

# UK Supreme Court

Debate Day

Information Pack



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# 1. Introduction to the UK Supreme Court

The Supreme Court is the highest court in the United Kingdom. It is the final court of appeal for all civil cases in the UK (including Scotland) and for criminal cases in England, Wales, and Northern Ireland, excluding Scotland. Any decisions made in the Supreme Court sets the precedent for all of the lower courts.



The Supreme Court is also the final court of appeal for devolution issues, where its role would be to see whether Scotland, Northern Ireland, and Wales are acting within their powers. These cases used to be heard by the Judicial Committee of the Privy Council.

The Supreme Court was established in the Constitutional Reform Act of 2005 which sought to establish a clear separation of powers between the executive, the legislature and the judiciary. It also aimed to create a more transparent and accessible judicial process.

It was in October 2009 that the judges or 'Law Lords' were finally moved out of the Appellate Committee of the House of Lords (the former highest court of appeal) and into the newly renovated Supreme Court.

There are twelve Supreme Court justices, but they do not sit on cases at the same time. Each case is usually heard by a panel of five justices. This can be increased to seven or nine justices depending on the importance or complexity of the case. There are always an odd number of justices on a case to ensure that a majority decision can be reached. Very occasionally, eleven judges may sit on a case.

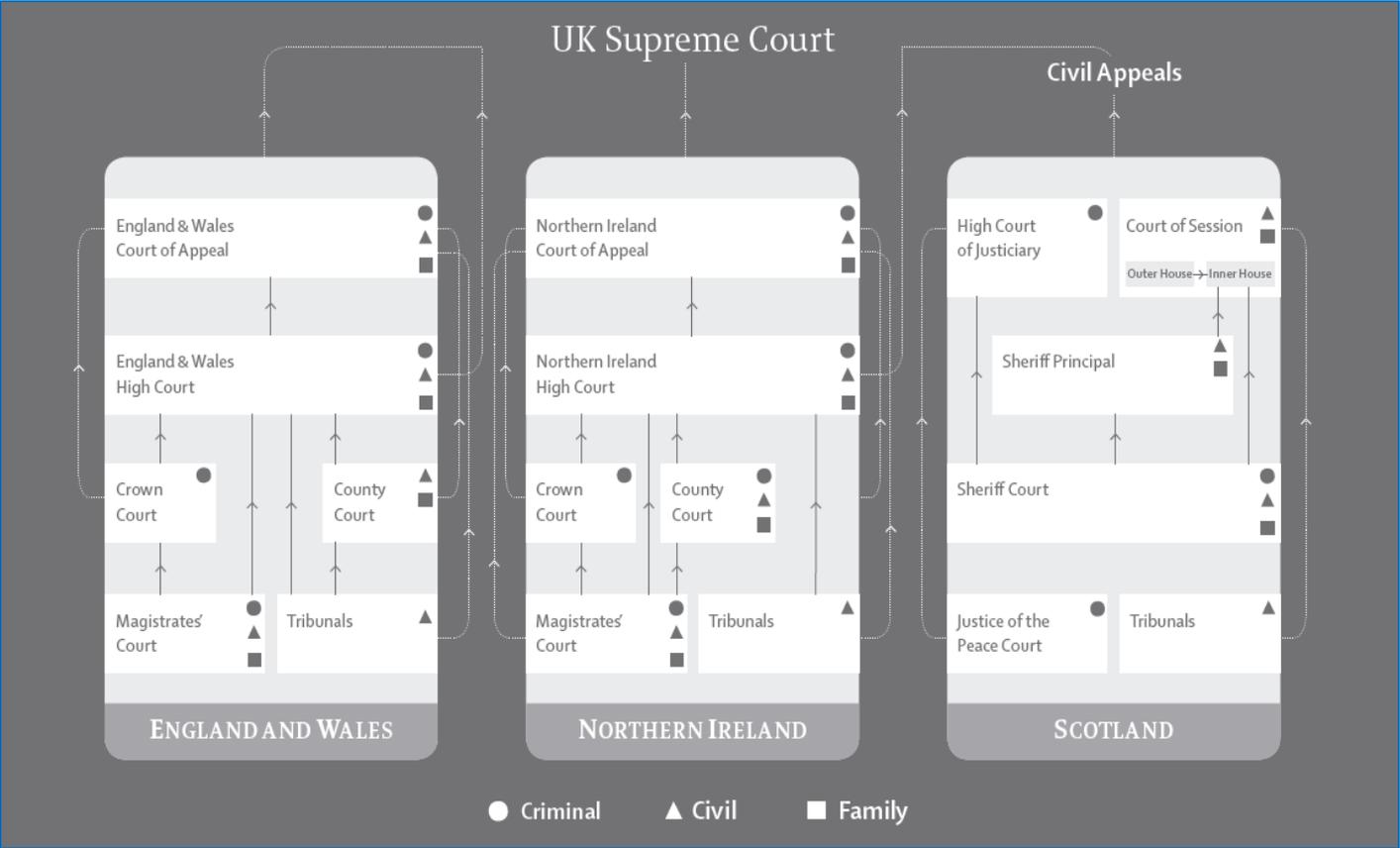
For example, during a during 'R (on the application of Miller and another (Respondents) v Secretary of State for Exiting the European Union (Appellant), a case about who had the authority to trigger Article 50, starting the process to leave the European Union, it was deemed so important that eleven judges heard the case.

