge to ensure a fair Trial and the responsibility of sentencing a convicted offender in the post-trial phase. Like the judge, juries are passive and impartial. Jurors do not ask questions or present evidence or make ab argument.

Role of parties:

The parties are legal persons, who can be natural or artificial, tht are in despite about how the law should resolve their disagreement. All cases have an accusing party (plaintiff/prosecution), and a defending party (defendant).

* The accuser bears the onus or burden of proof and mist reach the standard of proof required to win the case.
* The defendant is presumed innocent and has a right to silence.

Parties are also responsible for gathering evidence, presenting it in court, testing the other party’s evidence and arguing about how the law should be interpreted. For example, about common aw precedents that should or shouldn’t apply to their case, or how statute law should be interpreted in their case.

The parties must run their case without assistance from the court. The court is merely the venue for the contest with court officials who assist the judge and jury. Such personnel include orderlies, who help with court functions, and sheriffs, who coordinate juries. Court officials are employees of the executive branch of government and have no role in the trial itself. The judge and jury are the impartial adjudicators of the contest provided by the State (political and legal system). Judges are paid by the executive but are not employees of them. Court officials are employees but have no real role in court.

Legal representatives:

The law is beyond the understandings of most citizens, Parties responsible for running their case in a high stakes contest against a determined and skilled adversary need expert assistance. The rule of law demands everyone be equal before the law, however not everyone is equally knowledgeable of the law. That is why legal representatives act as equalisers. They bear the burden of running the case on behalf of the party. The nature of the adversarial trial makes expert, expensive, legal assistance an unfortunate necessity.

Rules of evidence:

A crucial role of the presiding judge is to rule whether evidence is admissible or not.​ Appeals are often based on judicial decisions to admit or exclude particular evidence​ Some rules of evidence include:​

* Relevance.​
* Hearsay​.
* Opinion​.
* Circumstantial evidence.

Relevance: Evidence must be applicable to the case​. Must bear relevance to establishing the act alleged​. Irrelevant evidence is excluded​.

Hearsay: Witnesses can only give evidence based on what they have witnessed themselves​ Evidence must be first hand​ Cannot be heard by someone else and then said in court

Opinion: Witnesses can only report observed facts as evidence​. They cannot express their opinion​. Only exception- expert witnesses who present professional opinion.

Circumstantial evidence: Circumstances may allow a particular conclusion to be drawn. e.g., If 2 people and 2 children are standing in a school car park someone may conclude that they are a family. However, they could just be 2 teachers and students. ​ This is suggestive evidence not conclusive ie not good enough for a trial.

**Civil trial process.**

Civil disputes: Purpose- present evidence, test evidence, argue the interpretation of the law + convince judge​. Equal opportunities to present their case.

Case management:

In 2010 Western Australia introduced case management into the civil pre-trial phase for disputes heard in the Supreme, District & Family courts. ​ Case management involves a Judge (or court registrar) taking control of the pleadings & further & better particulars phases, much like a judge in the Inquisitorial legal system. ​ The objective of case management is to finalise matters as efficiently and fairly as possible, which reduces the impact on the Court and on the parties involved.

Civil pretrial procedures in supreme court:

* Letter of demand​
* Writ of summons​
* Memorandum of appearance​
* Statement of claim​
* Defence​
* Discovery + inspection​
* Interrogatories​
* Entry of trial​
* Callover conference​
* Enforcing the judgement

Letter of demand: A statement or letter which is technically not a legal document, but a letter to the other party outlining that the issue is and the solution being sought. This usually comes after meetings; phone calls and attempts at negotiation. While it is not a formal court document, case management will ask for evidence of this letter. The statement usually contain words such as ‘without prejudice’. This means that the other party cannot use any of this information or concessions made in this letter against the providing party at trial.

Writ of summons: The wronged party, the plaintiff, drafts a writ of summons, outlining the alleged wrong and files it with the court. The writ will include an ‘indorsement of claim’ that generally outlines the wrong alleged to have occurred, known as ‘cause of action’. Once filed, the court will use the writ. It then needs to be served on the defendant.

Memorandum of appearance: Once a writ is served, a defendant must file a memorandum of appearance with the court. Failure to do so could result in a default judgement. The defendant must make sure that all the information contained in the writ is correct – for example, names, dates, and alleged wrongs. In the magistrates court, if you can show that the other party’s case has no chance of succeeding, you can also apply for a default judgement.

