

Pre-Trial Procedure in Criminal Cases ...

Produced by Mrs Anna Lindley.
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Dr Peter Jepson.
law@peterjepson.com

Pre-Trial Procedure in Criminal Cases

Prior to these lessons you should have read and précised Chapter 5 of '*OCR Law for AS*' by J. Martin



In this lesson...

- Check that your mobile is switched off
- Take notes
- Feel free to ask questions – but raise your hand first

A key feature

The key thing to recognise is that it is the state who is prosecuting - not the victim.

The police investigate the crime - the Crown prosecutes the case.

Categories of Criminal Offences

1. Summary offences – e.g. driving offences, assault. Always tried in the Magistrates' Court.
2. What is a 'triable-either-way offence'? Give an example.
3. Indictable offences – e.g. murder, manslaughter, rape. Must be tried at the Crown Court (though still begin in the Magistrates Court).

Pre-Trial Procedure

Answer the following questions...

- How is it decided where a triable-either-way offence will be dealt with?
- Why is an adjournment usually needed after D's first appearance in court?
- What is an "early administrative hearing"?

Bail - What is it?

Bail may be granted by either the police (s. 38 PACE) or the magistrates.

The CJPOA 1994 gives the police power to impose conditions on a grant of bail, such as asking the suspect to surrender his passport or requiring a surety from another person.



Bail Act 1976

The key Act – starting with the assumption that an accused person should be granted bail.

In deciding whether to grant bail, the court will consider various factors. Can you list these?

A court can make conditions for the granting of bail, similar to the conditions which can be set by the police.



Activity...

In pairs, undertake the activity on page 64 of “*OCR Law for AS*” by J. Martin.

Remember to give reasons for your answers.



Crown Prosecution Service

Prosecutions brought by the State are conducted by the CPS.

The head of the CPS is the Director of Public Prosecutions

Once D has been charged with an offence, the police role is at an end – the CPS are now responsible for the case.

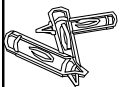


10 CPS (cont'd)

The CPS must decide whether or not to go ahead with a prosecution.

The two main factors the CPS will take into account in deciding this are...

1. The evidential test
2. The public interest test.



Evidential Test

Is there sufficient evidence to provide “a realistic prospect of conviction” in the case?

CPS will consider the strength of the evidence, for example by asking themselves whether the evidence is admissible or unreliable.

Can you think of any circumstances in which evidence may be inadmissible?



Public Interest Test

Is it in the public interest to continue with the case?

- Was the offence committed against, for example, a police officer?
 - Was a weapon / violence used?
- Is the court likely to impose only a nominal penalty?



Exam Practice...

Plan, and then write, answers to the exam questions on page 65 of “OCR Law for AS”.

