

DRAFT

WJEC Eduqas
LAW

A Level






SECOND EDITION

- › Sara Davies
- › Karen Phillips
- › Louisa Draper-Walters

Sample pages from Unit 1, pages 1–18
by Sara Davies, Karen Phillips, Louisa Draper-Walters
© Illuminate Publishing
These pages are uncorrected proofs and contain
unfinalised artwork

Illuminate
Publishing

Contents

	Introduction	iv
	1 The Nature of Law	1
	1 Law making	1
	2 Law reform	9
	3 Delegated legislation	19
	4 Statutory interpretation	26
	5 Judicial precedent	34
	6 Civil courts	42
	7 Criminal process: Structure and sentencing	55
	8 Criminal process: Juries	77
	9 Legal personnel	87
	10 Access to justice and funding	100
	2 The Law of Tort	108
	11 Rules of tort	108
	12 Liability in negligence	111
	13 Torts connected to land	123
	14 Vicarious liability	146
	15 Occupiers' liability	152
	16 Defences: Tort	159
	17 Remedies: Tort	163
	3 Human Rights Law	170
	18 Rules, theory and protection of human rights law	170
	19 Specific provisions within the European Court of Human Rights	176
	20 Restrictions of the European Court of Human Rights	183
	21 The debate relating to the protection of human rights in the UK	234
	4 Contract Law	239
	22 Rules and theory of the law of contract	239
	23 Essential requirements of a contract	241
	24 Express and implied terms	261
	25 Misrepresentation and economic duress	276
	26 Discharge of a contract	281
	27 Remedies	285
	5 Criminal Law	289
	28 Rules and theory of criminal law	289
	29 General elements of criminal liability	294
	30 Offences against the person	306
	31 Property offences	326
	32 Capacity defences	338
	33 Preliminary offences of attempt	364
	Case index	368
	Glossary	369
	Index	370

Introduction

How to use this book

The contents of this textbook are designed to guide you through the WJEC or Eduqas Law specification and lead you to success in the subject. It has been written by senior examiners who have pinpointed what is required of candidates, in terms of content, to achieve the highest marks. In addition, common errors have been identified, and support and advice given in how to avoid these errors, which will help lead to success in your AS/A Level examination.

The book covers:

- › Eduqas AS Level components 1 and 2
- › Eduqas A Level components 1, 2 and 3
- › WJEC AS Level units 1 and 2
- › WJEC A Level units 3 and 4.

This textbook covers the knowledge content that is required for each topic within the various specifications. There is also a selection of learning features throughout the topics.

Key terminology: important legal terms are emboldened in the main text and accompanied by a definition in the margin. They have also been compiled into a glossary at the end of the book for ease of reference.

Grade boost: gives you an insight into the examiner's mind and provides advice on things you should include to achieve the higher marks.

Stretch and challenge: these activities provide opportunities to research a topic further and give you advice on wider reading. These are usually additional cases, current affairs or areas under reform, knowledge of which should really impress your examiner.

Cases and key cases: examples of cases are highlighted to clarify the points of law they illustrate.

Exam skills: these give advice and guidance on how to prepare for your exams.

WJEC/duqas-only text: a minority of topics only feature on *either* the WJEC or Eduqas specification. This feature will identify these topics so that you can be sure you are covering all of the content that you need for the qualification you are studying towards. Grey-background text is WJEC only, and blue-background text is Eduqas only

Summary: at the end of each topic there is a handy summary to help you structure your revision.

Test yourself: these summary questions at the end of each topic can be completed to test your knowledge of what you have just learnt. All the answers can be found in the main body of the topic.

Exam past paper questions: these show you how the topic has featured on actual past papers. Where applicable, a selection is shown across the different exam boards.

Note: following the death of Queen Elizabeth II in 2022, senior barristers switched their title from QC (Queen's Counsel) to KC (King's Counsel). In addition, the Queen's Bench Division of the High Court is now referred to as the King's Bench.

The Nature of Law



1 Law making

'Sources of law' refers to the way in which the law comes into existence (see Figure 1.1).

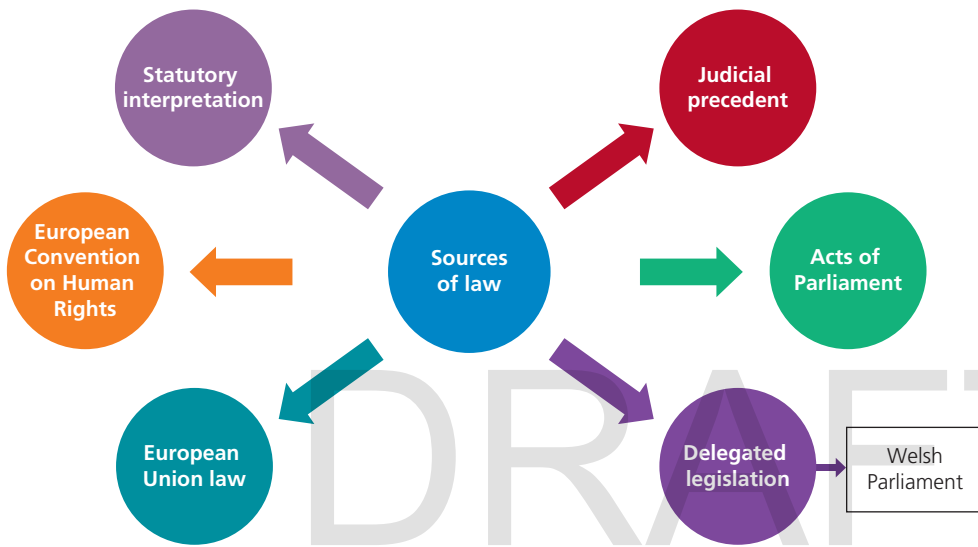


Figure 1.1 Sources of law in England and Wales

Acts of Parliament

Most United Kingdom (UK) law comes from the UK Parliament, which passes hundreds of laws every year. Parliament is composed of three institutions (see Figure 1.2).