Other cases have included: one about MP's expenses, one about whether letters that Prince Charles wrote to Government Departments should be published or even one about whether people should have the right to take your own life.

You can see more cases examples and the significance they have on society, on a series of videos specially made by the Royal Holloway University of London.

[https://www.youtube.com/watch?v=yrLseT6RI&list=PLSegY\\_\\_gUYIeCjbuO1dii9Oc4eCX2sx6D&index=2&t=0s](https://www.youtube.com/watch?v=yrLseT6RI&list=PLSegY__gUYIeCjbuO1dii9Oc4eCX2sx6D&index=2&t=0s)

# Hierarchy of the court system



This court chart shows the route which many cases will take before they reach the Supreme Court.

A case will have travelled through at least three courts before being heard at the Supreme Court.

Between April 2018 and March 2019, the Supreme Court heard **91** cases in total.



For more information on the Supreme Court we recommend watching our introductory video by clicking the following link:

<https://www.youtube.com/user/UKSupremeCourt>

## 2. What is discrimination?

Discrimination is the unjust or prejudicial treatment of different categories of people, especially on the grounds of race, age, or sex (Oxford dictionary)

### **What does the law say about discrimination?**

The Equality Act 2010 sets out the rights that are protected by legislation. See below for some of the rights set forth in law:

It is against the law to discriminate against anyone because of:

- age
- being or becoming a transsexual person
- being married or in a civil partnership
- being pregnant or having a child
- disability
- race including colour, nationality, ethnic or national origin
- religion, belief or lack of religion/belief
- sex
- sexual orientation

These are called 'protected characteristics'.

When are you protected from discrimination?

- at work
- in education
- as a consumer
- when using public services
- when buying or renting property
- as a member or guest of a private club or association

**What does the law say about civil partnerships?**

*The Civil Partnership Act 2004 established the rights of same-sex couples by allowing them to obtain the same rights and responsibilities as civil marriage. The Marriage Act 2013 (March 2014) was later introduced which saw the legalisation of full same-sex marriage in England and Wales.*

### 3. Debate Topic



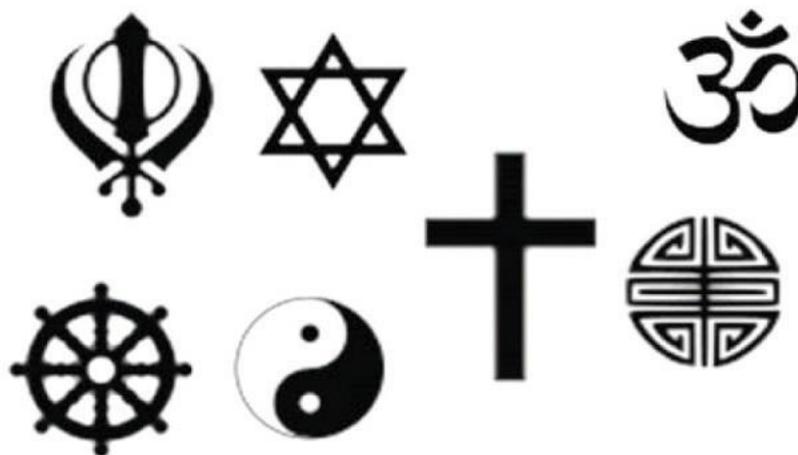
**Debate Question: Should you be allowed to deny a service or assistance on the grounds of your religious beliefs?**

In your debate you will be focusing on cases which highlight circumstances that have led to individuals being refused a service or assistance on the grounds of religious beliefs.

