



JPPF Registry Resources: Minute Taking - Glossary

One of the identified strategies for taking minutes quickly is to use abbreviations for commonly used terms and phrases.

We have compiled a list of terms and definitions and these can be added to depending on your jurisdiction, language and court situations.

It is also useful to help explain legal terms for a new minute taker so that they understand what is being referred to.

We have left it for the minute taker to set their own abbreviations – these may already be in place as acronyms and will also be dependent on the language used and their translations.

A

accused

The term previously used for “defendant” in criminal jury trials.

acquitted

When a defendant in a criminal trial is found not guilty.

Act (statute)

An Act is a law passed by Parliament.

address (to the court)

A speech by a lawyer to the court.

address for service

The address provided by a party to a proceeding where documents can be delivered or served.

adjourn/adjournment

If a court proceeding is ‘adjourned’, it’s postponed, or put off, until a later date. For example, a judge may postpone a proceeding for one month to give the people involved time to try to negotiate a settlement or to discuss the written evidence presented in the case.

admonish

To be formally reprimanded by a Judge. This usually takes place in Youth Court or Family Court.

ADR

Abbreviation for ‘Alternative Dispute Resolution’, which refers to methods of resolving disputes other than through a court hearing and a decision by a judge. Mediation for example, is a form of ADR.

affidavit

A written statement sworn or affirmed before a person who has authority to administer an oath. Some of the evidence in a court case may be presented by affidavit.

affirmation

A promise, written or spoken, that the statement the person is making is true and correct, but without any reference to the Bible or to religious beliefs. An affirmation has the same legal effect as an oath.

aggregation order

Aggregation of titles occurs when two or more separate blocks of land share a common ownership list. The titles remain separate, but there is only one common ownership list for all the aggregated land.

alienation

Alienation occurs is when landowners grant certain rights of their land to another person(s). For example:

- selling or gifting the land gives the new owner the ownership rights
- leases give the lessee a limited right to occupy land in return for payment of rent (and other conditions)
- mortgages give the mortgagee the right to sell the land if the mortgage is not repaid

amicus curiae

Literally, a "friend of the Court". A person who does not appear on behalf of a party to a proceeding, but who assists the Court by pointing out matters of law or fact that have been overlooked, or who presents opposing arguments so that both sides of a case can be heard.

appeal

Where a higher court reconsiders the decision of a lower court or tribunal, due to formal request by one of the parties involved in the lower court proceeding.

appeal against conviction

A defendant who pleads guilty or "convicted" in a criminal court can appeal that decision to a higher court.

appeal against sentence

An appeal to a higher court against the sentence imposed by a lower court, usually on the ground that the sentence was too severe or inappropriate. Often there will be an appeal against conviction as well, called an 'appeal against conviction and sentence'.

appellant

A person or organisation who appeals the decision of a lower court to a higher court.

applicant

A person or organisation who applies to the court for an order, direction or decision to be made.

application

A formal request to a court for an order, direction, or decision under an Act. This can be made in writing or orally during the proceeding.

application for direction

An application made to the court for instructions on how to progress the case. For example, one party might apply for directions about exactly who must be served with copies of relevant documents.

arraign (verb) / arraignment (noun)

These terms were previously used to describe the process for when an accused in a criminal jury trial was brought before the court to answer a charge.

attestation clause

The words that come immediately before a signature to a document, for example, 'In witness whereof'. Also known as a 'testimonium clause'.

B

bad faith

Dishonesty or fraud in a transaction. For example, entering into an agreement with no intention of ever carrying out its terms, or knowingly misrepresenting the quality of something when offering it for sale.

bail

Conditions on which a person who has been arrested or summonsed can be released until their next court appearance.

These can be imposed by the Police or the Court and include conditions which relate to the type of offending the defendant has been charged with.

bail appeal

This is where a person who has been refused bail by the court, or who is unhappy with the conditions the court has imposed on their bail, appeals the judicial officer's decision to a higher court.

bail application

An application to the court to release the defendant on bail conditions (in a criminal case).

barrister

A lawyer who can appear in court but who can't do the work that solicitors do – barristers can't be approached directly by clients for legal help, can't carry out legal transactions such as conveyancing, and usually can't operate a trust account for clients.

bench warrant

Written authority from a High Court or District Court judicial officers for the Police to arrest someone for a criminal offence.

beyond reasonable doubt

The standard of proof that applies to a criminal case.

The prosecution must provide sufficient evidence about the criminal offence in a way that doesn't leave a judge or a jury in much doubt that they are true (i.e., the offence is proven).

The standard in a civil case or family case, by contrast, is only on 'the balance of probabilities' (sometimes also called 'the preponderance of the evidence'), which means that it's more likely than not that the claim against the defendant is true.

bond

A document with which one person promises or is required to pay another person or the court a specified amount of money within a certain time.

Bonds are used for many things, including borrowing money or guaranteeing payment of money.

brief

A written statement that outlines a party's legal arguments in a case.

It is also the set of instructions approved by the court for report writers and counsel appointed by the court, e.g. Counsel for child, counsel to assist and psychologists.

burden of proof

The prosecution in a criminal case and the applicant/plaintiff in a civil or family case bear the 'burden of proof' – in other words, it's up to them to prove their case, and not for the other side to disprove it.