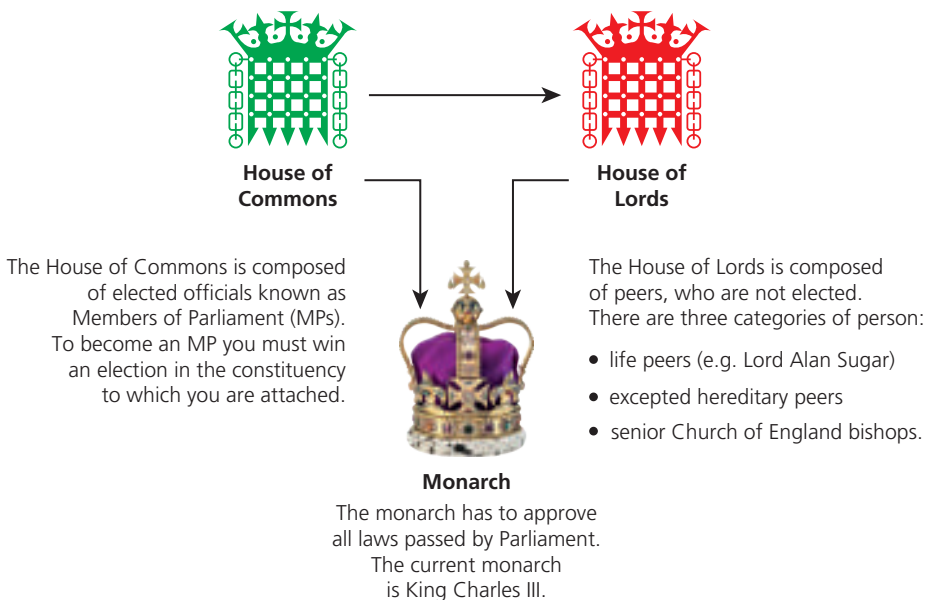


Figure 1.2 The three institutions of Parliament

The UK Parliament is based at the Palace of Westminster in London, so is sometimes referred to as 'the Westminster Parliament' or simply 'Westminster'. It consists of two debating chambers: the House of Commons and the House of Lords. The third element of the UK Parliament is the monarch, who is the head of state. The role of the monarch is hereditary: it normally passes from the present monarch to their eldest child when the reigning monarch dies.

All three parts of the UK Parliament must approve Acts of Parliament before they can become law.

Green and White Papers

The first stage of making a law is often to consult relevant people via a Green and/or White Paper.

Green Paper

A Green Paper is an intention to change the law and outlines the format this change could take. It is published on the internet for the public to comment on and copies are also distributed to interested parties. These individuals will then make comments and put forward suggestions on the proposal.

White Paper

Parliament will then publish a White Paper, which is a positive proposal on the format the new law will take. It often includes changes as a response to the opinions of the interested parties. There is then a further chance for consultation before the final Bill enters Parliament for consideration.

Bills

All Acts of Parliament begin life as a Bill, which is a draft law or a proposal for a change in the law. There are three types of Bill: Public Bills, Private Members' Bills and Private Bills.

Public Bills

A Public Bill involves matters of public policy that will affect the whole country or a large section of it. These Bills will sometimes reflect the manifesto of the government in power at the time. Most government Bills are in this category. Examples include:

- › [Children and Social Work Act 2017](#)
- › [Juries Act 1974](#)
- › [Finance Act 2017.](#)

Private Members' Bills

Private Members' Bills are sponsored by individual Members of Parliament (MPs). At each parliamentary session, 20 members are chosen from a ballot to take their turn in presenting their Bills to Parliament. Relatively few Private Members' Bills become law, and the time available for debating them is very short. As they tend to cover issues that the individual MP is interested in, they rarely reflect the government's general agenda. Examples of Private Members' Bills that have become law are:

- › [Abortion Act 1967](#)
- › [Marriage Act 1994](#)
- › [British Sign Language Act 2022.](#)

Private Bills

A Private Bill is a law that is designed to affect only individual people or corporations. Examples include:

- › [University College London Act 1996](#)
- › [Whitehaven Harbour Act 2007.](#)

Legislative process

When a Bill is prepared, it is first presented to the UK Parliament and then has to go through a specific process before it officially becomes law (see Figure 1.3).

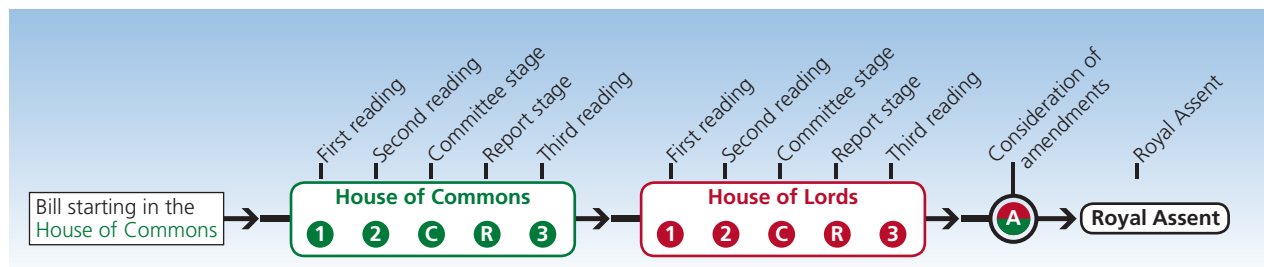


Figure 1.3 How a Bill progresses through Parliament (Source: www.parliament.uk/about/how/laws/flash-passage-bill. Crown Copyright)

The House of Commons can use powers under the **Parliament Acts 1911** and **1949** to make a law without the consent of the **House of Lords**. This rarely happens but is an available option if the House of Lords cannot reach an agreement. An example of the House of Commons using this power was when MPs passed the **Hunting Act 2004**, which outlawed the hunting of wild animals using dogs.

First reading

The title of the prepared Bill is read to the House of Commons. This is called the first reading and acts as notification of the proposed measure.

Second reading

The second reading is the first opportunity for MPs to debate the main principles of the Bill. At the end of the debate, the House of Commons votes on whether the legislation should proceed.

Committee stage

This is a detailed examination of the Bill where every clause is agreed to, changed or removed, taking into account the points made during the debates at the first and second readings.

Report stage

The committee will then report back to the House of Commons, and any proposed amendments are debated and voted upon.

Third reading

The third reading is a final chance for the House of Commons to debate the contents of a Bill but no amendments can be made at this stage. There is simply a vote on whether to accept or reject the legislation as it stands.

House of Lords

The Bill then goes to the **House of Lords**, where it travels through a similar process of three readings. If the House of Lords alters anything, the Bill returns to the Commons for consideration. This is known as 'ping pong'.

Royal Assent

In the majority of cases, agreement between the Lords and the Commons is reached and the Bill is then presented for Royal Assent. Technically, the King must give his consent to all legislation before it can become law but, in practice, that consent is never refused and is always granted.

The Bill is now an Act of Parliament and becomes law, although most Acts do not take effect the moment the King gives his consent, but on a specified future date. This is known as 'commencement'.

GRADE BOOST

Public Bills currently being considered by Parliament can be found at www.parliament.uk/business/bills-and-legislation

Recent legislation can be found at www.legislation.gov.uk/ukpga

Go to www.parliament.uk/about/how/laws/flash-passage-bill and summarise in more detail what happens at each stage of the legislative process.

