

# 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 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.

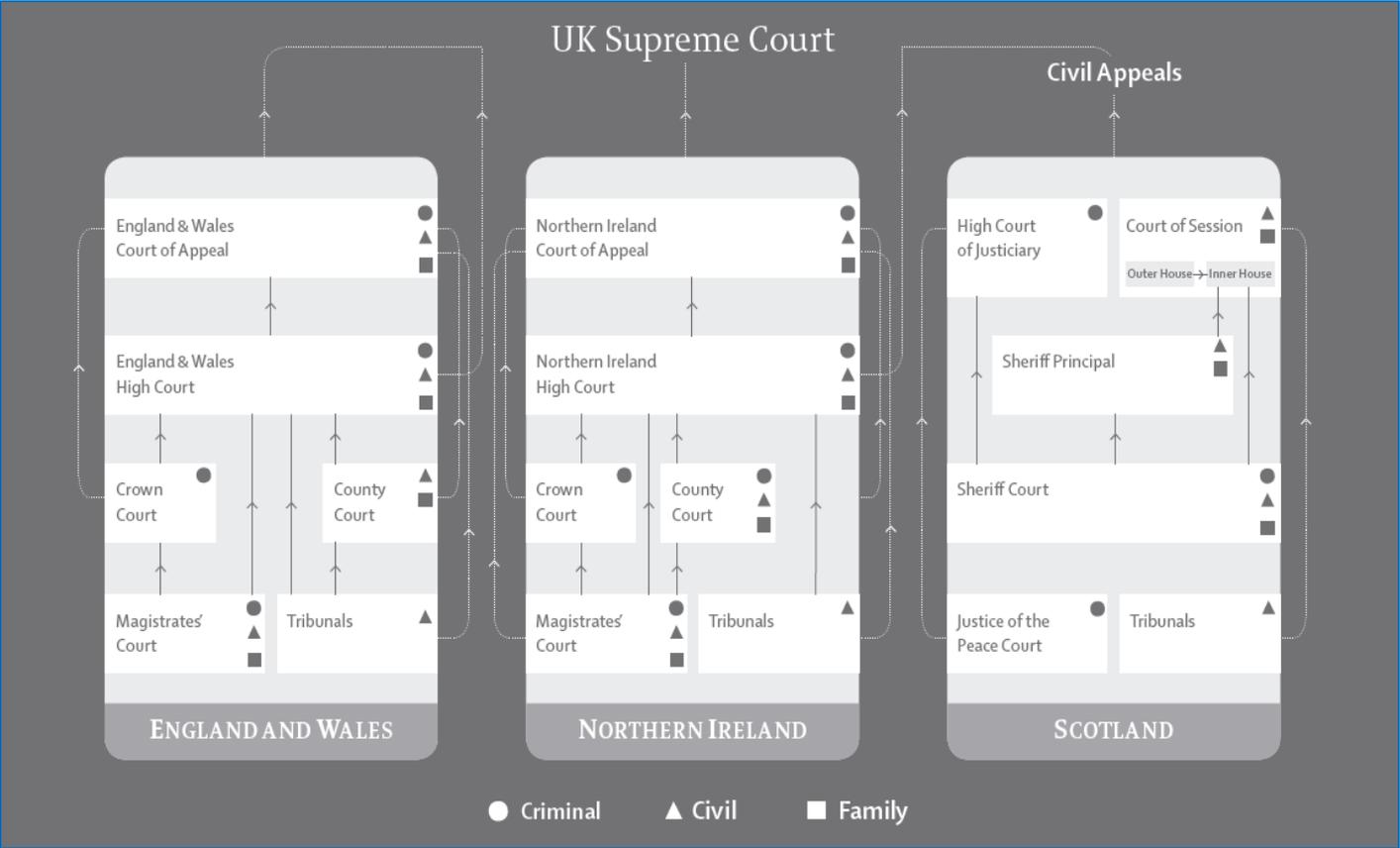
For example, during a during 'R (on the application of Miller and another (Respondents) v Secretary of State for Exiting the European Union (Appellant), a case about who had the authority to trigger Article 50, starting the process to leave the European Union, it was deemed so important that eleven judges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

A prenuptial agreement is the more common term for an 'ante-nuptial agreement'. It is a contract signed before marriage which determines how the assets (property and financial resources) would be split if the marriage were to break down. In 2009 prenuptials agreements were not enforceable in England and Wales, but on occasion would be upheld at a judge's discretion.

This differs from other parts of Europe and the United States where prenuptials have been recognised.