Different levels of proof (or 'standards of proof') are required depending on the type of case. In a criminal case, the prosecution must prove the defendant's guilt beyond a reasonable doubt; in a civil or family case, the applicant/plaintiff must prove their case on 'the balance of probabilities' (sometimes called 'the preponderance of the evidence').

C

callover

A case-scheduling hearing held with a judge to discuss procedural and administrative matters for a civil case or criminal case after it has been scheduled for a trial. For example, this could include readiness for trial. In the criminal jurisdiction callovers are generally held for Jury trials or more complex Judge-alone trials.

case law

The law created by judges when deciding individual disputes or cases. It includes the common law (areas of law that rest mainly or entirely on court decisions) and also decisions interpreting and applying statutes (Acts).

case management / caseflow management

The action taken by the court to progress a case to the conclusion. The terms are also used for the systems and guidelines the courts put in place for achieving this.

case to answer

The term was used to describe the process where a person charged with a serious criminal offence would attend a preliminary ('depositions') hearing at which the prosecution had to present the court with sufficient evidence to show that there was a case for the defendant to answer.

caveat

A notice lodged in a court or other appropriate office to prevent certain things being done.

Caveats may be brought under a number of different statutes, but they usually relate to land, marriage or estates (the property of a deceased person). For example, a caveat lodged against a house title means that the house can't be bought or sold until the caveat is removed. Literally the term means 'let him / her beware'.

certified copy

A copy of a document that had been signed and certified as a true and correct copy by someone who has the legal authority to do so.

challenge

The process by which lawyers can exclude some people from the final selection of a jury. See below 'challenge for cause' and 'challenge without cause'.

challenge for cause

When a potential juror cannot effectively act as a juror, for example, if they are not impartial. The judge will make a decision after consideration of the arguments and evidence presented.

challenge without cause

When a potential juror is challenged by a lawyer for either the prosecution or the defence without a reason being provided - each side can reject up to four potential jurors, however the Crown can reject up to eight potential jurors if there are more than one accused on trial. This is also called a 'peremptory challenge'.

chambers

A judge's office. However, the term can also refer to when a judge makes a decision within a closed court environment, e.g. the actual courtroom or their chambers.

charge / to charge

A formal accusation brought to the courts that a person or organisation has committed a criminal offence / to accuse a person or organisation of committing a crime.

charge list

A list of the charges against the defendant to be given to the jury at the commencement of a jury trial.

charge sheet

A document presented at court by the Police when a person has been arrested on a warrant or breach of bail. This usually occurs when the original charging document was filed in a different court.

charging document

A document filed with the court that commences criminal proceedings.

chattel personal

An item of physically movable property. This includes not just goods but also, for example, money, cheques, and documents of title (ownership) to property.

child

A person under a certain age, depending on the particular context and the relevant Act:

chose

An item of personal property (that is, property other than land and buildings, which is called 'real' property). From the French word meaning simply 'thing'. There are two kinds of 'chose':

- A 'chose in action' is something that a person doesn't currently have in their possession but that they have a right to recover through taking court action if the thing is withheld from them (such as money in a bank, or money owed to them under a loan contract).
- A 'chose in possession' is something tangible that a person has a legal right to and currently has in their possession (money in the person's pocket, for example).

circumstantial evidence

Indirect evidence that implies that a particular thing happened but doesn't directly prove it. For example, if a man accused of stealing money from his company had made several big purchases with cash around the time of the alleged theft, those purchases would be circumstantial evidence that he had stolen the money.

civil action

A lawsuit brought under the civil law (for example, one person suing another person for defamation), as opposed to a criminal prosecution.

closed court

A court hearing that is closed to the general public and that only certain people are allowed to attend.

commencement of proceedings

How a criminal case is started. Proceedings are commenced by the filing of a charging document at the relevant court.

committal

The term previously used to describe how a proceeding was transferred to the trial jurisdiction.

committal hearings

The term was used to describe the hearing in which the oral evidence of witnesses was heard to establish if there is sufficient evidence to proceed to trial.

common law

Areas of the law that have been built up over time by decisions of the courts, rather than Acts of Parliament (statutes) – sometimes also referred to as ‘judge-made law’. The common law is developed through the doctrine of ‘precedent’, which requires lower courts to apply the law developed by higher courts.

In contrast, the term ‘case law’ includes not just the common law, but also decisions by the courts about how to apply or interpret statutes.

compensatory damages

Money awarded in a civil case to compensate the plaintiff (the person who brought the case) for the loss they’ve suffered, which can be actual monetary costs (such as medical bills and lost wages) and also losses that are less easily measured (such as pain and suffering).

‘Exemplary’ (or ‘punitive’) damages, by contrast, are damages awarded in addition to compensatory damages. They’re awarded not to compensate the injured person but to punish the other person if they’ve acted in a particularly outrageous way.

complainant

A person who lays a complaint against a person or organisation under an official complaint process or a person who complains to the Police that a person has, or may have, committed a criminal offence.

complaint

In a criminal case, a complaint is the preliminary charge filed by the complaining party (an assault victim for example), usually with the Police or the court directly.

concurrent sentences

Criminal sentences that can be served at the same time (as opposed to ‘cumulative sentences’, which must be served one after the other).

condition

A restriction included in a court order or judgment – for example, a bail condition (such as a curfew) or a condition of a domestic violence protection order (such as surrendering a firearms licence).

conflict of interest

Where a person, such as a public official or lawyer, has personal or financial interests that compete with their professional obligations.

consent order

A court order in a civil or family case that is made with the agreement of all the parties involved in the case.

contempt of court

Something said or done that interferes with a judge's ability to administer justice or that insults the dignity of the court. Disrespectful comments to the judge or a failure to follow a judge's orders could be a contempt of court. A person found in contempt of court can face financial penalties and, in some cases, prison.

contract

An agreement between two or more parties that they intend to be legally enforceable. Contracts are usually written, but an oral (spoken) agreement can also be a contract. Some contracts (for example, the sale and purchase of land) must be in writing in order to be legally binding.