KEY TERMINOLOGY

House of Lords: the name of the Upper House in Parliament, which is the legislative chamber. Confusion arose before the establishment of the Supreme Court, as the highest appeal court was also called the House of Lords.

EXAM SKILLS

If you are asked to explain the legislative process, remember that you will need to do more than just list the different stages to achieve the full range of marks. Try to explain what happens at each stage, giving some examples if you can.

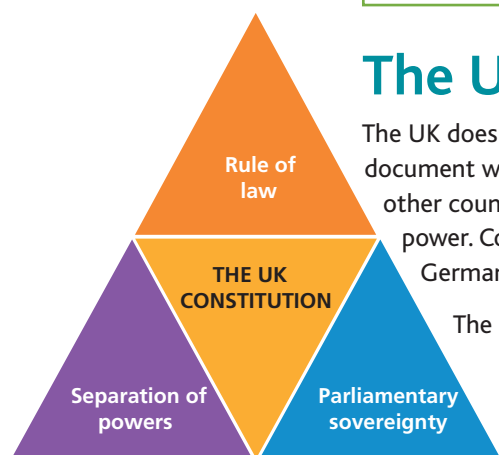


Figure 1.4 The three key principles of the UK's unwritten constitution

The UK constitution

The UK does not have a written constitution. This means that it has no single legal document which sets out the fundamental laws outlining how the state works. Unlike most other countries, there is no formal regulation of the organisation and distribution of state power. Countries which do have a written constitution include the USA, France and Germany.

The UK therefore relies on three key principles to underpin its unwritten constitution:

1. **parliamentary sovereignty**
2. the rule of law
3. separation of powers.

Parliamentary sovereignty

In its most simple form, sovereignty is the principle of absolute and unlimited power. An **Act of Parliament** can completely overrule any **custom**, **judicial precedent**, **delegated legislation** or previous Act of Parliament. This is because MPs are elected by the voters in their constituency in a democratic process, so each MP is participating in the legislative process on behalf of those voters.

Dicey's theory of parliamentary sovereignty

A.V. Dicey was a famous Oxford scholar and his traditional view has three main points that explain the concept of parliamentary sovereignty:

1. Parliament is sovereign

Parliament is sovereign and can make or unmake any law on any subject without legal constraints. This means that Parliament is the highest source of English law and has the right to make or unmake any law, and to override or set aside any existing legislation.

So, if Parliament decided that all dog owners also had to own a cat, there might be a public outcry, but the law would still be valid and the courts would be obliged to uphold it. The reason for this power is that Parliament is democratically elected and therefore has the upper hand when making the laws that every citizen has to follow.

2. No Parliament can bind another

No Parliament can bind another and an Act of Parliament passed by a previous Parliament can be repealed by the next Parliament. No Act of Parliament is entrenched, like the US Bill of Rights is.

KEY TERMINOLOGY

parliamentary sovereignty: Dicey's principle that Parliament has absolute and unlimited power, and that an Act of Parliament overrules any other source of law.

Act of Parliament (statute): a source of primary legislation that comes from the UK legislature.

custom: rules of behaviour which develop in a community without being deliberately invented.

judicial precedent (case law): a source of law where past judges' decisions create law for future judges to follow.

delegated legislation (secondary or subordinate legislation): law created by a body other than Parliament but with the authority of Parliament, as laid down in primary legislation.

3. No Act can be challenged

No Act can be challenged by a court nor its validity questioned. This means that, even if it were alleged that an Act has been passed by fraudulent means, it has to be upheld by the courts. It cannot be overruled by another 'arm' of the state. The only way to challenge the action of ministers, or any other law makers, is through **judicial review**, which is dealt with by the King's Bench Division of the High Court.

Threats to Dicey's theory

Dicey's theory of parliamentary sovereignty is a little outdated and does not reflect the UK's current legal position because there are three significant erosions of parliamentary sovereignty.

1. Membership of the European Union

European Union (EU) law overrides any UK law made before or after the UK joined the EU in 1972. However, since the 2016 Brexit referendum result, it remains to be seen how EU law will continue to influence the UK.

2. Human Rights Act 1998

The **Human Rights Act 1998** made it a legal requirement that all public authorities must behave in a way that does not infringe on human rights. This means that under **section 3 (s3)** judges have to interpret every Act of Parliament in a way that upholds human rights.

If the law abuses human rights, they have to declare it incompatible under s4 and send the law back to Parliament to change.

3. Devolution

There have been changes to the UK constitution through **devolution**. The formation of the Welsh Parliament, Northern Ireland Assembly and the Scottish Parliament have had an impact on parliamentary sovereignty because these devolved institutions can now make laws, sometimes without the approval of the UK Parliament.

Rule of law

Dicey was also responsible for the second theory that underpins the UK's unwritten constitution. He said that the concept of the **rule of law** has three components:

1. No sanction without breach

No one should be punished unless they have broken a law. This means that there should be proper legal procedures and that all law should be public and cannot be secret. In principle, no law should have a retrospective effect; that is, a new law should not apply to past events.

In the English and Welsh legal systems, the actions of and decisions by government ministers can be challenged by judicial review. This element of the rule of law ensures that the state does not have wide discretionary powers to make arbitrary decisions.

2. One law should govern everyone

This means that everybody (including the government) is equal before the law. Dicey's idea was that court proceedings, the judicial mechanisms controlling society, would apply to the citizen and to the government and public bodies. However, some institutions of the state, such as the police, are given more powers than citizens to enable the state to function.

3. Rights of individuals are secured by decisions of judges

This engages with the idea of judicial precedent, which is that the highest courts can make a decision in a case which then has to be followed by the lower courts. In this way, no new

KEY TERMINOLOGY

judicial review: the process of challenging the legality of a decision, action or failure to act by a public body such as a government department or court.

devolution: the transference of power from central government to regional or local government (e.g. the formation of the Welsh Parliament, the Northern Ireland Assembly and the Scottish Parliament).

rule of law: the state should govern its citizens in accordance with rules that have been agreed upon.



Figure 1.5 The Human Rights Act 1998 has affected judges' interpretation of statutes

legal principles are created. Although most modern laws are created by Acts of Parliament and delegated legislation, judicial decisions do still create law.

Problems with Dicey's theory

Dicey's theory conflicts with the principle of parliamentary supremacy. This is the acknowledgement that Parliament has the right to make or unmake any law, including granting arbitrary power to the state. This is exactly the sort of arbitrary power that the rule of law seeks to forbid.

Dicey also considered equality before the law. This is often compromised because the cost of taking legal cases to court is very high, so may not be accessible to everyone.