You will consider whether the rights of the affected individuals in these cases have been compromised when having been denied a service or assistance, and if so, whether this should be allowed.

On the next few pages you will find examples of cases that have been heard at the Supreme Court which you will use to support your argument.

You will have to form an argument based on the cases provided and the wider argument of whether you should be able to deny a service or assistance to someone on the grounds of your religious beliefs.



## 4. Case Examples

### UK Supreme Court Cases

#### Case 1: B&B case

#### UK Supreme Court Case Name:

Bull and another (Appellants) v Hall and another (Respondents)

This appeal was heard at the Supreme Court on the 9<sup>th</sup> and 10<sup>th</sup> October 2013 and judgment was given on 27<sup>th</sup> November 2013.

#### Background Information and Case Details:

This five-year legal battle brought into question the laws on denying a service to a same sex couple on the grounds of religion placing emphasis on competing human rights.

Mr and Mrs Bull, the Appellants in the case, own a private hotel in Cornwall. They are devout Christians who sincerely believe that sexual intercourse outside traditional marriage is sinful. At the time of the case their hotel policy (highlighted on their online booking form) stated that their double-bedded rooms were only available to married, heterosexual couples. Mr and Mrs Bull argued that their hotel policy had been written in accordance with their religious beliefs and that it was for that reason that they chose to provide double bedrooms to married, heterosexual couples only.

The Respondents, Mr Preddy and Mr Hall are a homosexual couple in a civil partnership. On 4<sup>th</sup> September 2008 Mr Preddy booked a double room at Mr and Mrs Bull's hotel; he confirmed booking on the telephone. Due to an oversight, Mr Preddy was not informed of the hotel's policy.

Upon arrival at the hotel, the respondents were told that they could not stay in a double-bedded room due to hotel policy. Mr Quinn (the cousin of the hotel owners) had explained that as they were not a married couple, they would not be allowed a double bedroom. He further explained that as he and the Bulls were Christians who did not believe in civil partnerships and that marriage is between a man and a woman, therefore he could not honour the couple's booking. The Respondents however argued that the refusal to provide them with a double bedroom was unlawful under the **Equality Act (Sexual Orientation) Regulations 2007**(EASOR).

The Respondents consequently brought proceedings against Mr and Mrs Bull arguing that they had been either directly or indirectly discriminated against on grounds of their sexual orientation. Mr Preddy and Mr Hall were backed by the Equality and Human Rights Commission throughout their court proceedings. They initially wrote a letter in March 2009 detailing their concerns.

Mr and Mrs Bull in response claimed that **EASOR** must be applied in a manner compatible with their human rights, in particular, their right to **manifest their religion** without unjustified limitation by the state under **article 9** of the **European Convention of Human Rights** (ECHR).

(Article 9 – Freedom of thought, conscience and religion; which includes the statement -

“Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”)

The hotel owners offered to reimburse the additional expense along with a modest sum for the inconvenience of having to find new accommodation. Throughout the proceedings they persisted that their hotel policy was created according to their religious beliefs.

The offer was rejected by Mr Preddy and Mr Hall who took their proceedings to Bristol County Court where the judge ruled that the couple had been directly discriminated against, the Respondents were awarded £1,800 each in damages. The judge said that the regulations were a necessary and proportionate intervention by the state to protect the rights of others. Mr Bull and Mrs Bull then appealed to the Court of Appeal where they again lost their case again, on the grounds of direct discrimination. Mr and Mrs Bull appealed for a second time to the Supreme Court.

