



JUDICIARY OF ENGLAND AND WALES

Judges and sentencing

Why do we need judges?

Anyone can look at the evidence of a case and draw their own conclusions - that is the basis of our jury system.

A judge's role is to use their specialist knowledge and experience of the law to ensure cases and verdicts are carried out as the law says they should be - and then, if necessary to hand down a judgment or sentence that takes all these considerations into account.

The independence of the judiciary is also a vital part of our democratic system, safeguarding the freedom and rights of citizens. All judges are free from political interference, and sum up a case based on an unbiased assessment of the evidence.

Do judges make laws?

Not exactly - although they may change the way they are used or understood in the course of their work.

Until the seventeenth century, the legal system of England and Wales was based on decisions made by judges deciding individual cases.

Today, a judge's role is not to make law, but to uphold and apply the laws made by Parliament. The laws must be interpreted and applied by the judges to different cases.

In deciding a case, a judge must follow the precedent set by a higher court in a situation with similar facts. As a result of this process, known as the system of precedent, case law, or 'common law', is developed which supplements the legislation made by Parliament.



Do judges make up sentences?

Definitely not. The independent Sentencing Council produces sentencing guidelines - based on laws created by Parliament - to help judges and magistrates decide the appropriate sentence for a criminal offence.

Within these guidelines, judges have some freedom to decide on a sentence, but must ensure that it reflects the crime the offender has committed and the seriousness of the offence.

Is the judge on the side of the police?

No. A judge is on no-one's side; their job is purely to interpret the law without bias or prejudice.

Do judges choose the cases to judge or are they random?

They don't choose their cases - but it isn't random, either. There are different levels of court - from district to appeal - hearing different types of cases, and different types of judge sit in them. There is also some specialisation: circuit judges, for example, are authorised to preside over especially serious cases, including rape, murder or fraud.

Can judges hang people?

Not any more. The last death sentence was carried out in England in 1964 (the last death in Scotland in 1963; in Northern Ireland in 1961; and in Wales in 1958).

With the passing of the death penalty, judges no longer needed to wear the black cap (worn when passing sentence of death) in court.

Technically, hanging remained available until 1998 when the death penalty was abolished for treason and piracy with violence.

In October 2003, European legislation came into force which prevents the UK restoring the death penalty.