
Practical Legal Research
Study Unit 1
Introduction To Key Research Resources
Student Instructions

BRISTOL STUDENTS: Please note that PLR Workshop 1 will take place in the Bolland Library, not in the LPC baserooms. You will need your swipe card to enter the library. You then need to head to the 5th floor – turn right out of whichever staircase you use, & head to the far end of the floor. 5D13, the Law Library Search area, is on your right. Please make sure you arrive at 5D13 at least 5 minutes before your workshop is due to start.

NCLT STUDENTS: Please refer to your timetable for the location of PLR Workshop 1 as it may not be in the usual LPC base rooms. Please ensure you arrive at the relevant room at least 5 minutes before the workshop is due to start.

STUDENT INSTRUCTIONS

1 Introduction

This Study Unit:-

- is the first of three Study Units in Practical Legal Research (“PLR”)
- is the only Study Unit dealing with Key Research Resources
- consists of this face to face workshop, together with the associated preparatory & post workshop tasks
- links to an Additional Exercise (*details of which are set out in paragraph 10 of these Student Instructions*)

2 Teaching Aims

In this Study Unit we will:

- Introduce you to PLR in the context of the Legal Practice Course & professional legal practice
- Give an overview of how you will study PLR on the LPC
- Consider your approach to answering different types of legal research problems
- Introduce you to legal research strategies and legal research starting points
- Develop your awareness of different legal research tools & your ability to use them
- Provide you with opportunities to practice your information retrieval skills using Halsbury’s Laws (both in paper & online format), Lexis & Westlaw
- Consider how the process & results of your legal research can be presented clearly & accurately

3 Learning Outcomes

When you have completed this Study Unit you will be able to:

- Identify the nature of the problem to be researched
- Decide on the appropriate resources to research the problem
- Undertake your research effectively
- Clearly & accurately document your research

4 Preparation for the workshop

By way of preparation:

4.1 Read Documents 1, 2 and 3 of the Document Bundle.

4.2 Undertake **Preparatory Task 1: How to approach a legal research problem**

- Read Document 4 in the Document Bundle. (This is an example of one type of question you will have to do in the PLR assessment.)
- Consider the issues you would need to research to answer this problem
- Consider what resources you might utilise to research an answer to this problem
- Come to the workshop armed with your thoughts ready to discuss with your tutor & your group

4.3 Undertake **Preparatory Task 2: Researching using Lexis & Westlaw**

In preparation for the workshop use both Lexis & Westlaw to research answers to each of the following questions (Note: you will need your UWE username and password to access these databases. These details will be issued to you once you have enrolled as a student on the course.)

- a) What is the title of SI 1996/131? Under the authority of what statute was the SI made? Is it in force? If not, what statute or statutory instrument amended it (and has this been amended/revoked?)
- b) Find all cases decided in 2004 which referred to *Tulk v Moxhay* (the case on restrictive covenants). Identify which courts these cases were heard.
- c) Find all cases which considered the provisions of s84 of the Copyright Designs and Patents Act 1988. What is s84 about?

Note your answers (and any points for discussion) and be ready to discuss these in the workshop.

4.4 Bring these Instructions, the Document Bundle and your PLR Resource Book (issued to you at the start of the course) to the workshop. **You will also need your UWE Username & Password to access the UWE library databases.**

5 Introductory task

5.1 At the beginning of the workshop we will review **Preparatory Task 1**, when you considered how you would approach researching an answer to the legal research problem set out in Document 4 of the Document Bundle.

5.2 You will initially review your work with another member of the group.

- 5.3 Some of you will be invited to present your ideas & your tutor will lead a group discussion on legal research strategies.

6 Workshop activity 1

- 6.1 Your tutor will explain the process of using Halsbury's Laws (paper version) to research a problem & give a demonstration of how to use this resource
- 6.2 In small groups, you will then research answers to questions using Halsbury's Laws (these questions will be handed out in the workshop):
- You should use Halsbury's Laws to identify answers to the questions.
 - Remember to make (and keep!) a note of your research process. This is so that you can write up your answers to the questions later on.
 - You will need to note the Halsbury's volume number and paragraph(s) from which the information was found.
 - You should also make a note of relevant primary source(s).
 - However, at this stage you do **not** need to read/analyse the primary sources.
- 6.3 In plenary, we will review your use of Halsbury's Laws to answer the questions.
- 6.4 You will be asked to give feedback to the group on your research & you should note feedback from your peers/tutor.
- 6.5 Your tutor will explain the process of using Halsbury's Laws of England online to research a problem & provide a demonstration of how to use the resource.

