

# What is the difference between the Criminal and the Civil Law?

## Criminal Law

### Intention of the Criminal Law

The intention of the [criminal law](#) is to ensure that every citizen knows the boundaries of acceptable conduct in the [UK](#), for example it is clearly unacceptable conduct to steal from another individual – thereby it is necessary to have the criminal law of theft under the Theft Act 1968.

This clearly applies to other [criminal offences](#) such as [murder](#) and rape.

### Wrong against Society

A breach of the criminal laws imposed by society will be seen as a wrong against society as a whole. Therefore if the boundaries of acceptable conduct in the UK have been exceeded by an individual and that individual has been caught they will face prosecution by the state and will receive an adequate punishment such as a fine or in some cases imprisonment or a [community sentence](#).

### Cases brought in the name of the Crown

Proceedings for a criminal case will be initiated by the police and the [Crown Prosecution Service](#) (CPS) but will all be brought in the name of the Crown.

A criminal case will usually be held before a magistrate in a [Magistrates Court](#) or a judge and [jury](#) in the Crown Court.

### Elements to the crime

The basic assumption involving criminal liability is that there is both a mental element and a physical element to the [offence](#).

### Examples of this

If we look at the crime of Theft under the Theft Act there is required both a mental element – in this case being dishonesty as a question of mental attitude – and a physical element – which in this case is the appropriating of the property.

When looking at the criminal offence of rape for example the mental element of the accused is that they do not reasonably believe that the victim consents to the penetrative act. Accordingly there must also be a physical element which is the penetrative act.

The physical element, however, does not have to be a physical movement of an individual for example striking someone it can be an act which has caused the offence to

occur. For example when looking at the offence of fraud the mental element will again be dishonesty and the physical act will be the false representation by the individual.

## **Mental element not required**

In some [criminal law offences](#) such as road traffic accidents and environmental offences the requirement for a mental element is not necessary.

## **Defendant**

The person accused of the crime will be called the defendant.

## **Standard of Proof**

One of the most important elements to be aware of in relation to the criminal law is that the defendant will be presumed innocent until it is proven that he is guilty. The standard of proof which needs to be shown in order for the defendant to be found guilty is beyond a reasonable doubt.

A person found guilty of an offence will then be sentenced to a punishment.

## **Civil Law**

### **Intention of the Civil Law**

The main intention of the [civil law](#) is to protect individuals against one another specifying the rights and duties of individuals. For example if we look at individuals using the highway, road users have a duty of care to other individuals using the road. If for example one individual road user is driving in a poor manner and causes an accident which injures another, a civil claim can be brought under the laws of negligence.

In order for negligence to be established the following elements must be present:

- A duty of care
- This duty of care must have been breached
- The breach must have caused injury to another

Furthermore if we look at the [employment sector](#) we can see that all employees have a right to be safe and work in a safe environment at work. This means that their [employers](#) have a duty to protect their safety. If an employer does not do this and an employee becomes injured this will bring about a civil claim.

## **Public Law**

There are certain other elements of civil law whereby the state will be required to protect the rights of individual people from other people. For example the state imposition of

an [anti-social behavioural order](#) on an individual will be a civil remedy as will various orders on domestic abuse offenders. Breach of these orders will result in a criminal offence.

## Individual Starting the Proceedings

The individual who has been wronged will start the court action themselves – they will be referred to as the claimant and the person who they are suing will be referred to as the defendant.

## Burden of Proof

In an action for a civil claim the burden of proof will be on the claimant. The claimant will thus be required to establish that on the balance of probabilities that the defendant wronged him in the way which has been alleged – this is less than what is required for the criminal law.

## Remedies

Under the Civil Law the following remedies will be available:

- Damages
- Injunction

If the defendant has been found to be guilty he must remedy his wrong to the claimant – a civil case will not involve the imprisonment or the imposition of a fine by the state.

## Summary

The main differences between the two legal systems can be summarised as follows:

### Aim

- **Criminal - to punish wrongdoers for offences against society as a whole.**
- **Civil – to regulated relationships between individuals**

### Commencement of Action

- **Criminal – by the police or the CPS**
- **Civil – by an individual or an organisation suing another individual or organization**

## **Burden of Proof**

- **Criminal – on the Crown – guilty beyond a reasonable doubt**
- **Civil – on the claimant – on the balance of probabilities**

## **Venue**

- **Criminal – Magistrates Court or Crown Court**
- **Civil – County Court or High Court**

## **Outcome**

- **Criminal – Conviction or acquittal**
- **Civil – defendant is or is not liable to claimant**

## **Remedy**

- **Criminal – sentence to a punishment imposed by the state**
- **Civil – damages or other remedy such as injunction**

## **Source:**

<http://www.inbrief.co.uk/legal-system/difference-between-civil-criminal-law.htm>