

Starting with law



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Introduction

Law is an interesting and lively subject that touches upon all aspects of everyday life. We hope that you will enjoy this course, which provides an introduction to the fascinating topic of law.

This course assumes that you have some interest in the law. You may be interested because of some direct involvement with the law, for example in buying a house, or your interest may have been sparked by one of the many television programmes based in a legal setting.

Law is often associated with traditional images and some see it as a dry subject requiring days to be spent in gloomy libraries poring over enormous dusty old books in order to solve obscure and difficult problems. We hope to dispel these viewpoints by showing you how law affects numerous aspects of our everyday lives and does so in interesting and sometimes quirky ways.

You will need a place to store your notes, thoughts and activity responses during the course. A ring binder and file dividers would enable you to rearrange notes or insert extra sheets, or you might prefer to keep a notebook. The choice of how to organise your work is yours to make and you may wish to experiment with different methods.

This OpenLearn course provides a sample of level 1 study in [Law](#)

Learning Outcomes

After studying this course, you should be able to:

- explain why the law matters
- give some examples of legal rights and responsibilities
- understand how different reading styles suit different purposes.

1 What is law and why does it matter?

In this part of the course we are going to explore the role of law within society, its relationship to us as individuals, and its purpose.

There are many aspects to our law and legal system, and you may have come across reports of court cases, crime statistics, the behaviour of judges or the sentencing of a convicted criminal in the news, books or newspapers, television programmes or films. Law is actually all around us; it is wide-ranging and governs all aspects of our lives. The law underpins simple day-to-day transactions from buying a bus ticket or a cup of coffee, to more complicated matters such as employment, paying taxes, renting a home and how businesses operate. It even provides the guidelines which determine how a government may use its powers to rule.

What is a law? How do we recognise laws and why are they obeyed? It is important that we decide what we mean by the term 'law' before we go any further.

The definition of law

It is not easy to give a definition of law, as legal systems differ and individuals have different views of what law is. Many books containing numerous different ideas about and definitions of law have been written. A common theme emerging from these books and debates, however, has been that the law is a set of rules created by the state that form a framework to ensure a peaceful society. The law is enforced by the state. If it is broken or breached, sanctions can be imposed. While this definition does not cover all types of law, it is a good starting point as it brings together the idea of a state issuing commands to individuals and applying sanctions to those individuals if they do not obey these commands.

Generally, law applies to people throughout a country. There are, of course, laws which apply only to certain groupings, for example those that apply to children and young people or that apply only to individuals who drive.

For the purposes of this course, law will be defined as:

a set of rules created by the state which forms a framework to ensure a peaceful society. If the rules are broken they can be enforced by mechanisms created by the state and sanctions imposed.

This definition covers the key features of the law as we know it. It is created by the state to ensure that society works smoothly. If laws are broken then the people who broke them will face some form of punishment. The state also provides for methods of law enforcement. Therefore, during this course when we look at a specific law we will be considering some of the rights and responsibilities it entails, and how these are acquired and used.

The next activity is designed to explore further the definition of the law and how it applies to daily life.

Activity 1 The law and everyday life

Allow about 5 minutes

Without looking at the comment below, spend a few minutes thinking about what you have done today. Identify anything you have done that you think may have been governed by 'laws'. When you have finished, read the comment.

Comment

There are many things you may have done today. You may have gone shopping, taken a bus, gone to work, bought lunch in a café, visited the doctor, bought a newspaper, watched the television, surfed the internet, driven a car, walked in the park, spoken to a friend on the telephone, withdrawn money from a cashpoint, paid an electricity bill, taken the children to school, and so forth. These are just some examples.

What they all have in common, though, is that in some way they are all affected by the law. Whether you stayed at home, went out shopping or went to work, there were legal dimensions to these actions. Even in our own homes, where it is generally thought we have the right to do as we please, we are affected by the law. We cannot behave in certain ways that affect our neighbours, such as playing music over a certain volume or letting trees grow high so that they become a nuisance. If our conduct breaks the law, such as using electricity without paying for it, or downloading music illegally from the internet, we could be prosecuted even though the activity was done in our home. We have to follow the law even in our own homes.

The law provides a framework that regulates the way we live, work and socialise. We may not agree with all the laws that exist but they have each been created for a purpose, whether it is to protect society, such as laws against violence, or to protect us, such as laws regulating the quality of products we buy.

