

UK Supreme Court Debate Day Information Pack



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1. 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 (i.e. non-criminal) cases in the UK and for criminal cases in England, Wales, and Northern Ireland but not Scotland. This means that the Supreme Court's decisions are final. Decisions made in the Supreme Court set a precedent for all other UK 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 by 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. Cases are usually heard by a panel of five justices. Particularly complex and important cases may be heard by panels of seven or nine justices. There is 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.

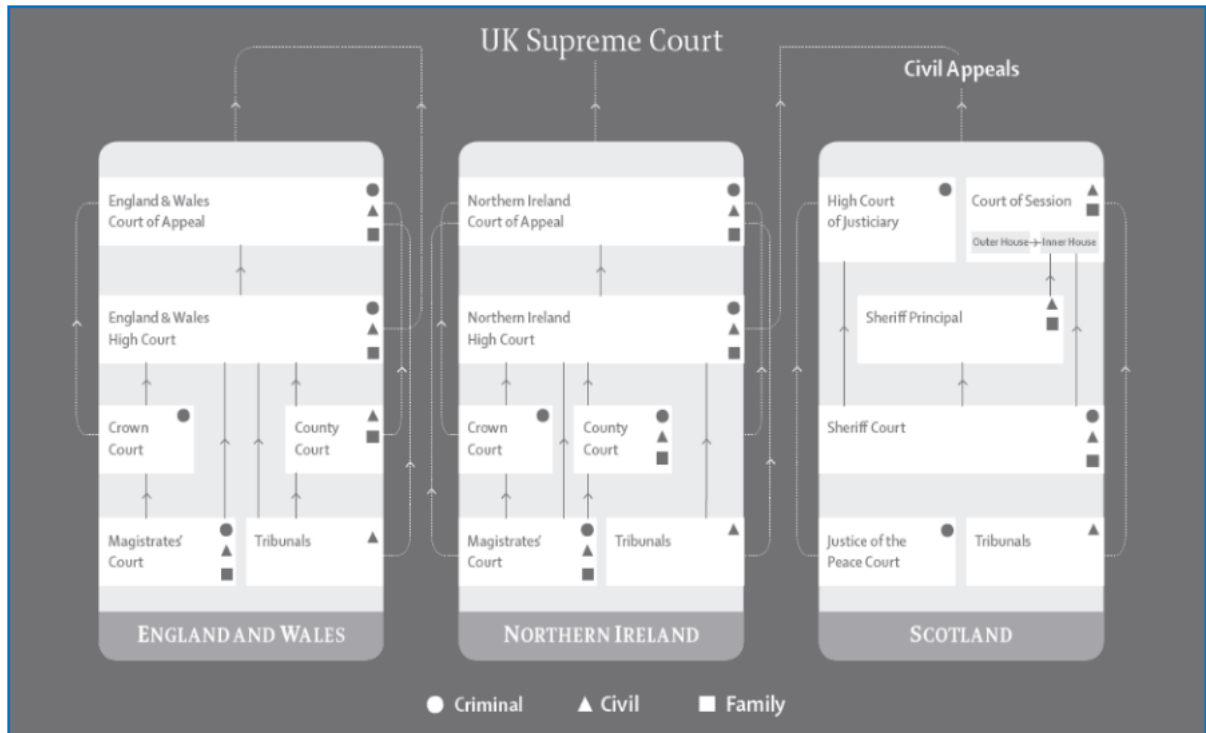
For example, 'R (on the application of Miller and another (Respondents) v Secretary of State for Exiting the European Union (Appellant), a case about who had the authority to trigger Article 50, starting the process to leave the European Union, it was deemed so important that eleven judges heard the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

Other cases have concerned MPs' expenses, whether letters which His Majesty the King wrote to Government Departments whilst Prince of Wales should be made public and whether people had the right to take their own life.

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

<https://www.youtube.com/watch?v=LhAvr-AgD7k>

Hierarchy of the court system



A case will generally have been heard by at least two other courts before being heard at the Supreme Court. For example, an English civil (i.e. non-criminal) case will generally have been heard by the High Court and the Court of Appeal before it is considered by the UK Supreme Court.

In 2024 to 2025 the Supreme Court heard 61 cases from the UK.



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. Background Information

Until 2001, UK law required that all DNA and fingerprints taken from a suspect must be destroyed unless they were convicted of a crime within a certain period of time.



In 2001 the law was changed to allow the police to retain samples from suspects who were not ultimately charged with or convicted of any offence. The police were therefore able to build up a larger database of samples to support their investigations. The Association of Chief Police Officer's policy was to only destroy samples in exceptional cases.