# Office for National Statistics

- Latest statistics (published December 2012) estimate that 42% of marriages in England and Wales end in divorce. It is also estimated that:
- 34% of marriages are expected to end in divorce by the 20th wedding anniversary.
- An additional 6% of marriages are expected to end by the 20th wedding anniversary because one of the spouses has died.
- Therefore 60% of marriages are expected to survive to the 20th anniversary.
- 16% of marriages reach the 60th wedding anniversary.
- The average marriage is expected to last for 32 years.

<http://www.ons.gov.uk/ons/rel/vsob1/divorces-in-england-and-wales/2011/sty-what-percentage-of-marriages-end-in-divorce.html>

### 3. UK Supreme Case

**Case Name:** Radmacher (Respondent) v Granatino (Appellant)

**Date of Hearing:** 22 and 23 March 2010

**Background Information:**

The appellant Granatino and respondent Radmacher (formerly Mrs Granatino) married in London in 1998, after signing a prenuptial agreement in Germany. The agreement provided that neither was to acquire any benefit from the property of the other during the marriage or on its termination. The wife's family was very wealthy. The husband, who at the time worked as a banker, declined the opportunity to take independent advice on the agreement.

The parties separated after 8 years of marriage, by which time they had two daughters and the husband had left employment to enrol at university.

After applying to the court for financial relief the husband was granted a sum sufficient to buy a London home where his children could visit, plus a significant annual income. The judge reduced the weight she attached to the agreement because of the circumstances in which it was signed.

The wife appealed successfully to the Court of Appeal, which held that the agreement should have been given decisive weight. The husband, Granatino, appealed to the Supreme Court.

## Other Cases Examples

It was reported in October 2000 that Swansea born actress Catherine Zeta Jones agreed to a prenuptial agreement meaning if she was to divorce she would receive £1 million per year for every year she was married to actor Michael Douglas. This was said to be less than the £3m per year she reportedly asked for.

Allegedly Zeta Jones waived the rights to Douglas' earnings, even though the wife usually gets half under Californian law.

Douglas supposedly has a £150m fortune but apparently insisted on a prenup after his first wife was allegedly awarded £44m.

<http://news.bbc.co.uk/1/hi/wales/963639.stm>

'In 2007, singer and former Beatles band member Paul McCartney's decision not to have a prenup with his then model wife Heather Mills cost him £24.3m.

In contrast, in the same year Britney Spears - worth an estimated \$120m - gave a mere \$1m to dancer Kevin Federline in their divorce after ensuring a watertight prenup.

In 2009 'Scottish Widows found that over half of people (56%) yet to be married would consider a prenuptial agreement. Of these, 12% saw a prenup as a way of securing financial independence, while 5% saw them as a way to ensure partners didn't get their hands on their money'

<http://www.theguardian.com/lifeandstyle/2009/sep/01/prenuptial-agreements-women>

## 4. Debate Topic and Rules



**Debate Question:** ‘Should prenuptial agreements be given decisive weight?’

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

### **For:**

Prenuptial agreements **SHOULD** be given decisive weight.

### **Against:**

Prenuptial agreements **SHOULD NOT** be given decisive weight.

### **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.

### Timetable for Debate

50 min debate preparation

Team For: 10 min

Team Against: 10 min

Break 4 minutes

Team For: 3-minute summary

Team Against: 3-minute summary

Judges 10 min to consider and deliver judgment

## **5. Useful Links:**

**Supreme Court website:**

<http://supremecourt.uk/>

**For more information about courts in the UK:**

<http://www.justice.gov.uk>

### **Background News Articles**

**Green light for prenuptial agreements?**

<http://news.bbc.co.uk/1/hi/business/8133631.stm> 16/04/2014

**Radmacher heiress case to guide law on prenuptials**

<http://news.bbc.co.uk/1/hi/uk/8580313.stm> 16/04/2014

**Prenuptial agreements enforced under UK law**

<http://www.theguardian.com/money/2010/oct/20/prenuptial-agreement-enforced-uk-law>

### **Judgments**

[http://www.supremecourt.uk/decided-cases/docs/UKSC\\_2009\\_0031\\_PressSummary.pdf](http://www.supremecourt.uk/decided-cases/docs/UKSC_2009_0031_PressSummary.pdf)

[http://www.supremecourt.uk/decided-cases/docs/UKSC\\_2009\\_0031\\_Judgment.pdf](http://www.supremecourt.uk/decided-cases/docs/UKSC_2009_0031_Judgment.pdf)