Think back to some of the examples discussed in Activity 1. How do these link to the definition of law given above? If we do not pay for our shopping, we are breaking a law. Society does not think that this behaviour would be acceptable. A law has therefore been created which makes it a criminal offence to take something from a shop without paying for it.

One of the other examples was buying lunch in a café. Again, if you eat a lunch you have ordered and you do not pay, you would be guilty of a crime. However, in this example the person selling the lunch also has responsibilities. They have to comply with laws relating to food preparation, to advertising and to health and safety. While they have the right to expect you to pay for what you have eaten, they also have a responsibility to you for the food they have sold you.

Activity 2 The importance of law

Allow about 20 minutes

Here you are going to read an extract about the importance of law. You may need a dictionary to look up some words if you are unsure of their meaning. When you have read the extract, note down three things that you found interesting or surprising about the importance of law.

How the law works

Law is all-pervasive. It exists in every cell of life. It affects everyone virtually all of the time. It governs everything in life and even what happens to us after life. It applies to everything from the embryo to exhumation. It governs the air we breathe, the food and drink that we consume, our travel, sexuality, family relationships and our property. It applies at the bottom of the ocean and in space. It regulates the world of sport, science, employment, business, political liberty, education, health services – everything, in fact, from neighbour disputes to war.

The law in the United Kingdom has evolved over a long period. It has, over the centuries, successfully adapted itself through a great variety of social settings and disputes of government. Today it contains elements that are ancient, such as the coroners' courts, which have an 800-year history and elements that are very modern, such as electronic law reports and judges using laptop computers.

Law has also become much more widely recognised as the standard by which behaviour needs to be judged. A very telling change in recent history is the way in which the law has permeated all parts of social life. The universal standard of whether something is socially acceptable is progressively becoming whether it is legal. In earlier times, most people were illiterate and did not have the vote. They were ruled, in effect by what we would call tyranny. And this was not just in 1250. That state of affairs still existed in the UK in 1850. Today, by contrast, most people are literate and have the vote. Parliamentary democracy is our system of government. So, it is quite possible and desirable for people in general to take an interest in law.

(Slapper, 2011, p. 1)

Comment

There are a number of points you could have noted. One student listed the following:

1. I was surprised to realise that law applies to such everyday activities.
2. I hadn't thought before about law having to adapt to reflect new developments, such as computers.
3. I was interested in the comment about the relationship between what is legal and what is socially acceptable. I will think about this further.

2 Starting to think about rights and responsibilities

Throughout this course we will be considering rights and responsibilities that are provided by, protected by and imposed by the law. These range from rights and responsibilities that are fundamental to all of our lives to rights and responsibilities that apply to particular aspects of our lives when we are undertaking a specific role, for example as a worker or a parent. Practical examples will be used to help explain this. The examples will also show, importantly, that in many instances where the law provides us with rights on the one hand, it also imposes responsibilities on the other. For example, an employer has a responsibility to pay an employee for work done and an employee has the right to claim unpaid wages. An employee also has a responsibility to obey reasonable, lawful orders while an employer may be able to dismiss an employee for failure to obey such orders. The law describes a person able to exercise their rights and responsibilities as having legal capacity. Having legal capacity means that a person has the mental capacity to understand and appreciate the consequences of their actions. Although all individuals have basic rights from the time they are born, the law determines that children and young people acquire more rights and responsibilities as they mature and their mental capacity develops.

Equally, when mental capacity is lost through illness or accident in later life, the law recognises that legal capacity is also affected, and allows others to make decisions for individuals who cannot understand the consequences of their actions.

Law is involved in a balancing act between the rights of different individuals and therefore imposes responsibilities to balance those rights. The following tables illustrate this question of balance.

If you are employed then you have a contractual relationship with your employer. In law, your employer has a responsibility for your health and safety; in return you have a responsibility not to risk the health and safety of others in your workplace.

Table 1 Health and safety rights and responsibilities for workers

Workers have the right:

- to work in places where all the risks to their health and safety are properly controlled
- to stop working and leave the area if they think they are in danger
- to inform their employer about health and safety issues or concerns
- to contact the Health and Safety Executive or their local authority if they still have health and safety concerns, and not get into trouble
- to join a trade union and be a safety representative
- to paid time off work for training if they are a safety representative
- to a rest break of at least 20 minutes if they work more than six hours at a stretch and to an annual period of paid leave.