To be legally binding, a contract must also satisfy a number of other requirements – for example, each side must provide something of value to the other.

copyright

A person's right to prevent others from copying original works that he or she has written or otherwise created. Copyright can protect literature, music, artistic works, films and sound recordings.

Coroners Court

A court that investigates the cause of death where the death appears to have been violent, unnatural, without known cause, or suicide, or where it appears to have happened while the deceased was in prison or otherwise in the custody of the state. Hearings in the Coroners Court are called 'inquests'.

corporation

A body or organisation that is formally incorporated and that therefore has a separate legal existence from its members or shareholders.

Because it has a separate legal personality, a corporation can sue and be sued in the courts in its own name, whereas an unincorporated body can only sue or be sued in the names of its individual members.

counsel

A lawyer who represents one of the parties in a court case.

counsel for child

A lawyer appointed by the court to represent a child involved in, or affected by proceedings.

counsel to assist

A lawyer appointed by the court to assist with a case, usually in complicated cases or where one or all of the parties do not have a lawyer representing them.

count

The word for each specific charge contained in the list of charges on an indictment which used to be presented against a criminal defendant in a jury trial.

court

This can have different meanings depending on the context.

It may mean the judicial officer or a registrar who makes a decision.

It may also mean the place where applications and other documents must be filed for court proceedings and where court hearings take place (that is, the courthouse or courtroom itself).

court attendant / court crier

A court staff member who assists the court, jurors and members of the public. A court attendant may also be called a 'Court Registry Support Officer'. Court criers mostly work in the High Courts.

Court of Appeal

The Court of Appeal deals with appeals from civil and criminal cases heard in the High Court and appeals from criminal jury trials in District Courts.

The Court of Appeal can also hear appeals against pre-trial rulings in criminal cases and appeals on questions of law.

court order

A formal direction from the court requiring a person to do or not do certain things. Failing to comply with a court order can be a contempt of court, and it could also be a criminal offence.

court reporter or judge's associate

The member of the court staff whose job it is to transcribe what occurred in court. During a jury trial this would include all the evidence and the judge's summing up.

court taker

A member of court staff who ensures that the formal processes of the court are followed and who gives effect to any direction from the judge. This person is sometimes referred to as the 'registrar of the court'.

creditor

A person (or institution) to whom money is owed. (The borrower is called the 'debtor'.)

criminal law

The criminal law involves conduct that society has outlawed as a threat to the safety or welfare of the public, and that is therefore investigated, prosecuted and punished by the state (through the police and the courts). Criminal offences are all contained in Acts of Parliament, not the common law (law developed by the courts).

criminal jurisdiction

Criminal jurisdiction is used to refer to the division of courts that administer criminal law. Also see 'jurisdiction'.

criminal offence

An act or omission that society has outlawed as a threat to the safety or welfare of the public, and that will therefore be prosecuted and punished by the state.

cross-examination

Where a witness who was called by one side in a court case is questioned by the lawyer for the other side about the evidence the witness gave during 'direct examination' (that is, during the initial questioning by the side that called the witness). The purpose of cross-examination is usually to challenge the accuracy of the witness's evidence.

Crown notices

A notice filed by the Crown when they become responsible for the prosecution. Other notices filed by the Crown are to add, amend or withdraw charges.

the Crown

The prosecution in some serious cases is the responsibility of Crown Law on behalf of the government. They are referred to when citing cases as Regina and the citation will say "R V Smith".

cumulative sentences

Criminal sentences that must be served one after the other.

Cur Ad Vult (CAV)

Abbreviation for reserved decision.

curfew

A requirement that a person must stay at a particular address during certain hours of the day or night. For example, a person charged with a criminal offence may have a curfew as one of their bail conditions.

custody

In the criminal courts, this term refers to those defendants held in prison on remand or in the custody of the police while awaiting a hearing.

D

debtor

A person who owes money. (The person to whom they owe the money is the 'creditor'.)

declaration

A court order stating that a certain situation or fact exists, rather than requiring that something must be done or not done. For example, the Court can make a 'declaration of paternity', declaring that a particular man is or is not the father of a particular child.

deed

A formal legal document that is signed and witnessed. Deeds are used for a variety of purposes, for example, to deal in some way with an item of property (such as a deed of gift) or to acknowledge that a particular state of affairs exists (such as a deed of acknowledgement of paternity, or a deed of acknowledgement of debt).

defamation

Publishing statements or other material that injure a person's reputation. 'Libel' is defamation through written words or images; 'slander' is spoken defamation.

default

A failure to fulfil a legal obligation – for example, not repaying a fine when it's due.

defence counsel

The lawyer representing the defendant in a criminal case.

defend

To oppose an application, claim or charge that has been brought to the courts.

defendant

A person or organisation against whom a charging document has been filed. 'Defendant' is also used for a person who is sued or who has an application for an order brought against them in a civil case. (If they have an application brought against them, they're also called the 'respondent'.)

defended hearing

This term was previously used to describe a Judge-alone trial.

deliberations

The jury's discussions when deciding on a verdict.

deponent

A person who makes an affidavit (a written statement, sworn or affirmed before a person who has authority to administer an oath).

deposition

A term used to describe both the taking of a witness's evidence and also the prosecution evidence given at the preliminary hearing before a criminal jury trial.

deposition hearing

A term used to describe the hearing in which a witness's evidence was taken down before a judge or other officer of the court.