Breaches of the rule of law

There have been many allegations in which the rule of law was alleged to have been breached. Here are some examples:

- › John Hemming MP: Mr Hemming disclosed the name of a famous footballer subject to an injunction by using parliamentary privilege.
- › Prisoners' vote: Conservative MPs proposed to ignore a ruling by the European Court of Human Rights (ECtHR) that gave UK prisoners the right to vote.
- › Abu Qatada: the **Human Rights Act 1998** protects people from torture, and Abu Qatada would have been tortured or received an unfair trial for terrorist crimes that he had allegedly committed if he had been deported to his home country of Jordan. In 2013, Abu Qatada left the UK after Jordan signed a treaty promising not to use evidence obtained by torture.

Upholding the rule of law

There are also examples which show judges upholding the rule of law:

- › The **Constitutional Reform Act 2005**: this Act recognised the rule of law and the importance of the independence of the judiciary.
- › **Section 1 Constitutional Reform Act 2005**: this states that the Act does not adversely affect 'the constitutional principle of the rule of law or the Lord Chancellor's existing constitutional role in relation to that principle'.
- › **Section 17(1) Constitutional Reform Act 2005**: this outlines the oath to be taken by the Lord Chancellor to respect the rule of law and defend the independence of the judiciary. This is significant because it is the first time that the rule of law was recognised as a central issue in a statutory provision.

Separation of powers

Montesquieu was an 18th-century French philosopher. His theory of the **separation of powers** stated that the only way to safeguard the liberty of citizens is to keep the three arms of the state – legislature, judiciary and executive (see Figure 1.6) separate. This theory requires that individuals should not be members of more than one arm of the state, but in reality there is some overlap and we are increasingly seeing a fusion of the arms, rather than a separation.

The Prime Minister and their cabinet make up the **Executive**, but there are also MPs who sit in the legislature. The Executive is also influential on the legislative agenda, as proposed policies are often part of the government's manifesto. This may reflect a particular political viewpoint, as the Executive is usually formed by the party that won the most seats in the House of Commons at a general election. This is deemed acceptable, however, as the Executive is formed in a democratic way, having been elected by the public.

GRADE BOOST

Other theorists who have developed modern interpretations of the rule of law include Lord Bingham and Joseph Raz.

GRADE BOOST

Research these examples, which show judges upholding the rule of law:

- **The Belmarsh Prisoners case**
- **Black Spider Memos case**
- **Al Rawi and others v Security Service and others**

KEY TERMINOLOGY

separation of powers: state power is separated into three types, Executive, judicial and legislative, with each type exercised by different bodies or people.

Executive: the government.

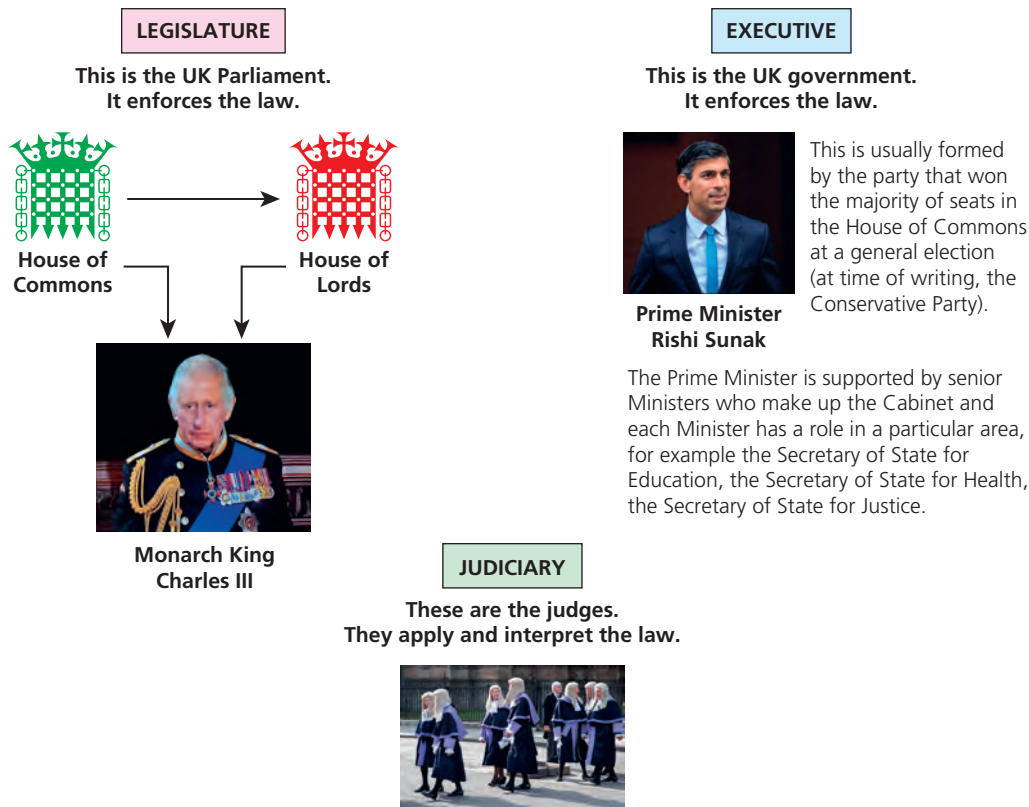


Figure 1.6 Montesquieu's theory states that there are three functions of the state and that these should be kept separate

For a long time, there was also considerable overlap between the judiciary and the legislature. This is because the House of Lords was a legislative debating chamber as well as being the highest appeal court of the UK. This was deemed unsatisfactory because it goes against the theory of the separation of powers whereby the legislature has to be kept separate from the judiciary. As a result, the **Constitutional Reform Act 2005** created the UK Supreme Court, which is the highest appeal court in the UK, thus removing the most senior court from the legislature.

TEST YOURSELF

1. What are the three institutions that make up the UK Parliament?
2. What is the difference between a Private Bill and a Private Members' Bill?
3. What is the significance of the **Parliament Acts 1911** and **1949**?
4. Explain what happens at the Committee stage of the legislative process.
5. Explain what is meant by the 'ping pong' stage of the legislative process.
6. Outline Dicey's three principles of parliamentary sovereignty.
7. What are the three big erosions of parliamentary sovereignty?
8. Explain what is meant by the 'rule of law'.
9. Why is it important to uphold the doctrine of the separation of powers?
10. Explain how there may be overlap between the executive and the legislature.

SUMMARY: LAW MAKING

→ **Sources of law:** the UK has an unwritten constitution, so it is based on three principles:

1. **Parliamentary sovereignty** (Dicey): Parliament is supreme with absolute and unlimited power. Threats: EU, **Human Rights Act 1998**, devolution
2. **Rule of law** (Dicey): no sanction without breach, one law should govern everyone, rights are secured by the decisions of judges
 - Examples of breaches: John Hemming MP, prisoners' vote, Abu Qatada
 - Promotion: **Constitutional Reform Act 2005**, Black Spider Memos
3. **Separation of powers** (Montesquieu): three functions of the state should remain separate:
 - Legislature: UK Parliament makes the law
 - Executive: UK government enforces the law
 - Judiciary: judges apply and interpret the law

→ **UK Parliament:** the legislative arm of the UK

Three elements:

- House of Commons
- House of Lords
- Monarch

All three must agree on a Bill before it becomes an Act, subject to the exceptions in the **Parliament Acts 1911** and **1949**.