7 Workshop activity 2

- 7.1 We will then review **Preparatory Task 2**, when you used Lexis & Westlaw to research answers to the questions at paragraph 4.3.
- 7.2 You will be asked to present your answers to the group &/or feedback on your use of the databases, including any preferences you had in the use of Lexis or Westlaw to find answers to the questions.
- 7.3 Note feedback from your peers/tutor.

8 Workshop activity 3

- 8.1 Working in pairs you will use Lexis & Westlaw to undertake further research questions (these will be handed out in the workshop).
- 8.2 In plenary, we will review your use of Lexis & Westlaw to answer the questions.
- 8.3 You will be asked to give feedback to the group & should note feedback from your peers/tutor.

9 Review and consolidation

After the workshop, complete the following tasks:

- 9.1 Using Lexis & Westlaw, research answers to the remaining questions in Document 3 of the Supplementary Document Bundle.
- Review your answers with sample answers posted on Blackboard (in the After the Workshop subfolder within the Study Unit 1 folder).
 - Complete the self assessment feedback form at Document 4 of the Supplementary Document Bundle.
- 9.2 Research at least one more Halsburys question from Document 2 of the Supplementary Document Bundle. Again find the answer in Halsbury's and a note of relevant primary source(s). However, for this exercise you do not need to read/analyse the primary sources.
- Initially find the answer using Halsbury's Laws (paper version)
 - Repeat your research of the same question using Halsbury's Laws (online).
 - Compare these processes, which (if any) worked best?
- Note you will not have access to sample answers to the Halsbury's questions until after you have completed the Additional Exercise (see paragraph 10 below)*
- 9.3 Consolidate your understanding of your approach to researching problems &/or your use of these resources, by reference to
- the chapter on Legal Research in the "Lawyers Skills" Manual (OUP); &/or
 - Sections B and C of the PLR Resource Book
- 9.4 If you still find you are unsure about how to use Halsbury's Laws of England, Westlaw or Lexis Library you may find it useful to watch the video recordings referred to in the Study Unit 1 folder on Blackboard. (These largely repeat the information provided in the workshop and the PLR Resource Book.)

10 Additional Exercise

- 10.1 Please note that there is an Additional Exercise associated with this Study Unit, to be undertaken before PLR Study Unit 2.
- 10.2 For this Additional Exercise you should research one of the Halsburys questions which you have not already researched.
- 10.3 You should:
- use both Halsbury's paper & online to find your answer.

- complete your research process by using Lexis &/or Westlaw to analyse all the relevant primary sources
- type up your answer, setting out a brief explanation of the issues
- type up a research trail documenting your process of research

In the Additional Exercise sub folder within the Study Unit 1 folder on Blackboard you will find an example answer for the Wayne Deville problem at Document 4 of the Document Bundle. This example answer will give you an idea of the level of detail we expect in order to answer this type of question and also how to construct a research trail.

- 10.4** Swap your answer with one of your group and review their answer & research trail with the answer guides which will be posted on Blackboard in the Additional Exercise sub folder within the Study Unit 1 folder.
- 10.5** Complete the peer assessment feedback form at Document 5 of the Supplementary Document Bundle.

Practical Legal Research
Study Unit 1
Introduction To Key Research Resources
Document Bundle

This bundle contains:

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DOCUMENT 1

THE SKILL OF PRACTICAL LEGAL RESEARCH

1. Introduction

The ability to research and analyse problems is one of the most important skills required of a lawyer in practice. It is a skill you will require throughout your career, but is one which is particularly critical to your future work as a Trainee Solicitor, because in practice you will regularly have to undertake research for the solicitors you work with.

Many practitioners tell us that their Trainees' legal research skills are not as effective as they would like them to be. We therefore recognise the importance of developing your research skills during the LPC, so you can use them to suitably impress your colleagues!