Deputy Registrar

A court official with the power to make certain decisions and take actions under specific legislation.

direct examination

The initial questioning of a witness by the lawyer for the side that called the witness. (The subsequent questioning by the lawyer for the other side is called 'cross-examination'.)

direction

A formal instruction given by the court about a case, which the parties must carry out to prepare the case for a hearing or trial – for example, a direction about when submissions must be filed by both parties in a particular hearing.

disbursements

Legal expenses that a lawyer passes on to a client, for example, for photocopying, courier charges and toll calls.

to discharge (a court order)

To cancel an order. For example, a respondent may apply to the court for it to discharge a protection order.

disclosure

Where the prosecution in a criminal case must give the defendant access to all the information the prosecution holds about the case.

dock

A place where the defendant stands or sits during a criminal case.

domicile

The country that is considered by law to be someone's permanent home.

double jeopardy

To be tried or punished twice for the same criminal offence.

duces tecum

A summons to appear in court as a witness and to bring certain documents with you. It means literally 'bring with you'. The court may penalise a person who doesn't appear with the documents after having been summoned in this way. (See 'summons'.)

due process

The idea, particularly relevant in criminal law, that a person should not be imprisoned or otherwise punished without all proper legal processes being followed.

duty to warn

The legal obligation to warn people of a danger.

E

easement

Gives one person the right to go onto or make some use of another person's property (usually neighbouring property). Examples are a 'right of way' (which gives a right to pass over the other property – a driveway for instance), a right to lay water or sewerage pipes or phone lines underneath the property, and a right of access to light or air.

electable offence

An offence for which the defendant has the right to choose to be tried by jury.

election

The term used when the defendant chooses a trial by jury. A judicial officer or Registrar may "receive" an election.

electronic

Means of filing a document and includes electrical, digital, magnetic, optical, electromagnetic, biometric and photonic.

to empanel (a jury)

A term used for the final selection of a jury.

encumbrance

A charge, such as a mortgage, on the land claim or liability attached to property. e.g. a mortgage or a charge

enactment

Any Act (statute) or provision in an Act, and any rule or regulation made under the authority of an Act.

to enlarge

Where the court extends time in a proceeding for a summons to be served on the defendant.

estreatment

Estreatment of bail is a procedure whereby a formal record of the conditions of bail is extracted from the Court record for the purpose of recovering the amount payable under the recognisance of bail that has become forfeited and sending it to be enforced.

evidence

The various things presented in court to prove an alleged fact, including written or spoken testimony from witnesses, and other material such as documents, photographs, maps and videotapes.

ex parte

An ex parte application to the court is one that is made 'without notice', meaning that the application documents are not 'served' on (given personally to) the person who the application is made against or who is to be affected by it (the 'respondent'). The respondent is therefore unaware of the application and does not take part when the court hears and decides the application. 'Ex parte' is Latin for 'by (or for) one party'.

The opposite of an ex parte application is an 'on notice' – or 'inter partes' –application.

exemplary damages

Courts may award a plaintiff an amount intended solely to punish the defendant for outrageous conduct (this is additional to what is necessary to compensate the plaintiff for loss).

exhibits

Items of evidence used during a trial. These can be photos, statements, diagrams, weapons, or any relevant object or material.

expert evidence

Evidence given by a skilled witness on issues that relate to their profession – for example, evidence from a child psychologist.

F

filing

Formally lodging an application or other document at a court. This can be done in person or by mail, or electronically.

final order

The decision of a court that ends a court case.

fine

An amount of money a defendant is sentenced to pay as a penalty in a criminal case. Fines can be imposed for a range of offences, including, for example, drink-driving, disorderly behaviour and theft. The fine can be the whole sentence or just part of it.

first instance

When a court hears a case at ‘first instance’, this means it’s the court in which the case was initially tried or dealt with.

fixture

The time set down for a court hearing.

forfeiture

Taking property away from someone. A judge can order an offender to give up something as a penalty in a criminal case – for example, a vehicle or objectionable publications.

formal statements

A statement recorded by a person who is a potential witness in a criminal proceeding. The statement may be recorded in any medium.

foreperson (of a jury)

The jury's representative who speaks in court on the jury's behalf and chairs the jury's discussion.

G

good faith

Honestly and without deception. An agreement might be declared invalid if one of the parties entered into it with the intention of defrauding the other – that is, if they entered into it in 'bad faith'.

gross negligence

Failure to use even the slightest amount of care, showing recklessness or wilful disregard for the safety of others.