Whenever you buy anything as a consumer you are entering into a contract which is a legally binding agreement. In doing so, you have certain rights and responsibilities, set out in Table 2. If you use public rights of way in the countryside, you have the rights and responsibilities set out in Table 3.

Table 2 Rights and responsibilities for consumers

Rights	Responsibilities
<p>The goods you buy must be:</p> <ul style="list-style-type: none"> of satisfactory quality fit for purpose as described (for example in a catalogue or on a website). <p>If not, then:</p> <ul style="list-style-type: none"> you have the right to ask for your money back you do not have to accept a replacement you do not have to accept a credit note if you agree to a repair and it is unsatisfactory, then it will not stop you claiming your money back. 	<ul style="list-style-type: none"> You must pay for goods You must not return goods unless they are faulty

Table 3 Rights and responsibilities for users of public rights of way

Rights	Responsibilities
<ul style="list-style-type: none"> Pedestrians have the right to use public footpaths, bridleways, restricted byways and byways. Equestrians have the right to use bridleways, restricted byways and byways. Cyclists have the right to use bridleways, restricted byways and byways. Horse-drawn vehicles have the right to use restricted byways and byways. Motorbikes and vehicles have the right to use byways. You have the right to pass and repass along the public right of way; this may include admiring the view, taking photographs or resting, as long as you stay on the line of the path and do not cause an obstruction. You may take a dog with you, but you must keep it under proper control (see responsibilities). You may take a short route around an illegal obstruction or remove it sufficiently to get past. 	<ul style="list-style-type: none"> Users must not obstruct the path Users must not cause a nuisance Users must not damage the path Users must not use the path for anything other than its intended purpose

From these tables you can see that there is a balance between rights and responsibilities. When exercising their rights, individuals also need to recognise the rights of others. A balance is needed and with rights come responsibilities. The following example might help to explain this. Children have a right to education. Local authorities have a legal responsibility to provide education for all children of compulsory school age in their area (5- to 16-year-olds) which is appropriate to their age, abilities and any special educational needs that they might have.

Schoolchildren have a responsibility not to disrupt lessons so that other pupils are prevented from receiving their right to education.

Legal cases

Where there appears to be a conflict between the rights of two (or more) people or organisations this may result in a dispute that is settled in court. One such dispute occurred in the village of Lintz in County Durham and culminated in the famous legal case of *Miller v Jackson* [1977] QB 966.

Before we go on to look at this case, it is a good idea to have a quick look at the format of case names and the way in which legal cases are presented (see Figure 1). In a civil case, a judge (or judges) will hear the information presented by both sides of the dispute. The person bringing the dispute is known as the claimant (in older cases the term plaintiff was used); the person defending it is known as the defendant. Once the judge or judges have listened to all the facts and the evidence, they will make a decision. This decision is known as their judgment and is made by applying the law to the facts of the case (please note, the usual spelling is 'judgement', however, when referring to a decision of the court it is spelled 'judgment', without the middle 'e').