The idea of "developing" those skills is a key concept. We recognise that:

- You will come to this course with varying degrees of experience in the arts of legal research, whether as part of your law studies at University or any work you may have done in legal practice.
- Some Undergraduate law programmes place greater emphasis on legal research activities than others.
- Some of you will have extensive experience of using online databases, such as Westlaw and Lexis, to analyse statutes, statutory instruments & cases. Some of you may even have read a court report or statute in paper form!
- Some students come to the LPC confessing never to have read a case report, whether through thumbing the dusty pages of a law report or reading the report online.

Whatever the extent of your legal research experience and whether you consider it to be one of your strengths or weaknesses, our goal is to provide you with plenty of opportunity to develop these critical skills you will need for legal practice.

Practical Legal Research ("PLR") is not a skill which can be taught in any great detail. We will show you the basic tools which you will need to be an effective legal researcher. It is then down to you to develop those skills and take the opportunity to practise. You will have lots of opportunity to practise PLR on the LPC, whether as part of your discrete PLR Study Units, or within your study of other subjects on the course.

2. What are the Learning Outcomes for PLR on the LPC?

We hope that by the time you have finished your studies on the LPC you will be able to achieve the following three Learning Outcomes:

- a) Understand the need for thorough investigation of all relevant factual and legal issues involved in a transaction or matter;
- b) Be able to undertake systematic and comprehensive legal research; and

c) Be able to present the results of your research.

Below is an explanation of the Learning Outcomes. Each Learning Outcome contains sub elements which are also explained as appropriate.

(a) *Understand the need for thorough investigation of all relevant factual and legal issues involved in a transaction or matter.*

Much of the work you do in practice will not come neatly presented, packaged and labelled. For example, a new client may not telephone explaining that they have been sexually harassed by one of their colleagues at the work Christmas Party contrary to s26 of the Equality Act, for which their employer is vicariously liable in accordance with s109 of the Act, a claim they need urgent advice on because the 3 month limitation period to make the complaint is about to expire next week.

It is more likely that you will have to sort a series of facts presented by the client (usually in a less than helpful & unstructured way), identify what the legal issues are and research the position correctly, in order to give accurate advice to the client. Sometimes you may have a rough idea of the legal issues you will need to research, but at other times you will not.

Indeed, much legal research undertaken by trainees will involve investigating problems which they have never encountered in their studies (whether on a LLB, LLM or CPE programme). Imagine yourself working as a trainee for a large City Firm; you are in a corporate law seat. The Chief Executive of one of your Principal's leading Blue Chip clients has just rung, as her 8 year old daughter wants to buy an rare Cane Toad which would be imported from South America. They are concerned about any quarantine & licensing implications. Neither you nor your Principal studied the law of Cane Toad importation at University or Law School and therefore do not have an instant answer tripping off your tongue. Over to you!

One of the key skills we seek to develop as part of your PLR studies on the LPC is your ability to analyse and sort information within a problem (identifying key facts, differentiating chaff from wheat etc) then being able to determine the probable area of law within which an answer to the problem can be found.

Finally, one aspect of Trainees' legal research which is often at the top of "practitioners' wish lists" is for trainees to have a better understanding of the context in which they are researching a problem. There are two strands to this:

- One is to "understand the bigger picture". The Internet can provide instant access to information, but this can be at the expense of understanding the context of the law you are researching. Asked to research an employer's vicarious liability for its employees' acts of sex discrimination, you may use Westlaw or Lexis Library to find the most recent case on the subject. But in getting there quickly, did you really understand the nuances of the law in this area and acquire a depth of knowledge that may be necessary to properly analyse & answer the problem which your Principal or client has given to you?
- The second is to research a problem in the context of the client's needs. Practical Legal Research is not the same as an academic dissertation on the history of the law, it needs to be focused and tailored to any client's particular needs. Considering the context of the research you are undertaking and the advice you are giving to a client is a key skill we aim to develop in all aspects of your studies on the LPC.

So we aim to develop your ability to:

- ***determine the scope of your research and identify the objectives***
- ***determine whether additional information is required and identify appropriate sources for factual investigation***
- ***identify the legal context(s) and analyse the legal issues***
- ***address all relevant legal and factual issues.***

(b) *Be able to undertake systematic and comprehensive legal research.*

The second key Learning Outcome is all about being able to research the law effectively. These are the key skills we will help you to develop:

- ***Undertaking systematic and comprehensive research***

This involves planning your research, then undertaking it in a logically structured manner.