Three types of Bill can result in an Act of Parliament:

- Public Bill
- Private Members' Bill
- Private Bill

All potential Acts have to go through the legislative process: five stages in the House of Commons, five stages in the House of Lords and Royal Assent

EXAM PAST PAPER QUESTIONS

WJEC – Unit 1 – May 2019

Explain the Rule of Law doctrine. [10]

Eduqas – AS Level Component 1 – May 2019

Explain what is meant by the separation of powers. [6]

Eduqas – AS Level Component 1 – May 2018

Explain the stages a Bill must go through in order to become an Act of Parliament. [6]

2 Law reform

Judicial change

The law does not, and cannot, stand still. It needs to keep up with society's changing attitudes and respond to events and media pressure.

Most legislation in the English and Welsh legal systems continues to apply until it is repealed. Where it is clear that the law is no longer reflective of society's needs, there is a number of ways in which it can be reformed (see Figure 2.1) and agencies that can put pressure on the government to change the law.

Case law can bring about some reform through the development of the common law, also known as judicial precedent.

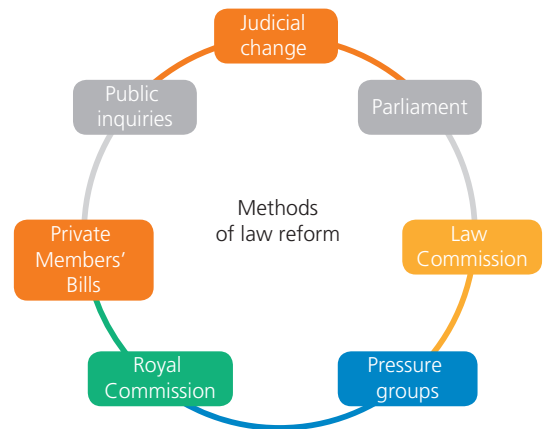


Figure 2.1 Many channels can be used to reform the law

R v R (1991)

A husband broke into the house where his estranged wife was staying with her mother and forced her to have non-consensual sex with him. The House of Lords declared that a husband who has non-consensual sexual intercourse with his wife can be guilty of rape on the basis that the status of women, and particularly of married women, has changed out of all recognition in various ways. As a result, the **Sexual Offences Act 2003** was amended to reflect the fact that non-consensual intercourse is rape regardless of marital status.

Ghaidan v Godin-Mendoza (2004)

Here the court held that homosexuals living in a long-term loving relationship should enjoy the same tenancy rights as heterosexual couples.

There are several reasons why judicial law making is rare, and why it should not regularly happen.

- › Courts can only deal with cases that are brought to them so they are unable to enter into wide-ranging law reform.
- › The parties involved in cases often do not have the money or interest to pursue the reform.
- › Judges are usually unable to consult experts or commission research. They will be wary of reforming the law without this specific knowledge, as their decision will have future influence.
- › Judges are unable to make changes where the doctrine of precedent applies, which inhibits any radical reforms.
- › A precedent change is retrospective (that is, it covers something that has already happened), whereas a parliamentary reform is prospective (it takes effect only from the day it comes into force).
- › Judges are unelected so it is often argued that their constitutional position is not to reform the law. The theory of separation of powers shows this.



Figure 2.2 Judicial precedent is one way of reforming laws

However, judges are skilful at identifying issues to Parliament. Within their judgments, they are willing to point to areas of difficulty with a view to raising the profile of such issues and attracting the attention of Parliament to get reforms.

Parliamentary change

The government of the day has control over what ideas enter Parliament, even though they are often influenced by other bodies.

Much legislation reflects the political ideas of the government that is in power when the Act is passed. Such legislation may start as a political commitment in the manifesto of a political party. The government of the day will set out its legislative agenda in the King's Speech on the first day of a parliamentary session.

Parliamentary law reform happens in four ways

Repeal

- › Old and obsolete laws are removed.
- › Out-of-date laws will often stay on the statute books for a long time before they are repealed.

Creation

- › Completely new laws are created, either in response to public demand or because of pressure from another group.
- › Existing provisions can also be adapted to meet new needs.

Consolidation

- › When a statute is created, problems may appear over time and new legislation may be enacted to amend it.
- › It brings together successive statutes on the same subject.

Codification

- › Where a particular area of law has developed over time, a large body of case law and statute can make the law confusing.
- › Codification brings together all the rules into one statute to increase certainty.

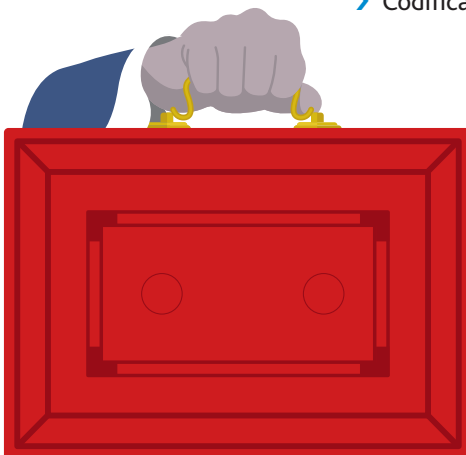


Figure 2.3 The famous red briefcase is said to contain the Budget recommendations

New Acts of Parliament

A number of circumstances may provide the stimulus for a new Act of Parliament:

1. Events

Unexpected events can lead to an urgent need for law reform that the government may not have foreseen. For example, the attacks of 9/11 led to a tightening of the UK's terrorist laws through the creation of the **Anti-Terrorism, Crime and Security Act 2001**.

2. The Budget

Each year, the Chancellor of the Exchequer presents a Budget statement to MPs in the House of Commons. Once the Budget is agreed, a Finance Bill is presented to Parliament and will make its way through Parliament to give effect to the changes. Government expenditure changes in line with the needs of the country, so this law needs to be passed every year.

3. The media

Through the media, issues of public concern can be highlighted. Newspapers in particular often push a particular cause. For example, the *Daily Mail* often runs headlines on immigration and asylum issues to try to achieve greater immigration controls and the *Sun* consistently campaigned against what it saw as the growing influence of the EU on British life.