H

hearing

A sitting of the court where a judicial officer hears from the parties to the case, and decides what should be done about the case. This usually includes dealing with matters which could be referred to as administrative. Hearings for a specific purpose will have a specific name, i.e. case review hearing or trial.

hearsay

Second-hand information presented by a witness who didn't directly see or hear the events in question.

hung jury

A jury that is unable to reach a verdict.

I

immunity

Being exempted from a legal duty, penalty or prosecution.

impairment

Sometimes used in relation to drug- or alcohol-related traffic offences to mean a person has difficulty in performing physical or mental tasks.

imprisonment

A sentence which is imposed by a Judge where they are held in prison.

in camera

When a court hearing is held in camera it is held in private, either in the judge's chambers (office) or in a closed courtroom, rather than in open court.

in court for chambers

When a judge is sitting 'in court for chambers', this means the judge is in court hearing interlocutory applications (that is, applications dealing with procedural issues).

indict

The previous process for formally charging a person of a crime that could be tried by a jury.

indictable offence

A term previously used to describe criminal offences that could be dealt with by a jury trial because they were over the jury trial threshold.

indictment

A term previously used to describe a written statement of criminal charges that was presented when an accused appeared in a jury trial.

informant

The person or organisation who brings criminal charges against a person in specific cases.

information

A term previously used to describe a sworn document lodged by the prosecution to commence a proceeding.

informed consent

To consent to something after being given full or adequate information about it.

infringement

Used in relation to minor offences such as speeding and parking offences (see 'infringement offence').

The term is also used to describe the improper use of a patent, writing, graphic or trademark without permission, without notice, and especially without contracting for payment of a royalty.

infringement fine

If a person fails to pay an infringement fee (such as a parking ticket) when it is due, the fee is transferred to the courts so that it can be enforced. It's then referred to as an 'infringement fine'.

infringement notice

The notice issued by a prosecuting authority for an infringement offence, for example, a speeding ticket issued by the Police or a parking ticket issued by a local council.

infringement offence

A minor offence for which an infringement notice (a speeding or parking ticket for example) can be issued. There is usually a fixed penalty for the offence. An infringement offence differs from other offences in that no criminal conviction is entered against the person.

inter alia

Latin for 'among other things'.

inter partes

An inter partes application to the court is one that is made ‘on notice’, which means that the application documents are ‘served’ on (given personally to) the person who the application is made against or who is to be affected by it (the ‘respondent’). Inter partes is Latin for ‘between the parts’.

By contrast, an ex parte – or ‘without notice’ – application is made without the respondent being notified about the application.

interim order

A temporary court order. It lasts for a limited period or until the court makes a further or final order.

interpleader

Where a third person who is lawfully holding property on behalf of another (for example, holding seized property) asks the court to order the person claiming a right to the property to take court action to decide the claim. For example, a court bailiff who has seized property under a court warrant can ask the court registrar to summon the relevant person to court.

J

joinder

There are three kinds of joinder:

- Joinder of causes of action is where a plaintiff in a civil claim includes more than one cause of action in his or her statement of claim (for example, both negligence and nuisance).
- Joinder of parties is where two or more plaintiffs who have claims against the same defendant are joined in the same civil claim against that defendant, or where more than one defendant is joined in the same lawsuit.
- A type of criminal pre-trial application in the District or High Court to combine various charges or defendants in the interests of Justice. Applications can be made by both the prosecution and defence.

Judge-alone trial

The default substantive hearing. This hearing could be before two Justices of the Peace or a Community Magistrate if within their jurisdiction.

judge’s list

Refers to cases that have specific issues that need to be dealt with by a Judge.

judgment

The order of the court in relation to an application/appeal. This also refers to the reason the Judge/Judges gives for the judgment.

judicial conference

A hearing before a judge to discuss the issues in a civil or family case and what needs to be done to resolve the case.

judicial

Describes a legal decision-making process or decision where a court, tribunal or other official adjudicating body hears from the two sides to a dispute, including any evidence they put forward, and makes a decision by applying the law to the facts.

‘Judicial’ decisions can be contrasted with ‘administrative’ decisions – where, for example, Work and Income processes and decides an application for a welfare benefit.

judicial intervention

When a defendant appears before a judicial officer for the purpose of progressing a case. For example, issues with disclosure may need to be addressed, or a defendant may request a sentence indication.

judicial officer

A High Court Judge, a District Court Judge, a Magistrate, or duly appointed court official

judiciary

The judges of courts of law.

jurat

A short statement on the bottom of an affidavit (which is a sworn written statement) saying when and where the affidavit was sworn and before whom.

jurisdiction

Generally, means the extent of a person's or body's powers or authority. It is usually used in the following specific ways to mean:

- the limit of a court's or judge's power or authority
- the distinction between broad subject areas of law (for example, between the criminal, civil, family and youth jurisdictions)
- the distinction between the different levels of courts (such as between the High Court and the District Court)
- the boundaries of any domestic court's influence overseas.

jury

A group of (usually 12) people whose role in a criminal or civil trial is to decide matters of fact and then apply the law, as explained to them by the trial judge, to those facts to reach a decision ('verdict') as to whether the defendant is guilty or not guilty (in a criminal case) or liable or not liable (in a civil case).

jury ballot

The process of randomly drawing names of jurors at court in order to select a panel of 12.

jury charge

The judge's instructions to the jury on the law that applies in a case and an explanation of the relevant legal concepts.

jury officer

A member of the court staff who looks after the jury once they've retired to consider their verdict.

jury trial

The default substantive hearing for a category 4 offence. Defendants charged with a category 3 offence may elect jury trial.

just cause

A legitimate reason. Often used in the employment context to refer to the reasons why someone was fired.