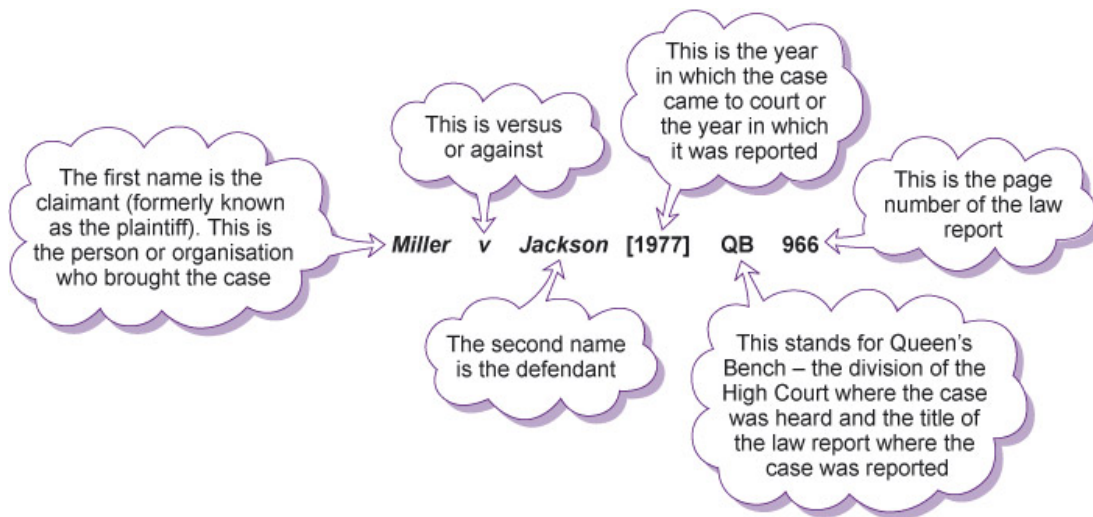


Figure 1 The way in which legal cases are presented

The case we are going to look at concerned a dispute between Mr and Mrs Miller and a local cricket club about the number of cricket balls that were hit out of the cricket ground, landing on the Millers' property, damaging their house and risking personal injury to Mr and Mrs Miller. Mr and Mrs Miller were the plaintiffs and Mr Jackson, the chairman of the cricket club, on behalf of its members, was the defendant. Cricket had been played at the cricket ground in Lintz since the early 1900s. In the 1970s, a field next to the cricket ground was sold to a developer who built a number of houses there. Mr and Mrs Miller bought one of the houses. Their house and garden were only 30 metres from where cricket was played. Inevitably, given the proximity of their house and garden to the cricket ground, balls regularly landed on their property. Mr and Mrs Miller approached the cricket club about this and in 1975 the club erected a high fence and told its batsmen to avoid hitting balls over the boundary or fence. Although these measures helped, cricket balls still landed on the Millers' property and the Millers decided to go to court to sue for damages and to obtain an injunction to prevent cricket being played on the ground. The court therefore had to balance the right of the cricket club to continue to use a ground which it had been playing on for many years before the houses were built, with the right of Mr and Mrs Miller to enjoy their house and garden without fear of being hit by cricket balls themselves or of damage to their house and garden. The case was first heard in the High Court in Nottingham, where the judge agreed to grant the injunction and ordered the cricket club to pay damages. However, the cricket club appealed this decision and Mr and Mrs Miller cross-appealed for more damages. The appeal was heard in the Court of Appeal in 1977 in front of three Court of Appeal judges. One of the judges, Lord Justice Cumming-Bruce, set out what the court had to do. It had to:

seek to strike a fair balance between the rights of the plaintiffs to have quiet enjoyment of their house and garden without exposure to cricket balls occasionally falling like thunderbolts from the heavens and the opportunity of the inhabitants of the village in which they live to continue to enjoy the manly sport which constitutes a summer recreation for adults and young persons.

The Court of Appeal decided that the cricket club should be allowed to continue to play at the ground and so the injunction was not appropriate. However, the sum of damages to be paid by the club to Mr and Mrs Miller was increased to account for past and future damage.

In practice, it is not always easy to achieve the balance between rights and responsibilities, or to achieve a balance that satisfies the rights of different people when, as in *Miller v Jackson* [1977] QB 966 there is a conflict of rights.

3 Learning skills – reading efficiently and with purpose

Law is a subject that requires a lot of reading. This reading can become much more manageable and enjoyable by using reading skills that help you to read more efficiently. Reading for legal study and further study in general becomes more efficient if it is done with a purpose.

Activity 3 Reading with a purpose

Allow about 10 minutes

Think about three items that you have read in the last day or so. What was the purpose of reading them? Did you read them differently?

Comment

Below, a colleague describes the different ways she read three items.

1. A letter from the Inland Revenue. I was expecting this letter, and was familiar with the subject matter, but was particularly concerned with the date by which I had to respond. In reading this, I scanned the letter quickly until I found the date that was of particular concern to me. If you know what you are looking for then this scanning process can be quite speedy.
2. A piece of legal text that I was considering using as an activity for a course. In reading this, I read every word carefully, as my purpose in doing so was to make sure that there were no legal terms that would be unfamiliar to students. This was, therefore, a much slower process.
3. A chapter of the novel that I am reading at the moment. I am midway through this novel, so am very familiar with the plot, the characters and the author's style. So, my approach to reading this was probably somewhere between reading the letter and reading the legal text. My familiarity with the novel meant that although I wasn't looking for a particular aspect (such as the date in the letter) I wasn't reading every word as carefully as in the legal text.