An excellent example of media influence was the campaign run by the *News of the World* in 2000 following the murder of Sarah Payne by a known paedophile. The subsequent law change ('Sarah's law') was included in **s327 Criminal Justice Act 2003**, which places a duty on authorities to consider the disclosure of information about convicted sex offenders to parents in an area, if they consider that the offender presents a risk of serious harm to their children.

4. Law reform agencies

There are several formal agencies of law reform that put pressure on Parliament to change the law. They include:

- › the Law Commission
- › pressure groups
- › Royal Commissions
- › public inquiries.

5. Public opinion

If members of the public feel strongly about an issue, they can make their feelings known by writing to their MP or visiting their MP's surgery in their constituency. If the MP agrees, they can introduce the proposal to Parliament via a Private Members' Bill.

The **Dangerous Dogs Act 1991** was introduced because of public concern about dangerous dogs. The legislation was swiftly passed and is often criticised.

6. European Convention on Human Rights (ECHR)

Changes prompted by the requirements of the **ECHR** can also prompt parliamentary law reform.

Goodwin v UK (2002)

This case illustrated the inequalities in the law regarding transsexual rights. As a result of this case being heard in the European Court of Human Rights (ECtHR), the UK Parliament passed the **Gender Recognition Act 2004**.

Pressure groups

Pressure groups are those organisations that seek to influence the direction of law and policy on the basis of the views and opinions of their members.

If a pressure group begins to reflect the opinions of many members of the public, it can put a lot of pressure on Parliament. Remember that a pressure group cannot create law but can heavily influence Parliament. Parliament also consults with pressure groups to seek their views on law proposals.

There are two types of pressure groups: interest groups and cause groups.

1. Interest groups

These are sometimes also called 'sectional', 'protective' or 'functional' groups and represent a particular section of society, such as workers, employers, consumers, ethnic or religious groups, trade unions, business corporations, trade associations or professional bodies. Specific examples include the British Medical Association (BMA), the Law Society, the National

STRETCH AND CHALLENGE

- **Clare's law:** research the law introduced as a result of a campaign by the father of Clare Wood, who was murdered by her ex-partner in 2009. A good starting point is the BBC News article "'Clare's law' introduced to tackle domestic violence', www.bbc.co.uk/news/uk-politics-26488011
- **Natasha's law:** research the law introduced as a result of the parents of Natasha Ednan-Laperouse, who died because she ate a pre-packaged baguette that contained ingredients to which she was allergic.

Can you find any more laws that have been introduced as a result of a media campaign?

Union of Teachers (NUT), the Confederation of British Industry (CBI) and the Trades Union Congress (TUC).

There are a few things to note about interest groups:

- › They are concerned with the interests of their members.
- › Membership of these groups is limited to those in a particular occupation, career or economic position.
- › Members can be motivated by self-interest.
- › Interest groups tend to be influential in the development of the law and are often consulted by Parliament in the early stages of law development.

2. Cause groups

These are sometimes called 'promotional', 'attitude' or 'issue' groups and are based on shared attitudes or values, rather than the common interests of their members. They seek to advance various causes ranging from charity activities, poverty reduction, education and the environment, to human rights, international development and peace. Specific examples include the Worldwide Fund for Nature (WWF), Amnesty International, Shelter, the Royal Society for the Protection of Birds (RSPB) and the Electoral Reform Society.

There are a few things to note about cause groups:

- › They seek to advance particular ideals or principles.
- › Membership is open to all.
- › Members are motivated by moral issues.

The role of pressure groups as influential bodies

Pressure groups use a variety of tactics, including:

- › letter writing
- › protest marches
- › lobbying MPs
- › organising petitions
- › gaining publicity and media attention
- › attracting celebrities to support their campaign.

Some groups are more effective than others; size obviously helps, but other factors such as sheer persistence and headline grabbing can be very productive. Some groups use direct action, which in some cases can be illegal, such as violence or occupying land.



Figure 2.4 Another group that advocates direct action is Insulate Britain, which is campaigning for the UK government to fully fund and take responsibility for the insulation of all social housing in Britain by 2025. Its members have been campaigning by using violent protests, blocking the M25 and confronting drivers. Many members have been arrested and sentenced to time in prison.

The role of pressure groups as consultative bodies

Pressure groups also have a role as a consultative body. When an idea for a new law is proposed, Parliament may wish to begin with a consultation before it is presented to Parliament. This consultation can take the form of a Green Paper and White Paper (see page 3).

How effective are pressure groups?

Pressure groups can be effective and influential:

- › They enhance democracy and encourage ordinary people to engage in politics.
- › They facilitate public discussion on key issues.
- › Their specialist knowledge can inform governments.
- › They make political parties more responsive to the public.
- › They enhance freedom of expression under **Article 10** and freedom of assembly and protest under **Article 11**.
- › They raise public awareness and educate the public on key issues.
- › They often conduct their own specialist research, which can highlight important issues.

However, there are a few reasons why pressure groups should be regarded with care:

- › They provide a one-sided view of an issue.
- › If the group is small, their views can be distorted and not based on any substantial research.
- › They are undemocratic in the sense that they are not elected but can still influence the government.
- › Some groups advocate the use of direct action, which can be illegal.

STRETCH AND CHALLENGE

Research some key pressure groups, for example Fathers 4 Justice, Greenpeace, Shelter Cymru, National Union of Students, Amnesty International, Age UK, Friends of the Earth, Liberty, or No Dash for Gas. Find out:

- their objectives
- their methods
- any successful attempts at law change.

Law Commission

The Law Commission is the only full-time law reform body in the UK.

It is an independent commission that comprises five members drawn from the judiciary, the legal profession and legal academics. The chairperson is a High Court judge. Members are appointed for a five-year term and are assisted by legally qualified civil servants and research assistants who are often law graduates.

The Law Commission was set up under the **Law Commission Act 1965**, and **s3** of that Act states that its role is to:

'keep under review all the law ... with a view to its systematic development and reform, including in particular the codification of such law, elimination and anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments, the simplification and modernisation of the law.'

The Law Commission looks into laws and then seeks opinion on the possible reforms. The consultation paper describes the current law, sets out the problems and looks at the options for reform. Then the Law Commission will draw up positive proposals for reform in a report, which will also set out the research that led to the conclusions. Often there is a draft Bill attached to the report. This may then go to Parliament.

The Law Commission can reform law in the same four ways as Parliament: by repeal, consolidation, codification and creation.

The **Law Commission Act 2009** is the most recent piece of legislation passed in relation to the Law Commission, to try to improve its success in reforming the law.

- › It states that the Lord Chancellor must tell Parliament each year whether the government has decided to implement any of the previous year's Law Commission proposals, and if not, why not. This aims to hold ministers to account.

