What is the Difference Between Public and Private Law?

Legal terminology or as it is often referred to 'legal jargon' can be confusing. There are many different types of law, ranging from private law to criminal law, administrative law and international law. The distinction between public law and private law has been an ever present. The best place to start in understanding this difference is to first identify and explain what is meant by private and public law.

What is Private Law

Let's start with Private law. Private law applies to any circumstances relating to relationships between individuals in a legal system. Therefore, this type of law governs the relationship between individuals and governments. This is also referred to as common law. It includes the law of property and trust, family law, the law of contract, mercantile law and the law of tort

Examples of Private Law

Common examples of private law can be found in organisations and employment. For example, the rules of behaviour established by an employer. This can be in the form of day to day rules such as no smoking at headquarters; no creation of a hostile work environment etc. The penalties for breaking these rules can range from an oral reprimand to being removed from the organisation.

Smoking indoors is a classic example of public vs private law regulation. As a public law, smoking indoors is prohibited in the UK. However, groups of citizens joined together to create a mutual agreement between property owners which the government has no regulation over. Covered by this private law, those within this property (often a pub) are then allowed to smoke indoors.

Subdivisions of Private Law

As previously mentioned, private law is also referred to as civil law. Some subdivisions of law fall under this umbrella:

Contract law

Law of torts

Property law

Labour law

Commercial law

Corporations law

Competition law

What is Public Law

Let's move onto public law. Public law is a set of rules that govern the relationships between private individuals or private organisations and public bodies (like Government departments and local authorities). In general terms, public law deals with issues that affect the general public or society as a whole. Some other laws that fall under this public law umbrella are:

Administrative law

Constitutional laws

Criminal laws

Municipal laws

International laws

What is a Public Body?

Circumstances involving public bodies fall under this law. Usually, public bodies and officials get their authority to make decisions and to take action from Parliament, in the form of legislation. The following are all examples of public bodies:

Government ministers, departments and agencies

Local authorities (including social services, housing departments and local education authorities)

Health authorities (including the NHS)

The police, prisons, courts, statutory tribunals, coroners' courts, and regulatory and supervisory bodies like the General Medical Council.

Examples of Public Functions

Public bodies carry out public functions. However, providing housing and community care is now carried out by private organisations. A private organisation may be controlled by public law if it is doing something that a public body would otherwise usually do, i.e. if it is carrying out a public function.

Other public body functions include:

Local authorities deciding whether or not to provide accommodation

The DWP deciding whether or not to award someone welfare benefits

Government minister deciding to lay regulations that determine who can access Legal Aid

Local authorities deciding whether to grant planning permission.

What is the Difference Between Public Law and Private Law?

Some differences may already have become apparent after defining them but let's highlight the differences. Generally these two titles are purely for categorisation for grouping laws within the legal system. Public law is regulation of the legal system itself, rather than the regulation of individ