You will probably find that you are already reading with a purpose without really thinking about it.

As a law student you will find it useful to understand and develop the following reading purposes or styles:

- reading for gist or substance
- reading for specific information
- reading to reformulate.

Reading for gist or substance

In reading for gist, you are reading to understand what a text is about in general and to discover the central idea or theme of the text. Here you will quickly skim read the text to find out what it is about. You may not read or understand every word.

Activity 4 Reading for gist

Allow about 20 minutes

To practise reading for gist, skim read the following two pieces of text to see how quickly you can understand what each text is about.

Troubled Brits keep stiff upper lip

The British are over four times more likely to first turn to their family, friends, acquaintances or nobody to discuss financial or debt worries than they are to seek professional advice, a survey reveals.

The study from Community Legal Service Direct shows that the British stiff upper lip is alive and well, with only 18% with cash worries saying they would first turn to professionals for advice.

The main reasons revealed in the research for not turning to professionals for advice on financial or debt matters was that it costs too much (42%), that they are strangers (41%), while 40% of respondents felt they couldn't be trusted.

Most people (69%) would rather deal with a financial problem themselves than turn to others. When they do, over half of those with financial worries (54%) ask family, friends or acquaintances for advice first. One in five (18%) have turned to their hairdresser, pub landlord, taxi driver or religious leader to discuss their money problems.

Of those polled, only 47% of those who sought financial advice – including from acquaintances – felt that they were given some good tips. Almost one in five (19%) said their source of advice on financial or debt worries was unhelpful.

With Britain's personal debt increasing by £1m every four minutes and 330 people being made insolvent in the UK every day, John Sirodcar, head of Community Legal Service Direct, says it's worrying that people, especially the most vulnerable, are not getting the financial and legal advice they need.

'While it's natural for people to look to those they know to give them advice, well intentioned as it may be, this is clearly not always going to be the best advice,' he says.

(Booth, 2007c, p. 1211)

Cowboy builders in for rough ride

Plans to crack down on cowboy builders by boosting powers for local authorities to tackle illegal or botched construction have been announced by the government.

Under the Building Act 1984, s35, authorities only have six months from completion of non-compliant work to bring a prosecution for breaches of building regulations – proposals in the consultation paper would increase this to two years. Within this period, a prosecution can be brought within six months of discovery of sufficient evidence to prosecute.

Authorities say the extra time is needed to make enforcement more effective, given that defects may not become immediately apparent.

Iain Wright, communities and local government minister, says: ‘It is not right that those committing serious breaches and avoiding justified enforcement action are putting themselves and others at health and safety risk.’

The consultation paper stresses that prosecution is aimed at flagrant, wilful or repeated non-compliance, not one-off minor failures. No additional burdens or risk of prosecution will be imposed on those who comply with building regulation requirements, the government says.

The consultation, *Longer Time Limits for Prosecution of Breaches of Building Regulations*, can be found at www.communities.gov.uk and runs until 23 October 2007.

(Booth, 2007b, p. 1130)

Comment

Although both of these texts might have included terms or phrases that you did not understand, we hope that you have understood what they are both about. Even though both contain detailed information, with the first, in particular, containing figures and percentages, when reading for gist you would not be concerned with this detail. You just need to uncover the main ideas. We summarised these as:

1. ‘Troubled Brits keep stiff upper lip’ is about how people seek advice for financial problems from friends and family and expresses concern that this might not always provide the best advice.
2. ‘Cowboy builders in for rough ride’ is about plans to give local authorities greater powers to deal with illegal or badly constructed buildings.

Reading for specific information

In a way, reading for specific information is also a form of skim reading, in that you will be scanning a text to find this specific information. This is how my colleague read her letter from the Inland Revenue as she was looking particularly for the date by which she had to respond. However, once you have found the information, you need to read the text very carefully. Legal materials have a precise meaning and missing or misreading even one or two words can make a significant difference to the meaning.

Activity 5 Spot the difference

Allow about 5 minutes

What is the difference between a law on dangerous dogs that says ‘dogs which bite twice must be destroyed’ and one which says ‘dogs which bite twice may be destroyed’?