Statement of claim: This is the document containing all the facts and details of the claim. Sometimes the statement of claim is not included in the writ of summons. If not, the statement of claim must be served om the defendant within 14 days of the memorandum of appearance being filed.

Defence: The defendant must file a defence within the time limit set by the court. It must address each of the points made in the statement of claim. The defence statement can either accept or challenge the claims made in the statement or claim. They may also want to include a counter claim in their response – a claim they have been wronged. All of the procedures outlined above are collectively referred to as the pleadings.

Further and better particulars: The pleadings will not give all the necessary particulars of the dispute; both sides will require further information to continue their case. These items are known as further and better particulars.

Discovery and inspection: Each party must provide the other party to the action with a list of documents that are relevant to the pleadings and which they will rely on in a trial. This is called discovery. Usually, this is done in two lists, with items in both listed in chronological order. One list contains all relevant documents over which the party is claiming privilege. Legal privilege protects parties from disclosure of certain communications between a lawyer and a client. This usually applies to documents and electronic and oral communication. Privilege is an important common law protection and seeks to promote full and frank advice and disclosure between a lawyer and a client without fear of this information being used against them in trial. If additional documents are discovered during the pre-trial process, these must also be disclosed to the other party. Parties are able to inspect these documents and they may also request a copy. The list of documents must also include dates, times and a place where the documents may be inspected.

Interrogatories: Parties may seek to question each other on facts relevant to the pleadings. A party will draft a list of numbered questions and will seek leave of the court to serve them on the other party. These are called interrogatories. The other party must then provide responses to the questions. The responses are attached to a sworn affidavit, which is a document that sets out the evidence that the witness wants to give, and then it may be admitted to court as evidence.

Entry for trial: When all the previous stages have been completed, both parties complete and file the relevant documents, including a checklist and memorandum of conferral, to indicate that they are ready to go to trial. The district court requires all parties to attend a pre-trial mediation conference as a last effort to resolve the dispute before trial.

Listing conference: If the parties are unable to come to a pre-trial settlement, a listing conference will take place. The lawyers for both parties will hear from the court as to whether the case is ready to be heard, and a timeline will be set for the proceedings. At this conference other items may be discussed, including planning for witnesses to present (around other commitments), whether either party requires an interpreter and whether a video link will be necessary.

Call-over conference: A few weeks before the trial, the lawyers from both parties will attend court and a judge will gauge their preparedness for trial. This is called a call-over conference. If appropriate, the judge may again ask the parties to attempt settlement in a pre-trial conference. The judge will also assess if there are any pieces of evidence that both parties agree upon that can be adduced (used as evidence) by consent. For example, a technical report on the specifications of the crane.

Enforcing the judgement: If these lengthy and thorough procedures fail to encourage the parties to resolve the dispute then case will proceed to trial. Following the trial phase a determination will be made on the balance of probabilities. At the completion of a case, the judge will give their reasons for deciding in a written judgement. The successful party has to apply to the court for the judgement to be extracted. This means that an order may be drafted from the judgement so that the successful party can act; for example, to seek to enforce a cost of order.

What if the defendant wins? The judge may award them costs to be paid by the plaintiff.

Remedies: Civil wrongs are corrected by remedies. A remedy is the siloution to ‘right the wrong’ or enforce the contract.

Compensatory damages: The two main types are general and specific. General damages awarded for non-quantifiable loss such as pain and suffering. Specific damages awarded for a measurable economic or financial loss.

Nominal damages: These are sought to have a person’s reputation vindicated & where a plaintiff wants acknowledgment of a wrong. They may seek very minimal amounts or often just the cost of their legal expenses

Aggravated damages: Often sought when a plaintiff alleges they have been slandered/defamed or the defendant has deliberately humiliated or harmed the plaintiff.

Exemplary damages: Awarded against a defendant in order to make their conduct an example of to the community. Also called punitive damages (to punish the defendant for their actions). Its rarely rewarded in Australia.