L

law

A collection of enforceable rules, creating rights and obligations for citizens.

lay advocate

Lay advocates are non-lawyers, appointed by the court to support the child or young person, and to ensure that the court is made aware of all cultural matters that are relevant to the case, and to represent the interests of the child's or young person's relatives

leave (of the court)

Permission given by the court to do something.

legal advice

When a legal adviser, usually a lawyer, provides a client with a legal opinion or advises them about the appropriate course of action for their particular situation. It is often contrasted with legal 'information', which is general information about legal rights, obligations and processes that is not directed at any particular person's situation.

legal aid

Legal aid is government funding to pay for legal help for people who cannot afford a lawyer. It is available for people facing criminal charges, and those with a civil legal problem or family dispute (including family matters) that may go to court.

legal information

This term is used to mean general information about legal rights, obligations and processes that is not directed at any particular person's situation (in contrast to legal 'advice', which does address a particular person's rights, obligations and options). Government agencies, community groups and other organisations provide legal information through written publications such as pamphlets and leaflets and through websites, and also in person in some cases.

legislature

The legislative arm of government incorporating the parliamentary and executive arms of government.

liability

Any legal responsibility, duty or obligation.

libel

'Libel' is defamation (injury to a person's reputation) through written words, or through images such as movies or photographs. By contrast, 'slander' is spoken defamation.

lien

A claim against someone's property, for example, a mortgage. The lien is established to secure payment of a debt by the property owner if the property is sold.

litigant

A party to a court case, e.g. litigant in person is an unrepresented party.

litigate

To engage in legal proceedings.

M

Majority verdict

In criminal cases, a jury that, at the time of its verdict, consists of a certain number of jurors and all but one of the jurors agree on the verdict.

In civil cases, a jury that, at the time of its verdict, consists of a certain number of jurors and at least three-fourths of the jurors agree on the verdict.

malpractice

Improper or negligent behaviour by a professional, such as a doctor or a lawyer, falling short of the accepted standards of practice of that profession.

mandatory sentence

A criminal sentence that establishes the minimum length of prison time for specified crimes. This limits the amount of discretion a judge has when sentencing the defendant.

McKenzie friend

A person who is given approval by the judge to assist a party in a court case. A McKenzie friend can give advice to the party and take notes, but they cannot ask questions in court or talk about the case with anyone else.

mediation

A method of alternative dispute resolution in which a neutral third party, a mediator, helps the parties involved in a dispute come to an agreed settlement. The mediator does not impose a decision on the parties.

memorandum of issues

A document setting out the issues that need to be resolved. Sometimes the court will require the parties to the case to prepare a memorandum of issues.

mitigating circumstances

Factors relating to the circumstances of a crime that might justify the person being charged with a less serious offence than would otherwise apply or, if they're convicted, might justify them receiving a lighter sentence.

N

negligence

A failure to use the degree of care that a reasonable person would use in the same situation. 'Negligence' is a specific tort (or 'civil wrong') for which a person can be sued, but the term also features regularly in many different statutes and legal contexts.

nisi (order nisi)

An order nisi is an order that takes effect only under certain conditions. For example, an order may be made subject to one of the parties to the case coming to court and showing why the order shouldn't be made. An order nisi becomes unconditional (an 'order absolute') only if the relevant conditions aren't met. Nisi literally means 'unless'.

notary public

A lawyer authorised by the Archbishop of Canterbury in England to officially witness signatures on legal documents, collect sworn statements, administer oaths and certify the authenticity of legal documents usually for use overseas. A notary public is sometimes called a notary or a public notary.

notice of appeal

The document used by a person who wishes to appeal the decision of a court. The notice of appeal must be filed with the court they wish to appeal to.

O

oath

A declaration before a person who has authority to administer an oath, which invokes some religious belief and says that a thing is true or right. For example, a Christian would swear an oath on the Bible and a Muslim would swear on the Koran.

offence

An act or omission that society has outlawed as a threat to the safety or welfare of the public, and that will therefore be prosecuted and punished by the state.

offender

A person who has plead, or been found, guilty of committing an offence.

'on notice' application

An application to the court (also called an 'inter partes' application) where the application documents are 'served' on (given personally to) the person who the application is made against or who is to be affected by it (the 'respondent').

By contrast, a 'without notice' – or 'ex parte' – application is made without the respondent being notified about the application.

order

A command or direction issued by a Court or Tribunal.

ordinary power of attorney

An authority given by one person (the 'donor') to another person (the 'attorney') to make decisions and act on their behalf, particularly in business or legal matters, but which comes to an end if the donor loses mental capacity (for example, if they develop dementia or suffer a serious head injury). Compare with an 'enduring power of attorney'.