**Here are some issues for you to consider when formulating your argument either for or against the debate question:**

- In a society where liberty and equal rights are promoted, should individuals be able to deny a service on the grounds of religion, even if it impedes another's rights?
- What relevance does the fact that Mr Preddy and Mr Hall were in a civil partnership have in the outcome of the case?

## Case 2:

### **Greater Glasgow Health Board (Appellant) v Doogan and another (Respondents) (Scotland)**

This appeal was heard at the Supreme Court on 11<sup>th</sup> November 2014 and judgment was given on 17<sup>th</sup> December 2014.

#### **Background information and Case Details:**

This case concerns two devout Catholic midwives Mary Doogan and Concepta Wood, who believe that human life is sacred from the very moment of conception. They are also of the belief that abortion or termination of a pregnancy is a grave offence against human life and are thus conscientious objectors to the practice of terminating pregnancies.

Both women are experienced midwives, Mrs Doogan joined the Labour Ward in 1988 and Mrs Wood started working in the Labour Ward in 1992. As conscientious objectors Mrs Doogan and Mrs Wood believe that the scope of the Abortion Act 1967 includes the right to refuse support for staff in the provision of care, when undergoing terminations. Both had previously registered their conscientious objection to taking part in abortions upon joining the ward.

Maternity services in Glasgow used to be provided in three hospitals, but in 2004 one of them closed down. Southern General Hospital subsequently underwent a reorganisation of its staff and services. There was also an increase in the number of abortion procedures being performed which led to the moving of all medical terminations to the Labour Ward. The midwives' new role was working as Labour Ward Coordinators.

When patients undergo a termination, they are admitted to the Labour Ward where they will be assigned to a midwife. The midwives must update the Labour Ward Co-ordinator and to seek her guidance, advice and support when necessary.

The Catholic midwives were of the belief that they should not be required to delegate or supervise other staff in any way as in doing so they would be going against their religious beliefs and violating their conscience. They subsequently consulted the Greater Glasgow Health Board about their concerns, after having their concerns dismissed Mary Doogan and Concepta Wood issued proceedings. As well as looking at statute law and clarifying what constitutes as "participation" in the Abortion Act, the case also looks at whether the respondents' rights to respect for their religious beliefs protected by Article 9 of the European Convention on Human Rights had been unlawfully restricted.

The Greater Glasgow and Clyde NHS Health Board however, argued that the midwives should not be exempt from providing support, the midwives employers believe that the right of conscientious objection only referred to the refusal to take part in activities that directly brought about the termination of a pregnancy.

In January 2012 the midwives' case was heard at the Court of Session where their application for judicial review was dismissed. Judge Lady Smith ruled that the work required by the midwives as part of their duties did not contribute to the termination of a woman's pregnancy.

But this decision was overruled by The Inner House of the Court of Session in April 2013 when they ruled that the "right of conscientious objection extends not only to the actual medical or surgical termination but to the whole process of treatment given for that purpose." The Glasgow Health Board appealed against this decision at the Supreme Court in November 2014.

### The Abortion Act 1967 – What is it?

The Abortion Act 1967 provides a code of the circumstances in which it is lawful to bring about the termination of a pregnancy in England, Wales and Scotland. It also requires that the termination takes place in a National Health Service Hospital or approved clinic.

Section 4(1) of The Act establishes a right of conscientious objection: it states that 'no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection' unless, pursuant to subsection (2), it is 'necessary to save the life or prevent grave permanent injury to the physical or mental health of a pregnant woman'.

**Here are some issues for you to consider when formulating your argument either for or against the debate question:**

- Where is the balance to be struck between providing a service for termination and preserving the rights of the midwives?
- Whether the idea of 'participation' extends to carrying out indirect tasks, such as managing, supervising other staff **or** does it have a more direct meaning referring to work in a 'hands-on' capacity.

### **Case 3:**

#### **Lee (Respondent) v Ashers Baking Company Ltd and others (Appellants) (Northern Ireland)**

This appeal was heard at the Supreme Court on 1<sup>st</sup> and 2<sup>nd</sup> May November 2018 and judgment was given on 10<sup>th</sup> October 20148

#### **Background information and Case Details:**

This case concerns Mr.Lee, a gay man who wished to order a cake from Ashers' Bakery, for an event organised by campaigners for same sex marriage, which at that time was not legal in Northern Ireland.