Comment

The difference between them is one word: *must* in the first and *may* in the second. There is no room for debate or mercy in the first law – any dog which bites twice has to be destroyed. In the second law, someone (probably a court) has power to order the destruction of the dog, but can choose not to do so. The difference of one word makes a significant difference to the meaning and operation of the law.

Now you will try an activity where you will read a longer piece for specific information.

Activity 6 Reading for specific information

Allow about 20 minutes

For this activity you should read [Reading 1](#), which is an extract from an article called ‘Butts out’, and then answer the questions that follow. To do this you should first read for gist, reading the whole extract through quickly to get a general idea of its content. Then read the questions.

Next, read the article again and highlight the sections of the text that provide the answers. You can then write your answers to the questions. Write each answer as a short sentence rather than a one-word response.

Questions

1. How many people have to use somewhere as a place of work for the ban to apply?
2. Why is smoking in porches and lobbies banned?
3. Ben and Simon share a van for their sandwich delivery business and each drive it on different days of the week. Is Simon allowed to smoke in the van?
4. Sally employs three people in her dressmaking workshop. Does she need to display a no smoking sign? If so, what size should the sign be?
5. If a person is caught smoking in a smoke-free place and issued with a fixed penalty notice, how much will they have to pay if they pay within five days from the issue of the notice?
6. Who is responsible for enforcing the smoking ban?
7. What effect does the government hope the enforcement of the ban will have?

Comment

The article is about the impact of the ban on smoking in all enclosed public places, which came into force in England in July 2007.

Our answers to the questions were:

1. More than one person must use the premises as a place of work for the ban to apply.
2. Smoking in porches and lobbies is banned because they are areas that are ‘substantially enclosed’.

3. Simon is not allowed to smoke in the van, because the van is used for work by two people, even though they use it on different days.
4. As Sally's workshop is used as a place of work by more than one person, she must display a sign of at least A5 size.
5. The person would have to pay £30.
6. Local authorities are responsible for enforcing the ban.
7. The government hopes that enforcement will raise awareness of the smoking ban.

In this activity, although you were reading to find specific information, you were also interpreting the text. Interpretation is a particularly important legal skill that you would develop over time if you undertook further legal study. In answering Questions 3 and 4 about the sandwich delivery business and the dressmaking workshop, you were interpreting the text to work out an answer.

Reading to reformulate

This type of reading aims to identify the main points of a piece of text to enable you to make your own notes. Being able to do this effectively is very important for all students, but particularly so for law students who have to read a lot of material. In the next activity you will practise reading a text to identify the main points. Again, we recommend that you read the text through quickly, to gain an overall impression of it, then reread it, highlighting the main points. Then write brief notes that you could use again.

Activity 7 Reading and making your own notes

Allow about 25 minutes

Read [Reading 2](#), which is an extract about the impact of prison on the families of prisoners. Highlight the main points and write some brief notes.

Comment

You may have chosen different points, but Figures 5 and 6 show the points that we highlighted and the notes that we made.

Government must tackle impact of prison on families

Prisoners' families face high rates of depression, poverty and housing disruption, with the estimated cost of imprisonment rising by almost a third when the social impact is taken into account, a new report finds.

Children in particular suffer hardship according to the research, carried out by the Centre for Crime and Justice Studies (CCJS) and the Institute of Psychiatry at King's College, London and published by the Joseph Rowntree Foundation.

