The Four Types of Law

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Common law

This is the law which has built up over centuries by Judges deciding cases. People are often confused by the common law as it is not set out neatly like an act of Parliament. You cannot ‘go’ anywhere and find it all written down in a list.

Plus it keeps changing. Bloggins v. Roe may decide the law in one way today, but then the Judge in Doe v. Smith the next year may come to a different conclusion!

However it is very important. For example, the law of negligence is almost entirely ‘Judge made’ stemming from a House of Lords decision in 1932.

There are many common law rules in landlord & tenant law, which is one reason why it can be confusing.
This is what most people think of when they think about someone ‘making law’. An act of Parliament has to be passed in both houses, the House of Commons and the House of Lords and then have the Royal assent.

However they often don’t come into force immediately, and when they do, it is often after various statutory instruments have been published which set out the detail of how things are to work.

For example the Housing Act 2004 did not come into force for several years after it was passed. Parts 1 and 2 came into force in 2006 with the tenancy deposit regulations section not coming into force until April 2007.

Having looked at how law is made - lets consider now the two main legal systems - the criminal law system and the civil law system.
When people think about ‘the law’ it is generally the criminal law they think about. Along with the police, magistrates courts, prison sentences, and so on.

The criminal law is all about the state punishing people (and sometimes now, corporations) for wrongdoing. Generally it is the police and the CPS who do the prosecuting, but not always.

For example for prosecutions under the gas regulations it is the Health and Safety Executive which takes action, and for most other housing related crimes, it is Local Authorities.
There is an awful lot more civil law than criminal law! The civil law is a complicated system for dealing with disputes between people. And with our complicated lives today, there is a lot of potential for dispute.

When you go to court in a civil claim, you are not going to get slapped in jail - but if you are not careful you could end up losing a lot of money!

Important areas of civil law for landlords are contract, land law, the law of trusts (which underpins how the law deals with people owning land together) and the law of agency (if you use a letting agent).

And of course landlord and tenant law ...
If you want to know more …

Check out the Easy Law for Landlords course
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