Mr and Mrs McArthur, who ran Ashers, are Christians who hold the religious belief that the only form of marriage consistent with Biblical teaching and acceptable to God is that between a man and a woman. Mrs McArthur initially took Mr.Lee's order but later advised him that she could not in conscience produce such a cake and gave him a refund.

Mr Lee brought a claim against the McArthurs and Ashers for direct and indirect discrimination on grounds of sexual orientation, contrary to the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 ('the SORs') and/or on grounds of religious belief or political opinion, contrary to the Fair Employment and Treatment (Northern Ireland) Order 1998 ('FETO').

The county court found for Mr. Lee, held that refusing to complete his order was direct discrimination on all three grounds, (sexual orientation, religious and political belief).

Ashers appealed, arguing that FETO and the SORs were incompatible with their rights under the European Convention on Human Rights (ECHR), specifically article 9 (freedom of thought, conscience and religion) and article 10 (freedom of expression, including the right to hold opinions and to receive and impart information and ideas).

The Court of Appeal in Northern Ireland dismissed the appeal, holding that Mr Lee had suffered direct discrimination on grounds of sexual orientation and that it was not necessary to interpret the SORs to take account of the McArthurs' ECHR rights. Ashers subsequently appealed to the UK Supreme Court.

**Here are some issues for you to consider when formulating your argument either for or against the debate question:**

- Which party (if either) has a stronger claim using article 9 and/or 10 of the ECHR
- Could a political belief (for example environmentalism) be so important to a person it could be interpreted as a religious belief?
- Is it relevant to this case that, at that time, gay marriage had not been legalised in Northern Ireland?

## **5. Debate Rules**

During the Debate Day, your group will be split into three teams. **For, Against** and the **Judges**.

**Debate Question: Should you be allowed to deny a service or assistance on the grounds of your religious beliefs?**

### **For:**

You **SHOULD** be allowed to deny a service or assistance on the grounds of your religious beliefs

### **Against:**

You **SHOULD NOT** be allowed to deny a service or assistance on the grounds of your religious beliefs

### **The Judges**

The Judges will listen to the arguments of both sides and have the opportunity to ask questions. They will then decide which side has given the strongest argument based on how clear and concise the arguments were; how evidence has been used to support those arguments; whether the teams were able to answer the questions and whether good teamwork was demonstrated overall.

Before the Debate Day, all the teams should read and consider the case examples, the issues surrounding them in relation to this debate question.

Timetable for Debate  
50 min debate preparation  
Team A (for): 10 min  
Team B (against): 10 min  
Break 4 minutes  
Team A: 3 minute summary  
Team B: 3 minute summary  
Judges 10 min to consider and deliver judgment

## 6. Useful Links:

### **B&B Case:**

<http://www.bbc.co.uk/news/uk-england-25119158>

<http://www.bbc.co.uk/news/uk-england-cornwall-19263265>

<http://www.12kbw.co.uk/case-library/81/index.html>

[https://www.supremecourt.uk/decided-cases/docs/UKSC\\_2012\\_0065\\_PressSummary.pdf](https://www.supremecourt.uk/decided-cases/docs/UKSC_2012_0065_PressSummary.pdf)

<https://www.supremecourt.uk/cases/docs/uksc-2012-0065-judgment.pdf>

### **Catholic Midwives:**

<http://www.bbc.co.uk/news/uk-scotland-glasgow-west-30514054>

<http://www.theguardian.com/world/2014/dec/17/catholic-midwives-abortion-ruling-overturned>

<https://www.supremecourt.uk/cases/docs/uksc-2013-0124-press-summary.pdf>

<https://www.supremecourt.uk/cases/docs/uksc-2013-0124-judgment.pdf>

### **Other links:**

<https://www.gov.uk/discrimination-your-rights/types-of-discrimination>

## **Links to similar cases –**

### **Jewish Free School**

<http://www.theguardian.com/education/2009/dec/16/jewish-school-loses-appeal>

### **Ashers vs Lee**

<https://www.supremecourt.uk/cases/docs/uksc-2017-0020-press-summary.pdf>