Other remedies: Sometimes a plaintiff may seek the court to order a remedy that does not involve a monetary payment. This can include:, injunctions orders of specific performance, orders of restitution & rescission.

|  |  |  |
| --- | --- | --- |
| **What happens:** |  | **Purpose and explanation:** |
| **Opening address:** | Plaintiff opening address: | Plaintiff outlines the case, explaining the alleged wrongs or breaches of contract, the evidence to be presented and the law they argue supports the case. |
|  | Defence opening address: | Defence outlines the case explaining why the alleged wrongs or breaches of contract are not true, the evidence to be presented and the law they argue supports their case. |
| **Examination of Plaintiff Witnesses:** | Examination-in-chief: | Plaintiff calls each of their witnesses to the stand. Witnesses take an oath. Plaintiff asks questions. Witnesses answer orally. Evidence should conform to the rules of evidence. |
|  | Cross examination: | Defence tests plaintiff witnesses’ evidence by asking questions, attempting to highlight weaknesses, contradictions, reliability, or other aspects that draw witness evidence into doubt. |
|  | Re-examination (optional): | Plaintiff may ask further questions if cross-examination has undermined witness evidence. |
| **Examination of Defence Witnesses:** | Examination in chief: | The defence may call witnesses to stand. Witnesses take an oath. Defence asks questions. Witnesses answer orally. Evidence should conform to rules of evidence. |
|  | Cross-examination: | Plaintiff tests defence witnesses’ evidence by asking questions, attempting to highlight weaknesses, contradictions, reliability or other aspects that draw witness evidence into doubt. |
|  | Re-examination: | The defence may ask further questions if cross-examination has undermined witness evidence. |
| **Closing address:** | Plaintiff closing address: | Plaintiff sums up their case, the law and the evidence presented. They will argue that they have proven their case on the balance of probabilities and the defendant should be found liable. |
|  | Defendant closing address: | Defence sums up their case, the law, and the evidence presented. They will argue the plaintiff has failed to prove their case on the balance of probabilities and the defendant should be found not liable. |
| **Verdict:** | Judges deliver verdict. | The judge considers the arguments and evidence. They determine a judgement in favour of one party on the balance of probabilities. The judge may determine the outcome and the remedy on separate occasions. |

**Civil trial process:**

Injunction: A court order requiring a person to either carry out or not carry out a particular act. For example, a plaintiff might seek an injunction to stop possible heritage listed trees from being bulldozed for a development.

Orders of specific performance: Orders that compel certain parties to fulfil their obligations, especially under contracts. For example, a defendant may be required to complete building works that the plaintiff has paid them for.

Orders of restitution and recission: Restitution is an order requiring a defendant to return property of the plaintiff. A rescission a plaintiff may seek an order of rescission whereby a contract is declared null & void because the acts of the defendant make it impossible for the contract to be completed.

Criminal disputes: Crimes are codified in legislation. The two primary acts in WA that define crimes, determine their severity and govern their sentencing are.

* Criminal Code Compilation Act (1913)
* Road Traffic Act (1974).

Pretrial: In the adversarial system, the police have prime responsibility for conducting the pre-trial stage of a criminal dispute. Alleged criminal activity come to the attention of the police in many ways. These include:

* It may be reported by the victim or by a member of the public who is affected by the crime.
* Investigations by parliamentary committees, royal commissions or by bodies such as the Corruption & Crime Commission.
* The police may observe the crime.

Once a crime is reported: the police initiate an investigation. This is the accumulation of evidence that could lead to the conviction of the suspect. A police investigation may involve:

* Examining a crime scene & gathering forensic evidence.
* Questioning witnesses & suspects.
* Searches of premises or persons.
* Carrying out surveillance.
* Arrest of the suspect.

Citizens’ rights during pre-trial: It is very important that a citizen’s rights are not breached during police investigations. Police must follow procedures when searching and seizing a suspect’s property, the length of time a suspect may be interviewed and how evidence is obtained. Within a criminal justice system based on the rights of the individual, an arrest is extremely significant. This is why when an accused is arrested, they are required to be told. The details of the charges against them & have their legal rights made known to them. The arresting of a suspect initiates the beginning of criminal prosecution and the end of criminal investigation.

If the defendant pleads guilty: then the trial stage is skipped and will proceed directly to post-trial sentencing.

Differences between summary and indictable offences:

|  |  |
| --- | --- |
| Heard in magistrates court. | Once an offender is charged they are detained in custody awaiting their hearing in the Magistrates court. |
| The offender may be arrested. From here they are brought before the Magistrate where they can be released or held in remand. | The Magistrate sets out a timeline for the case. The defendant may be released on bail or remanded in custody until the trial. |
| If the offender is not arrested they are given a criminal summons requiring them to come before court on a particular date. | The hand-up brief detailing the prosecution case is given to the defendant. |
| The offender enters their plea – if pleading not guilty it will proceed to trial. | The committal mention: This is heard in the Magistrates court and the defendant enters a plea if they did not do so at the initial pleading. IF pleading guilty, then it will proceed to trial in the district or supreme court. |

Bail: If ‘bail’ is granted this means money or sureties are put up by a person accused of a crime to assure a court that they will re-present themselves for trial. Bail allows the accused to remain free until the trial. Bail will not be granted if the accused is considered to be a danger to society.