P

party/parties

Person(s) who begin court proceedings or person(s) who proceedings are brought against.

peremptory challenge

Another term for a 'challenge without cause' – a challenge that one side in a criminal or civil jury trial can make against a potential juror, without having to state a reason. (See also 'challenge for cause'.)

perjury

A crime in which a person knowingly makes a false statement while under oath in court.

permanent court record

The formal record of a charge. This includes details of the defendant, the charge, and all judgments and orders made in the case.

plea

A criminal defendant's answer to a charge, namely 'guilty' or 'not guilty'.

power of attorney

An authority given by one person (the 'donor') to another person (the 'attorney') to act and make legally binding decisions on their behalf.

post committal conference

The term previously used to describe the process where a defendant received a new bail bond after a case was committed for trial.

practice Note

Guidelines issued by courts for the procedures that must be followed in court, for example, the time limits for filing evidence with the court.

preamble

The beginning of a document indicating what it is. For example, in an affidavit the preamble may be 'I swear'.

precedent

A decision in a previous case that is used to support a decision in a later, similar case.

preliminary hearing (depositions)

A term used to describe a previous process for those defendants who were proceeding to a jury trial.

prima facie

A term used to describe a previous process where the prosecution in a criminal case established a prima facie case when they had enough evidence to suggest that there was a case for the defendant to answer and that therefore the charges should proceed to a hearing or trial. Prima facie is Latin for 'on first face', or 'on the face of it'.

prima facie evidence

Evidence used to establish a prima facie case against a criminal defendant.

prisoner

Any person in legal custody.

privileged (document or information)

A document or information that a party cannot be made to disclose in court.

pro se

If a person appears in court 'pro se', it means that the person represents himself or herself without the help of a lawyer. Pro se is Latin for 'for himself / herself'.

probable cause

A reasonable belief that a person has committed a crime.

proceeding

A case being considered by a court. It is started ('commenced') by a charging document (in criminal cases), or by an application or statement of claim being filed with the court (in civil or family cases).

prosecuting authority

An organisation authorised by a statute to issue infringement notices, for example, a city council issuing parking tickets.

prosecutor

The person conducting the proceedings against the defendant.

Q

quash

Where a court cancels something or declares it invalid, for example, where a criminal court cancels the charges against a defendant, or where an appeal court cancels a conviction entered in a lower court.

R

reasonable doubt

If a judge (or the jurors in a jury trial) are not satisfied beyond a reasonable doubt of a criminal defendant's guilt, they must find the defendant not guilty.

recognisance

A promise made in a court to do a particular thing, for example, to appear again in court or pay a debt.

refugee

A person can apply to a government for refugee status if they have a well-founded fear that, if they return to their own country, they'll be persecuted because of their race, religion, nationality, social group or political views.

Registrar

A Registrar is appointed and can exercise some of the courts powers as given to them by statutes and ensure that the formal court processes are followed.

registrar's list

During the life of a case the court will give a variety of directions to keep the case progressing towards a final decision. Some of these issues will be dealt with by a judge (see 'judge's list'), but many issues can be dealt with by the court registrar. These are set down on a 'registrar's list' of matters to be dealt with on that day. The registrar can, for example, make timetabling decisions (such as when the next step must be completed by or when the next hearing date will be), or check that a copy of an application has been served on the other side.

remand

When people are charged with criminal offences they're often 'remanded' to a later date, which means their case is put off for a certain period, allowing them to prepare or think further about their case, for example, to decide whether to plead guilty or not guilty to the charge

While on remand, the defendant can be:

- 'at large', which means they're free to leave the court without signing any paperwork or other order, on the basis that they attend court when required
- on bail, which means that they're also free to leave but that they must sign an order or form agreeing to return to court at a certain time and date (There may be bail conditions, such as living at a certain address, not contacting the victim, or reporting to the police each day)
- in custody, which means they're held in prison.

reparation

Money that a defendant in a criminal case can be sentenced to pay to the victim as compensation for financial costs or emotional harm.

representative

This is a person appointed by the court as either a guardian ad litem (litigation guardian) or 'next friend' to represent a minor or an incapacitated person (for example, someone with an intellectual disability). The difference between the two mainly relates to how they're appointed.

reserved decision

After hearing a case the judge may reserve his or her decision, which means to put off giving the decision to a later date or time, often in writing. The abbreviation 'Cur Ad Vult' will often appear on the written judgment when it is given to indicate this.

respondent

The person against whom an application to the court is made, or the opposing party to an appeal.

restitution

Returning someone's property to them. A judge in a criminal case can make an order for restitution.

A person can also bring a civil action under the law of 'restitution' to restore them to the position they were in before they suffered some loss or injury, if the defendant has received some benefit at the other person's expense.

restorative justice

The main goals of restorative justice are to provide opportunities for both victims and offenders to be involved in finding ways to hold the offender accountable for their offending and, as far as possible, repair the harm caused to the victim and community. This usually involves a restorative justice conference which must involve the victim (if they consent) and the offender (if they consent). The outcome of the conference is reported back to the court.

reverse onus

Reverse onus means that the defendant (rather than the prosecutor) has to prove something in a case. While the standard of proof that a prosecutor has to reach is beyond reasonable doubt, a defendant only has to prove the matter on the balance of probabilities.

RIC

This is an abbreviation for remand in custody.

rule

A procedural law relating to the way cases are dealt with in court.

