

In **criminal proceedings** a *prosecutor* prosecutes the *defendant*. The case is heard in the magistrates' court or the Crown Court, depending on the seriousness of the offence. The prosecutor will have to *prove* to the court, *beyond all reasonable doubt*, that the defendant committed the offence charged. The court will have to determine whether or not the defendant is *guilty*. In the magistrates' court it will be for the magistrates to determine this question, in the Crown Court it will be for the jury to decide questions of fact and for the judge to decide questions of law. A *finding of "not guilty"* will lead to the defendant's *acquittal*. A *finding of "guilty"* will lead to a *conviction* and may lead to a *sentence* of imprisonment or some other form of *punishment* such as a fine or probation.

In **civil proceedings**, it is generally the *plaintiff* (the party harmed) who *sues* the *defendant*, although in some areas of the civil law other terms are used. For example, in the case of a divorce the *petitioner* sues the *respondent*. The case will usually be heard in either the county court or the High Court, depending on the nature of the case and the size of the *loss* involved. The plaintiff usually has to prove, *on the balance of probabilities*, that the events took place in the manner claimed. This is a lower standard of proof than in criminal cases. If the plaintiff proves their case, the court will make some kind of order. What this will be, will depend upon the kind of case and what the plaintiff has asked for. The basic choice before the court is whether to order the defendant to compensate the plaintiff for their loss by *awarding damages*, or to order the defendant to act, or refrain from acting, in some specific way in the future, or to make both kinds of orders.

A. Bradney, V. Fisher, J. Masson, A. Neal, D. Newell, *How to Study Law*

14. Answer the following questions:

- i. What are the parties to a civil case called?

- ii. Who is a representative of the State in a criminal case?

- iii. What factors are taken into consideration when determining which court will hear the criminal case?

- iv. Who has to prove his case on the balance of probabilities?

- v. What is the standard of proof in criminal cases?