This new law was challenged on the basis that it was incompatible with the European Convention on Human Rights. In the 2008 case of *S and Marper v United Kingdom*, the European Court of Human Rights in Strasbourg held that the British police's then policy of indefinitely retaining DNA and fingerprint evidence from suspects even if they were never charged with or convicted of any crime was incompatible with Article 8 of the European Convention on Human Rights, the Right to Respect for Private and Family Life.

The UK Supreme Court also held this policy to be incompatible with the European Convention in the 2011 case of *R (on the application of C) (FC) v The Commissioner of Police of the Metropolis (Respondent)*. The Supreme Court recognised that a balance needed to be struck between protecting privacy and collecting samples to protect the public from crime. The Supreme Court considered that the UK's then blanket approach struck this balance wrong and did not take sufficient account of the need to protect privacy.

As a result of the Supreme Court's judgments, the UK government changed the law on retaining DNA and fingerprint samples. Current UK law on retaining samples is more nuanced. The current law is found at s.63D to s.63O of the Police and Criminal Evidence Act 1984. In essence, the Police and Criminal Evidence Act now provides that if a suspect is not convicted of an offence the police must normally destroy their fingerprints and DNA profiles after a certain length of time rather than retain them indefinitely. There are however a number of important exceptions to this, including if investigations are still ongoing or if a sample is taken from someone suspected of involvement in terrorism.

DNA Facts

When a suspect is arrested for a recordable offence, a mouth swab and fingerprints are taken, using a sterile kit and fingerprint scanner.

The swabs are transferred to a science laboratory where chemicals are added to turn them into a unique DNA barcode.

This is then stored electronically in the National DNA Database.



Photograph courtesy of West Midlands Police

Every new sample put into the DNA database is automatically checked against those already there. If there is a match, the police force that took the initial swab will be alerted by email.



All of the DNA that is taken from crime scenes is also stored nationally. Each new sample will be automatically checked against the human DNA that has been stored to see whether there is a match.

3. UKSC DNA Cases

Case Names: R (on the application of GC) (FC) (Appellant) v The Commissioner of Police of the Metropolis (Respondent) and R (on the application of C) (FC) (Appellant) v The Commissioner of Police of the Metropolis (Respondent)

Date of Hearing: 31st January and 1st February 2011

Background Information and Case Details:

The Appellants (i.e. the people bringing the appeal to the Supreme Court) were anonymised in both these cases to protect their privacy. They were referred to by the codes GC and C.

In December 2007, GC was arrested on suspicion of common assault on his girlfriend. He denied the offence. A DNA sample, fingerprints and photographs were taken after his arrest. On the same day he was released on police bail without charge and was subsequently informed that no further action would be taken.

In March 2009, C was arrested on suspicion of rape, harassment and fraud. His fingerprints and a DNA sample were taken. He denied the allegations. He was charged in respect of the rape allegation, but no further action was taken in respect of the harassment and fraud allegations. In the Woolwich Crown Court in May 2009, the prosecution offered no evidence and C was acquitted. The cases came to the Supreme Court, and were heard together as they contained the same issue or 'point of law'.



They came as a 'test case.' A test case is a case which determines a legal principle which is applicable to a large number of potential claimants – in other words, it

“tests” the legal principle. Test cases are useful because they establish general legal rules and thereby serve as precedent for future similar cases.

- Both C and GC requested the destruction of the DNA data that was taken.
- Their requests were refused as there were no exceptional circumstances.
- C and GC then issued proceedings for judicial review (a challenge to the decision of a public body through the courts) on grounds that, in light of the European Court of Human Rights’ ruling in *Marper*, the retention of their DNA was incompatible with their Article 8 rights

What does Article 8 Say?

- Article 8 protects the private life of individuals against arbitrary interference by public authorities and private organisations such as the media. It covers four distinct areas: private life, family life, home and correspondence.
- Article 8 is a qualified right, so in certain circumstances public authorities can interfere with the private and family life of an individual. These circumstances are set out in Article 8(2). Such interference must be proportionate, in accordance with law and necessary to protect national security, public safety or the economic wellbeing of the country; to prevent disorder or crime, protect health or morals, or to protect the rights and freedoms of others.

Percentage of total population on DNA database in 2005:

- France 0.2%
- Germany 0.44%
- Spain 0.01%
- USA 0.99%
- Canada 0.23%
- United Kingdom 5.23%

By 2010, the National DNA Database contained computerised DNA profiles and linked DNA samples from approximately 6 million individuals in the UK, including Scotland and Northern Ireland (nearly 10% of the UK population).

More facts and information which pertain to the time the cases were heard back in 2011:

Does DNA Solve crime?