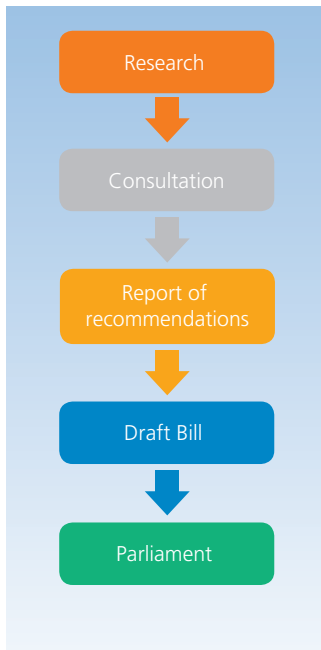


Figure 2.5 The Law Commission's law reform process

- › It also introduced a new parliamentary procedure which reduces the time and resources required to implement non-controversial Law Commission Bills.
- › The Act also sets out how the Law Commission and government departments should work together and a protocol has been agreed that the Law Commission will not take on a project without an undertaking from the relevant government minister that there is a serious intention to reform the law in that area.

Success of the Law Commission

1965–1975

The Law Commission was initially successful in reforming small areas of law. Its first 20 reform programmes were enacted within an average of two years, and included the **Unfair Contract Terms Act 1977**, **Supply of Goods and Services Act 1982** and **Occupiers' Liability Act 1984**.

Within ten years, it had a success rate of 85 per cent of its proposals for reform being enacted. Its reports led to the repeal of 2,000 obsolete statutes and partial repeal of thousands of others.

1976–2000

During this period, some academics argued that the process of law reform had stalled.

- › In the 10–15 years from the late 1970s, only 50 per cent of its proposals became law.
- › The rate hit an all-time low in 1990 when none of its proposed reforms were enacted.
- › In 1992, there was a backlog of 36 Bills that Parliament had failed to consider.
- › The lack of success during this period was put down to lack of parliamentary time and an apparent disinterest in Parliament of technical law reform.

One area highlighted by the Law Commission in 1989 was the need for criminal law to be codified. The government has failed to respond to the idea that the UK should mirror other jurisdictions where there is a single criminal code and there has been no sign of progress in implementing the suggestion of codification made by the Law Commission 2003: Halliday Review.

This review found that the main problem with law reform was the inability of government departments to accept reform proposals and create an opportunity for discussion in Parliament. In some cases, the delay in implementing the Law Commission reports was significant.

For example, the review found that the Law Commission's proposal for reform of the landlord's right of distress on the tenant's property was contained in its report on 'distress for rent', published in 1991. It took 16 years for those proposals to become part of the **Tribunals, Courts and Enforcement Act 2007**. Key factors in this delay can be traced to political issues, personnel changes and staffing.

The amount of annual legislation increased not only in numbers but also in length, adding further burdens to an already busy Parliament. Everyone from the Prime Minister and MPs to government departments sought to find a slot in which to introduce their legislation ideas.

Present day

In 2008, the Law Commission announced it would no longer seek to codify the criminal law but instead concentrate on simplifying specific areas of it, rather than repealing big chunks. Acts that have incorporated criminal law reform recommendations include:

- › **Criminal Justice Act 2003**
- › **Domestic Violence, Crimes and Victims Act 2003**
- › **Fraud Act 2006**
- › **Serious Crime Act 2007**
- › **Coroners and Justice Act 2009**.

Since the **Law Commission Act 2009**, there have been annual reports to Parliament by the Lord Chancellor, resulting in varying levels of success. Implementation rates have improved, although there are still reports waiting to be made law. The Law Commission's Annual Report of 2020–21 showed that seven reports awaited implementation, and, since its inception in 1965, 64 per cent of Law Commission projects have been implemented in whole or in part.

An example of a current project being considered in the Law Commission's 14th Programme of Reform is regulating remote driving, so-called 'driverless cars' where a person outside a vehicle uses connectivity to control a vehicle on public roads.

GRADE BOOST

It is always good practice in an exam to show recent knowledge and an awareness of current issues. Here are some ideas in relation to the Law Commission:

- The Law Commission published a report in 2015 recommending reform of the **Offences Against the Person Act 1861** (www.lawcom.gov.uk/project/offences-against-the-person). Summarise its main findings.
- In 2017 the Law Commission published a report recommending changes to the law surrounding wills (www.lawcom.gov.uk/project/wills). Summarise its proposals.

Two of the biggest successes of the Law Commission in recent years are:

- changes to offences surrounding jury conduct during trials, included in the **Criminal Justice and Courts Act 2015**.
- the consolidation of sentencing legislation in the **Sentencing Act 2020**, which was originally a Law Commission project.

STRETCH AND CHALLENGE

In order to keep on top of the progress of Law Commission proposals, it is a good idea to read the annual reports published by the Lord Chancellor's office, required by the **Law Commission Act 2009**. You can read the reports in full at www.gov.uk/government/collections/implementation-of-the-lawcommission-proposals. Refer to these reports and draw on your learning to evaluate how successful the Law Commission has been since the implementation of the **Law Commission Act 2009**.

Advisory committees

Advisory committees are temporary law reform bodies. They are set up to research, consult and propose laws on a particular issue or to investigate where the law needs to be reformed following a tragedy or big event (such as the Hillsborough football stadium disaster or the Brixton Riots), or because of advances in science and technology that need to be reflected in the law.

Royal Commissions

Royal Commissions are temporary committees, set up by the government to investigate and report on one specific area of law. Once the report has been published, the Royal Commission is disbanded. Royal Commissions returned to popularity in the 1990s after not being used at all while Margaret Thatcher was Prime Minister in the 1980s. Examples include:

- Phillips Commission: resulted in the **Police and Criminal Evidence Act 1984**, which is key act for police powers and accountability
- Runciman Commission: established the Criminal Cases Review Commission, which investigates possible miscarriages of justice and can recommend a retrial at the Court of Appeal.

Public inquiries

Public inquiries are usually set up as a response to a significant event. They examine options for changing the law as a result of some failing by the government or the current law. The style and form of public inquiries is governed by the **Inquiries Act 2005**. In a public inquiry, three questions are asked:

- 1 What happened?
- 2 Why did it happen and who is to blame?
- 3 What can be done to prevent it happening again?

KEY TERMINOLOGY

institutional racism: when a public or private body's operation or policies and procedure are deemed to be racist.

STRETCH AND CHALLENGE

The Grenfell Tower inquiry is a highly publicised public inquiry into the fire at this block of flats in 2017. Find out more about the inquiry at this link: www.grenfelltowerinquiry.org.uk/news/prime-minister-announces-inquiry-terms-reference. Make a list of the priorities you think the inquiry should address.

Other recent inquiries concern:

- allegations of institutionalised child abuse spanning decades
- blood contamination, which led to the deaths of an estimated 2,400 people who were infected with hepatitis C and HIV (human immunodeficiency virus).

