

Duncan Ritchie, a barrister, is talking to a visiting group of young European lawyers.



A

Criminal justice

'The state prosecutes those charged with a crime. The police investigate a crime and may apprehend suspects and detain them in custody. If the police decide an offender should be prosecuted, a file on the case is sent to the Crown Prosecution Service (CPS) – the national prosecution service for England and Wales. The CPS must consider whether there is enough evidence for a realistic prospect of conviction, and if so, whether the public interest requires a prosecution. They can decide to either go ahead with the prosecution, send the case back to the police for a caution, or take no further action. Criminal proceedings can be initiated either by the serving of a summons setting out the offence and requiring the accused to attend court, or, in more serious cases, by a warrant of arrest issued by a Magistrates' Court. Lawyers from the CPS may act as public prosecutors. The Criminal Defence Service provides legal aid, which funds the services of an independent duty solicitor who represents the accused in the police station and in court. However, at the end of a Crown Court case the judge has the power to order the defendant to pay some or all of the defence costs.'

Note: If Green is prosecuted for a crime, the ensuing trial will be called the case of *R v Green*. *R* is the abbreviation for the Crown (*Regina* for a Queen or *Rex* for a King); *v* (Latin for *versus*) is said 'against' in a criminal case.

B

Categories of criminal offence

'There are three categories of criminal offence. Summary offences, tried without a jury, are minor crimes only triable in the Magistrates' Court. Indictable offences are serious crimes, such as murder, which can only be heard in the Crown Court. The formal document containing the alleged offences, supported by facts, is called the indictment. A case which can be heard in either the Magistrates' Court or the Crown Court, such as theft or burglary, is triable either way. If the defendant pleads guilty, the Magistrates' Court can either proceed to sentence or commit to the Crown Court for sentence, where more severe penalties are available. If there is a not guilty plea, the court can decide the mode of trial. The person charged may request a trial by jury. If granted, such trials take place in the Crown Court.'

Note: indictable offences are also known as notifiable offences in the UK.

C

Criminal court proceedings

'The English system of justice is adversarial, which means that each side collects and presents their own evidence and attacks their opponent's by cross-examination. In a criminal trial, the burden of proof is on the prosecution to prove beyond reasonable doubt that the accused is guilty. A person accused or under arrest for an offence may be granted bail and temporarily released. However, bail may be refused, for example if there are grounds for believing that the accused would fail to appear for trial or commit an offence. In the Crown Court, there may be a preparatory hearing for a complex case before the jury is sworn in. Prior to the trial, there is a statutory requirement for disclosure by the prosecution and defence of material relevant to the case, for example details of any alibis – people who can provide proof of the accused's whereabouts at the time of the crime – or witnesses – people who may have seen something relevant to the crime. Once a trial has begun, the defendant may be advised by counsel to change his or her plea to guilty, in expectation of a reduced sentence. If, at the end of the trial, the court's verdict is not guilty, then the defendant is acquitted.'