S

search warrant

A written order issued by a judicial officer or Registrar that directs and authorises a police officer or other enforcement agent to search a specific place or area for a particular piece of evidence.

security

A sum of money provided by one of the parties to a case and held by the court until it gives its decision.

self-defence

Where an act that would otherwise be criminal was legally justified because it was necessary to protect a person or property from another person's actions or threats.

self-represented litigant (litigant in person)

A party who is not represented by a lawyer. Also known as a 'lay litigant'. In criminal proceedings such a person is referred to as an unrepresented defendant.

sentence

The punishment ordered by a court for a defendant convicted of a crime.

to sequester / sequestration (of a jury)

The practice of keeping the jury together and apart from other people until it has made a decision. The jury can be sequestered when it begins its deliberations (discussions), after all the evidence and arguments have been heard. If the jury's deliberations continue for a long time, a judge may order that they be sequestered overnight.

to serve/service of documents

The formal delivery of a legal document to a person who will be affected by it, for example, an application to a court. There are rules about the service of documents, for example, service may have to be in person rather than by post or electronically.

setting down

Where the court decides the date on which a case will have a court hearing.

settlement

Where the parties to a dispute reach an agreement without having a hearing or trial, or before a hearing or trial has ended. A settlement disposes the case.

sine die

If a court hearing is adjourned 'sine die', it is adjourned without setting a date for the hearing to resume. It means literally 'without day'.

slander

False and defamatory spoken words that harm another person's reputation, business or means of livelihood. Slander is spoken defamation; 'libel' is defamation through written words or images.

solicitor

There is a traditional distinction between:

- 1) a 'solicitor', a lawyer who can be approached for legal help by members of the public and who can handle clients' money through a trust account, but who cannot appear in court, and
- 2) a 'barrister', a lawyer who can appear in court but cannot do the work that solicitors do.

statutes

Laws made by Parliament, also known as 'Acts'.

statutory law

Law enacted by the legislative branch of government, as distinguished from case law or common law (judge-made law).

Statutory declaration

A declaration made before an authorised person declaring the truth of the statement's contents

Stay of proceedings

A direction made by a Judge (often after the application by the defendant's lawyer, although not always) that there has been a breach of their rights because of undue delay. This delay may have been caused by either the prosecution or the court.

submission

An argument that is presented to the court in support of an application. It can be written or oral (spoken).

subpoena

An old term meaning 'summons'. Latin for 'under penalty'. (See also 'summons' and 'duces tecum'.)

Summary of facts

Prepared by the prosecutors in a criminal case, this outlines the details of the offending with which the defendant has been charged. Once a defendant has pleaded guilty or been found guilty it is handed up in court and becomes part of the court file.

summing up

The judge's final instruction and advice to the jury after the lawyers for the two sides have made their final addresses.

summons

A notice to a defendant, witness or juror, requiring them to appear in court. The court may penalise a person who fails to appear after being summoned. ('Subpoena' is an old term for a summons.)

swearing in (of jury)

The stage at which jurors swear an oath or make an affirmation.

surety

A person who takes responsibility for another person fulfilling some obligation. For example, Bob borrows money from Anna, with the agreement that he will pay it back. Kate agrees with Bob and Anna to act as Bob's surety. If Bob fails to repay the money as agreed with Anna, Anna is entitled to seek repayment from Kate, as if it were Kate, and not Bob, who borrowed the money.

T

testimonium clause

The words that come immediately before a signature to a document – for example, 'In witness whereof'. Also known as an 'attestation clause'.

timetable

A list of dates given by a court for when the court's directions about the progress of a case must be carried out, for example, when the parties have to file evidence with the court.

transcript

A written, word-for-word record of what was said in a trial or other court proceeding.

trial

Refers to cases heard in court by a Judge-alone or a judge and a jury (whether civil or criminal).

U

ultra vires

If a person or body acts ultra vires, they act outside the legal limits of their powers. Ultra vires is Latin for 'beyond the powers'.

unanimous decision

A decision agreed to by all of those involved, for example, a jury.

V

verdict

The conclusion reached by a jury in a criminal or civil trial.

vexatious

Describes a court proceeding brought without any real merit, the purpose of which is to annoy or oppress the other party.

view

An inspection by the court and jury of a crime scene or the scene of an aspect of a case.

voir dire

A special hearing where the court examines whether particular evidence should be admitted in a criminal trial or whether a witness or juror is competent. Voir dire is common in criminal trials if the accused claims that a confession was given under duress. A voir dire is always heard in the absence of the jury.

W

waiver

This is where a person deliberately gives up (or 'waives') a right.

waiver of immunity

Where a witness, before testifying or producing evidence, gives up the right to refuse to testify against himself or herself, making it possible for this testimony to be used against him or her in future legal proceedings.

warrant to arrest

A court order authorising police to make an arrest or carry out a search.

warrant to seize

A warrant issued by a court authorising the police or some other person to seize property.

without notice

Applications to the court that are made ‘without notice’ are not ‘served’ on (given personally to) the person whom the application is made against or who is to be affected by it (the ‘respondent’). The respondent is therefore unaware of the application and doesn’t take part when the court hears and decides on the application. ‘Without notice’ applications are also called ‘ex parte’ applications, ex parte being Latin for ‘by or for one party’. The opposite of a ‘without notice’ application is an ‘on notice’ – or ‘inter partes’ – application.

without prejudice

When the parties involved in a dispute have discussions or exchange documents in a genuine attempt to resolve the dispute, they often specify that the process is ‘without prejudice’, which means that it can’t be referred to in any legal action that follows.

witness

A person who gives evidence in court about what they’ve seen, heard or otherwise experienced. Also, a person who observes the signing of a will or some other document.