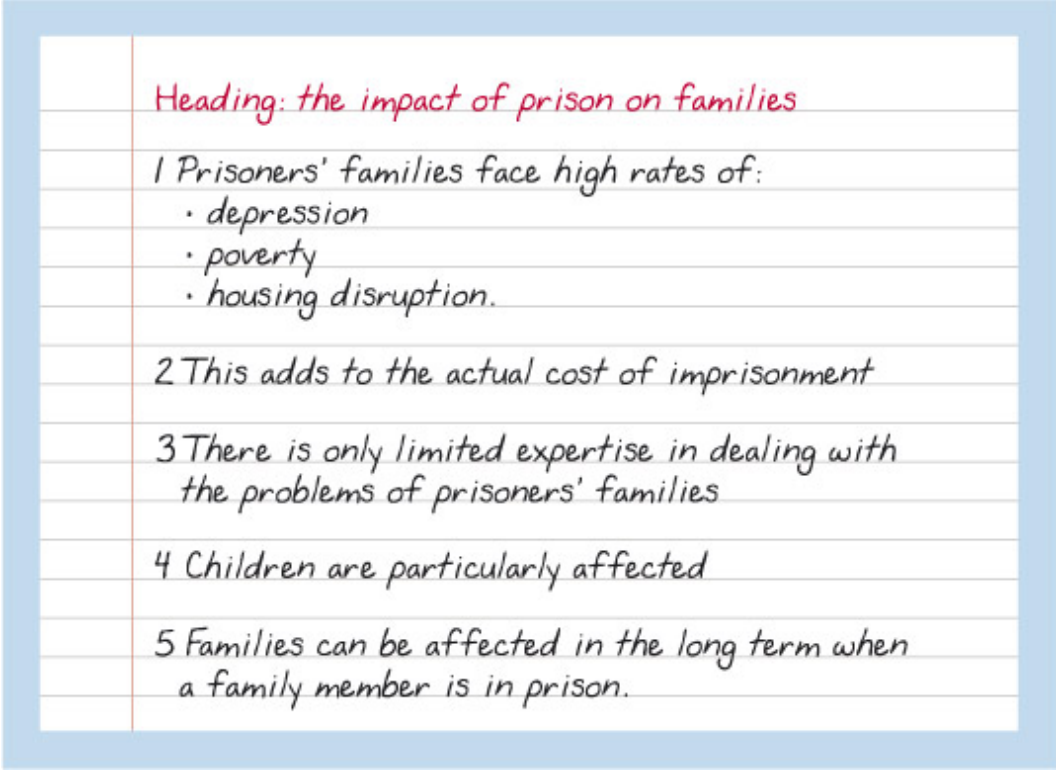
The report, *Poverty and Disadvantage among Prisoners' Families*, calls on the government to take 'immediate action' to protect the families of prisoners and to review its social welfare policy for them.

It finds high rates of depression and physical illness, increased vulnerability to poverty and debt and claims that expertise in the charity and statutory sector to address these disadvantages is 'limited'.

About 4% of children experience the imprisonment of their father during their school years, according to government figures in its green paper *Every Child Matters*.

Dr Roger Grimshaw, director of research at CCJS, says: 'Prospects for mental health, child development and prisoner resettlement are all placed at risk by impoverishment of the most vulnerable. Unless there is a real change of policy direction, we have to be worried that the collateral damage of imprisonment will scar families for years to come.'

Figure 2 The points we highlighted



Heading: the impact of prison on families

1 Prisoners' families face high rates of:

- depression*
- poverty*
- housing disruption.*

2 This adds to the actual cost of imprisonment

3 There is only limited expertise in dealing with the problems of prisoners' families

4 Children are particularly affected

5 Families can be affected in the long term when a family member is in prison.

Figure 3 Our notes

Learning to make a précis (pronounced pray-see) or to summarise a piece of text is another important skill for law students and follows on from reading to reformulate. A précis is a summary or a concise statement.

Activity 8 Learning to write a précis or summary

Allow about 25 minutes

Using the notes that you made in the last activity, prepare a précis of the extract in [Reading 2](#). If possible, try to do this in a few sentences and ideally in no more than 50 words.

Comment

There is no one correct answer to this. Our précis would be:

The families of prisoners, and in particular children, experience long-term disadvantage. There is only limited expertise in dealing with the problems of prisoners' families. The social impact of imprisonment adds substantially to the cost of imprisonment. (37 words)

Conclusion

In this course you have been introduced to the role of law in society and the idea of rights and responsibilities, together with the concepts of mental and legal capacity. You have also considered different styles of reading that are useful when studying.

We hope that you have enjoyed your study of *Starting with law*. Laws reflect the society that creates them, thereby aiding further social development and growth.

Laws can be contentious, misreported and misinterpreted, but they do enable us to assert our rights and provide a framework for our responsibilities.

We also hope that you have found the learning skills covered in this course to be helpful and that you have taken the opportunity to practise and polish your own skills. These skills and others are essential for successful study and will assist you in gaining the most from the study of any academic subject as well as being transferable to the workplace and everyday life.

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