Less than 1% of crimes are solved with the help of DNA profiles.

DNA comes into its own in cases where a profile recovered from a crime scene later connects a suspect to the offence.

The most obvious examples are an attacker's DNA on the hilt of a knife, a burglar's hair snagged on a window or semen recovered from a rape victim.

DNA plays a role in solving a third of cases like these, where a crime scene sample is loaded onto the database and later linked to a suspect.

What are the figures?

The database provides some 3,500 matches to crime scenes every month.

Between April 1998 and September 2009, DNA profiling provided matches to 410,000 crimes.

Between 2007- 08 police successfully gathered DNA profiles relating 83 killings, 184 rapes and a further 15,420 crimes they went on to solve.

<http://news.bbc.co.uk/1/hi/uk/7532856.stm>

More recently

Statistics from the National DNA Database show that as of March 2025:

An estimated total number of individuals retained on NDNAD - 6,151,373

Total number of subject sample profiles retained on NDNAD - 7,404,888

Total number of subject sample profiles retained on NDNAD from volunteers - 4,415

Total number of crime scene sample profiles retained on NDNAD - 700,459

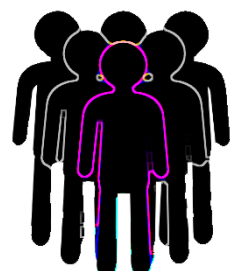
4. Your Debate

Debate Question: 'Is it fair for police forces to keep fingerprints and DNA samples from innocent people?'



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

- Whether retaining DNA and fingerprints of innocent people is a good deterrent against future crime
- Whether keeping DNA and fingerprint samples is a means of protecting the public
- Whether the retention of DNA and fingerprint samples is a violation of an individual's right to privacy (Article 8, ECHR)
- Whether it is a good means for freeing individuals who've been wrongly convicted
- Whether retaining DNA samples from innocent people is a good way to narrow a search for criminals and thus solve crimes



5. Debate Rules

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

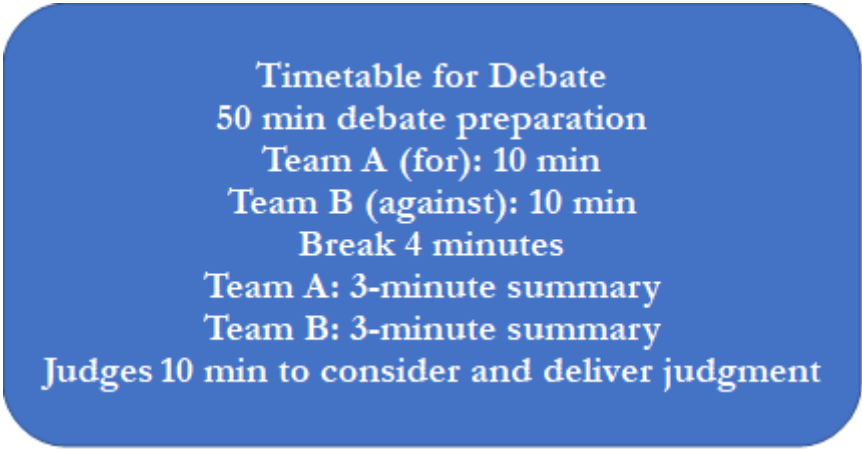
For: IT IS FAIR for police forces to keep fingerprints and DNA samples from innocent people.

Against: IT IS NOT FAIR for police forces to keep fingerprints and DNA samples from innocent people.

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 made the strongest case 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 and 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:

For more information about the UKSC Cases:

Supreme Court website: <https://supremecourt.uk/>

A recent UKSC case judgment - **Gaughran v Chief Constable of the Police Service of Northern Ireland**:

<https://supremecourt.uk/cases/uksc-2013-0090>

Other Decided Cases and their Judgments:

<https://www.supremecourt.uk/cases/uksc-2010-0173>

Background news articles relevant to the case at the time:

Q&A: The national DNA database

<http://news.bbc.co.uk/1/hi/uk/7532856.stm>

DNA and fingerprint guidelines ‘unlawful

<https://www.bbc.co.uk/news/uk-13440012>

DNA retention judgment won’t see discriminatory policy destroyed:

<https://www.theguardian.com/commentisfree/libertycentral/2011/may/18/dna-retention-supreme-court-police>

Other:

<http://news.bbc.co.uk/1/hi/uk/8037972.stm> %20

<https://www.bbc.co.uk/news/uk-13440012>

<http://news.bbc.co.uk/1/hi/uk/5405470.stm>

<http://www.parliament.uk/documents/post/postpn258.pdf>