

3.3 The legal profession – Judges and the jury

3.3a Judges

Judges play a central role in our legal system. According to our unwritten constitution, judges, who are employed to hear legal cases, are expected to deliver their decisions (known as judgments) in a completely impartial manner. They are required to apply the law strictly without allowing any personal preferences to affect their decision making. They make their decisions based on the law and facts. They have a very sensitive but extremely important role.

There are a number of courts to which judges can be appointed. They are selected based on their experience, ability and good character. Judges are appointed by the Judicial Appointments Commission. To become a judge, you must have had a number of years' work experience in the courts as a barrister or solicitor.

3.3b The Jury

The jury system has existed in Britain since the eleventh century, although its functions have changed over the centuries. The first juries very often acted as witnesses reporting on events they knew about. Modern juries should know as little as possible about the case before the trial and are mainly used in criminal trials in the Crown Court. Their role in the Crown Court is to listen to the evidence and decide the guilt or innocence of the accused based on the facts presented to them. They have a right to give a verdict according to their conscience. In a criminal trial in the Crown Court, the judge sits with the jury. The judge's role is to decide on the law and sentence the defendant if they are found guilty by the jury.

Even though Crown Courts hear only a small proportion of the criminal cases that are brought every year (about 30,000 cases), the jury forms a fundamental part of our legal system. The role of the jury is to decide whether the defendant is innocent or guilty based on the facts presented to them, playing a vital role in making sure the criminal justice system works for the benefit of the public. The idea behind the jury system is that everyone has a right to be tried by their peers.

The right to jury service corresponds with the right to vote, but there are people who are ineligible, such as the judiciary and people on **bail** awaiting criminal proceedings. A jury member must be:

- aged 18 to 70
- on the electoral register
- resident in the UK, Channel Islands or Isle of Man for at least five years since the age of thirteen
- not a mentally disordered person
- not disqualified from jury service.

When they have heard all the facts of the case, a jury **retires** to consider their verdict. At this point, jury members (jurors) are not allowed to communicate with anyone other than their fellow jurors, the judge and a court usher until after the verdict is delivered. They are also forbidden by the Contempt of Court Act 1981 from revealing anything that was said or done

during their deliberations. This makes any research into the discussions of the jury a very difficult matter.

It is recognised that there are many advantages of jury members not being able to discuss how they reached their verdict:

- it ensures freedom of discussion
- it protects jurors from outside influence
- it protects jurors from harassment
- without secrecy people would be reluctant to serve as jurors
- it ensures the finality of the verdict
- it enables jurors to bring in an unpopular verdict
- it prevents unreliable disclosures by jurors and misunderstanding of verdicts.

However, there are also some criticisms of the jury system:

- it means that jurors are not accountable for their decisions
- it means that it is not easy to enquire into the reliability of convictions and to rectify injustices
- it limits the openness of the criminal justice system
- the way in which decisions are made about guilt or innocence is secret whereas the sentencing process takes place in **open court**
- it restricts each juror's freedom of expression.