Remanded in custody: if the defendant is ‘remanded in custody’ this means the defendant is held in detention between their arrest and their trial. Remand is used when it is thought that the accused will be a continuing danger to the community or is likely to abscond and fail to appear for trial.

The criminal trial process follows the same format as the civil trial process, with a few variations:

|  |  |
| --- | --- |
| Summary | Indictable |
| The prosecution is a police prosecutor. | The prosecution is the department of public prosecution (DPP). |
| The magistrate will deliver the verdict. | The jury will deliberate the verdict. |

The standard of proof is much higher in all criminal trials. It is beyond reasonable doubt. The prosecution is also on behalf of the state.

Arguing a defence: The accused may choose to present a defence to the alleged crime. A defence is an excuse or reason for why the act occurred. Key defences include:

* self-defence
* unsoundness of mind
* provocation
* accident

If a defendant is found guilty, sentencing may occur immediately following the verdict in a summary trial or at a later date, as is the case for an indictable offence. Judges are bound by Acts of parliament when applying sentences to crimes that have been committed**. e.g. The Sentencing Act (1995) stipulates minimum and maximum sentences.**

Post-trial: Sanction. The sentences applied by the courts to a person who has been found guilty of an offence.

The aim of the punishment is:

* Retribution (eye for an eye).
* Deterrence (designed to make potential offenders think twice, future, and current).
* Rehabilitation (such as compulsory training).
* Protection (aimed at dangerous offenders, to promote social cohesion).

Post-trial sanctions:

* Prison sentences
* Suspended prison sentences
* Community based sanction
* Home detention
* Fine

Reminder: The Australian court hierarchy allows for appeals to be made. The right to appeal is an essential element of the post-trial process.

|  |  |  |
| --- | --- | --- |
| **What happens:**  **Criminal trial procedure (indictable).** |  | **Purpose and explanation:** |
| **Opening address:** | Prosecution opening address: | Prosecution outlines the case, explaining the alleged crime, the evidence to be presented and the law they argue supports the case. |
|  | Defence opening address: | Defence outlines the case, explaining the alleged crime, the evidence to be presented and the law they argue supports their case. |
| **Examination of Plaintiff Witnesses:** | Examination-in-chief: | Prosecution calls each of their witnesses to the stand. Witnesses take an oath. Prosecution asks questions. Witnesses answer orally. Evidence should conform to the rules of evidence. |
|  | Cross examination: | Defence tests prosecution witnesses’ evidence by asking questions, attempting to highlight weaknesses, contradictions, reliability, or other aspects that draw witness evidence into doubt. The aim is to create ‘reasonable doubt’, which is required to defeat the prosecution case. |
|  | Re-examination (optional): | The prosecution may ask further questions if cross-examination has undermined witness evidence. |
| **Examination of Defence Witnesses:** | Examination in chief: | The defence may call witnesses to stand. Witnesses take an oath. Defence asks questions. Witnesses answer orally. Evidence should conform to rules of evidence. The aim is to create reasonable doubt. |
|  | Cross-examination: | Prosecution tests defence witnesses’ evidence by asking questions, attempting to highlight weaknesses, contradictions, reliability, or other aspects that draw witness evidence into doubt. |
|  | Re-examination: | The defence may ask further questions if cross-examination has undermined witness evidence. |
| **Closing address:** | Prosecution closing address: | Prosecution sums up their case, the law and the evidence presented. They will argue that they have proven their case beyond reasonable doubt and the defendant should be found guilty. |
|  | Defendant closing address: | Defence sums up their case, the law, and the evidence presented. They will argue that there is reasonable doubt and the defendant should be found not guilty. |
| **Judge:** | Charging the jury and verdict. | The judge addresses the jury, summarising the evidence and instructing them on what they must consider in reaching their verdict. The judge reminds the jury of the standard of proof – beyond reasonable doubt – and of the evidence that may have been ruled inadmissible and which must not be considered. The jury will return with its verdict. If guilty, the jury must be unanimous or, if the judge allows, a majority of 10-2 or greater. |