Look online for details of these inquiries and the progress that is being made in terms of changes to the law and/or any resulting prosecutions.

Examples include:

- **Stephen Lawrence inquiry:** concluded that the Metropolitan Police had been **institutionally racist** in its handling of the murder of black teenager Stephen Lawrence. Some recommendations were implemented, such as the requirement for a Racial Equality Scheme in all police forces.
- **Bloody Sunday inquiry:** British soldiers were found to have shot dead unarmed and already injured civilians in Ireland.
- **Leveson inquiry:** looked at the culture, practice and ethics of the press after allegations reporters were invading the privacy of celebrities, using tactics such as telephone hacking.

Other ad hoc committees

Other temporary committees are set up at the request of a particular government minister to investigate and produce a report about specific areas of law. Examples include:

- **Auld Review:** investigated the workings of the criminal justice system. Recommendations from this report resulted in the **Criminal Justice Act 2003**.
- **Woolf Report:** investigated the civil procedure system. Its recommendations resulted in one of the biggest changes to civil procedure in the form of the **Access to Justice Act 1999**.

Law reform in Wales

There are particular influences on law reform in Wales.

Welsh Language Society/Cymdeithas yr Iaith Gymraeg

This is a direct-action pressure group in Wales which campaigns for the rights of Welsh people to use the Welsh language in every aspect of their lives.

It has contributed to the passing of various Welsh Language Acts to increase opportunities to learn and use the Welsh language. These Acts also created the role of the Welsh Language Commissioner and the Welsh TV channel, S4C.

Yes Cymru

This is a pressure group campaigning for an independent Wales that has its own sovereign government and institutions.

Cymuned

This Welsh community pressure group was established in 2001 and campaigns on behalf of Welsh-speaking and rural communities, which it perceives to be under threat due to demographic changes.

What are the problems with law reform bodies?

- The Law Commission is the only full-time law reform body. So much law reform needs to happen that it may be not big enough to cope with the demand.
- There is no obligation for the government to consult permanent law reform bodies, or to set up Royal Commissions or other committees.
- Governments also have no obligation to follow any recommendations made by law reform bodies and are able to reject them entirely. Even where general proposals are implemented, the detailed proposals are often ignored or radically altered.
- Even where proposals are implemented, there may be insufficient funding to put them into practice.

- › Legal professionals, such as judges and barristers, contribute to the consultation documents and their strong influence on any type of reform can defeat proposals even before they reach an official report or get to Parliament.
- › The temporary committees are disbanded after they have produced their report and take no part in the rest of the law-making process, so this can be a waste of expertise.
- › There is no single ministerial department responsible for law reform, so ministers are unlikely to make law reform their priority.

SUMMARY: LAW REFORM

- **Judicial change:** judges can bring about law reform through judicial precedent
 - Examples:
 - *R v R (1991)*
 - *Ghaidan v Godin-Mendoza (2004)*
 - Judicial law making is rare because of constitutional position and judges not being elected to make laws
- **Parliamentary change:** the main way to reform law, usually to reflect government manifesto or a political agenda
 - Changes can be made in one of four ways:
 - **Repeal:** take old and obsolete laws off the statute books
 - **Create:** make completely new laws
 - **Consolidate:** bring together successive statutes on the same subject
 - **Codify:** bring together all the rules into one statute to increase certainty
 - Influences on Parliament are media pressure, the annual Budget, significant events, recommendations from law reform agencies, public opinion and the **European Convention on Human Rights**
 - Two types of pressure groups:
 - 1 **Interest groups:** a particular section of society, e.g. the British Medical Association, National Union of Teachers
 - 2 **Cause groups:** a shared attitude or value, e.g. Amnesty International, Fathers 4 Justice
 - Pressure groups sometimes use illegal methods to attract attention, and are not always successful in forcing change
 - Pressure groups are good at highlighting issues that Parliament may decide needs debate
- **Law Commission:** its role under **s3 Law Commission Act 1965** is to 'keep under review all the law':
 - The Law Commission is the only full-time law reform body
 - The Law Commission puts draft Bills before Parliament after a period of research and consultation
 - **Law Commission Act 2009** puts an obligation on the Lord Chancellor to report to Parliament whether the government has decided to implement any of the previous year's Law Commission proposals
 - The Law Commission was successful at first, less so in the 1980s and 1990s, then more success since the 2009 Act
- **Advisory committees:** temporary committees set up to review a particular area of law, e.g. Royal Commissions, public inquiries and ad hoc committees

EXAM SKILLS

If you are faced with an application question on law reform, copy and complete Table 2.1 to help structure your answer. Assess why it would/would not be a good idea to use each method of law reform. Remember to refer back to the scenario.

Table 2.1 Revision aid for law reform

Method	Definition	Example	Advantages	Disadvantages
Media campaigns				
Judicial change				
Private Members' Bills				
Pressure groups				
Parliamentary petitions				

TEST YOURSELF

1. Name five methods of law reform.
2. What are the four ways that Parliament can change the law?
3. Why is a media campaign unlikely to result in a change in the law?
4. Give two examples of interest pressure groups.
5. What is meant by a cause pressure group?
6. Give three reasons why pressure groups can be successful in reforming the law.
7. What is the significance of **s3 Law Commission Act 1965**?
8. Give two examples of current Law Commission projects.
9. Why might the Law Commission be seen as ineffective?
10. Define a public inquiry.

EXAM PAST PAPER QUESTIONS

WJEC – Unit 1 – May 2022

Explain the role of the Law Commission. [10]

WJEC – Unit 1 – May 2019

Read the scenario below and answer the question that follows.

Mark was recently involved in an accident with a driver who dropped the cigarette he was smoking whilst driving his car. Sadly, Mark's son died in the accident. Unlike using a mobile phone whilst driving, there is no specific offence for smoking whilst driving, though it can be covered by reckless driving. Mark would like to see a specific offence introduced and has asked your advice on the ways in which he could influence this change in the law.

Using your knowledge of the influences on Parliament, advise Mark as to the methods he could use to try to influence Parliament to change the law. [28]

WJEC – Unit 1 – May 2018

Explain the role of pressure groups in reforming the law. [10]

Eduqas – AS Level Component 1 – May 2022

A report recently published in the media claims that 23% of 18 to 24-year-olds crash their car within two years of passing their test. Luke is a 19-year-old student who has recently passed his driving test and feels strongly that a change in the law could reduce this statistic. He proposes that it should be law that new drivers should display a P plate for two years and that for the first two years, new drivers should not be permitted to carry more than one passenger between the hours of 8pm and 6am.

Advise Luke on the ways in which he could try to promote reform of the law on the use of P plates for learner drivers in England and Wales. [18]