- ***Identifying, prioritising and using relevant primary and secondary sources***

You need to think about what resources you need to use to undertake your research. Sometimes you may be able to find an answer researching just from primary sources; at other times starting with a secondary source is needed to help you to understand the issues & to focus your research.

- ***Selecting and using appropriate paper and electronic research tools (including journals and practitioner texts)***

Having identified whether to use primary &/or secondary sources, you need to decide which ones to use, & whether to use paper or electronic resources, or both! Online resources can often be helpful research tools, but so can books!

- ***Locating and updating cases, statutes and statutory instruments***

The art of using your resources to find & analyse what you are looking for. Accuracy & attention to detail are two key skills to focus on here.

- ***Identifying and applying current case law, statute law, statutory instruments, regulations and rules to the research problem, drawing clear conclusions***

Having found the relevant legal sources, identifying those elements of the case, statute or statutory instrument which are particularly relevant to the problem you are researching and appropriately applying the law to the facts to reach the correct conclusions.

(c) Being able to present the results of your research

The third Learning Outcome is again something which practitioners would like their trainees to do better! Here you can put to good use your skills of Writing & Drafting which you are developing on the LPC:

- **keeping a methodical, accurate and complete record of your research**

You will need to keep a clear record of everything you do when researching. This is essential if you need to go back & check something in your research or retrace your steps. It gives you the notes you need to present your answers.

- **presenting the results of your investigation and research in a clear & well structured way**

In practice & on the LPC you will be expected to clearly document both your answer to the problem & the process which allowed you to reach that answer!

3. How will PLR be taught?

You will have

- Three Study Units dedicated to PLR
- An extensive bank of research problems which we will give to you to work on
- One Additional Exercise (undertaken in conjunction with PLR Study Unit 1)
- A practice PLR assessment (on which you will receive tutor feedback)
- Opportunities to practise your PLR skills as part of your other studies on the LPC

4. Feedback/ Review

As with all LPC skills, PLR is a skill to be practised and in order to improve it is very important to reflect and evaluate your performance (this may be through self assessment, peer review or tutor feedback). We will be helping you to do this regularly and we have designed a feedback sheet which we will ask you to complete at various stages for this purpose.

5. How will PLR be assessed on the LPC?

There will be a discrete PLR assessment which will be marked against the Assessment Criteria (see below). You will be advised of the relevant assessment dates for your cohort later in the course.

You will be given a series of legal problems to research. Some problems will test your ability to find & analyse cases, statutes & statutory instruments. You will then have a more detailed problem to answer. You will need to analyse the problem to work out what legal issues you need to research; you will then need to undertake your research and find an answer; then you will need to write up your answer with detail, accuracy and clarity.

Your PLR assessment is the only take-home assessment you will have on the LPC.

- This does not mean you will be able to ask friend (whether fellow LPC students or anyone else keen to join in) to assist you! Your PLR assessment must be your own work.
- You will all have different questions to answer. You will have enough to do so that you shouldn't even have time to help others with their assessment. Collusion is a serious assessment offence & could get you into hot water, not just with the University but with the SRA.

It is also a take-home assessment with a strict hand-in deadline! Legal practice will require you to observe strict deadlines, so having a strict deadline for completing your PLR assessment is good practice!

As with the other skills assessments, your assessment in PLR will be assessed on a competent/ non-competent basis and individual grades/marks will not be given.

Before you take the PLR assessment there will be a PLR practice assessment. We strongly urge you to attempt this and submit your answers for marking by your tutor.

6. What are the Assessment Criteria?

<p>Undertaking thorough analysis of all relevant factual and legal issues</p> <p>Analysing questions & problems appropriately to identify all relevant facts & issues. Identifying key search terms & research questions</p> <p>Determining the scope of research and identifying the objectives. Identifying the legal context(s)</p>
<p>Being able to undertake systematic and comprehensive legal research.</p> <p>Selecting and using appropriate research tools. Identifying, prioritising & using relevant primary and secondary sources</p> <p>Locating and updating cases, statutes and statutory instruments.</p> <p>Identifying and applying relevant legal sources to the research problem, drawing clear conclusions</p>
<p>Being able to present the results of your research</p> <p>Keeping a methodical, accurate and complete record of your research</p> <p>Presenting the results of your investigation and research in a clear & well structured way</p>

DOCUMENT 2

ACCESSING UWE LIBRARY ELECTRONIC DATABASES

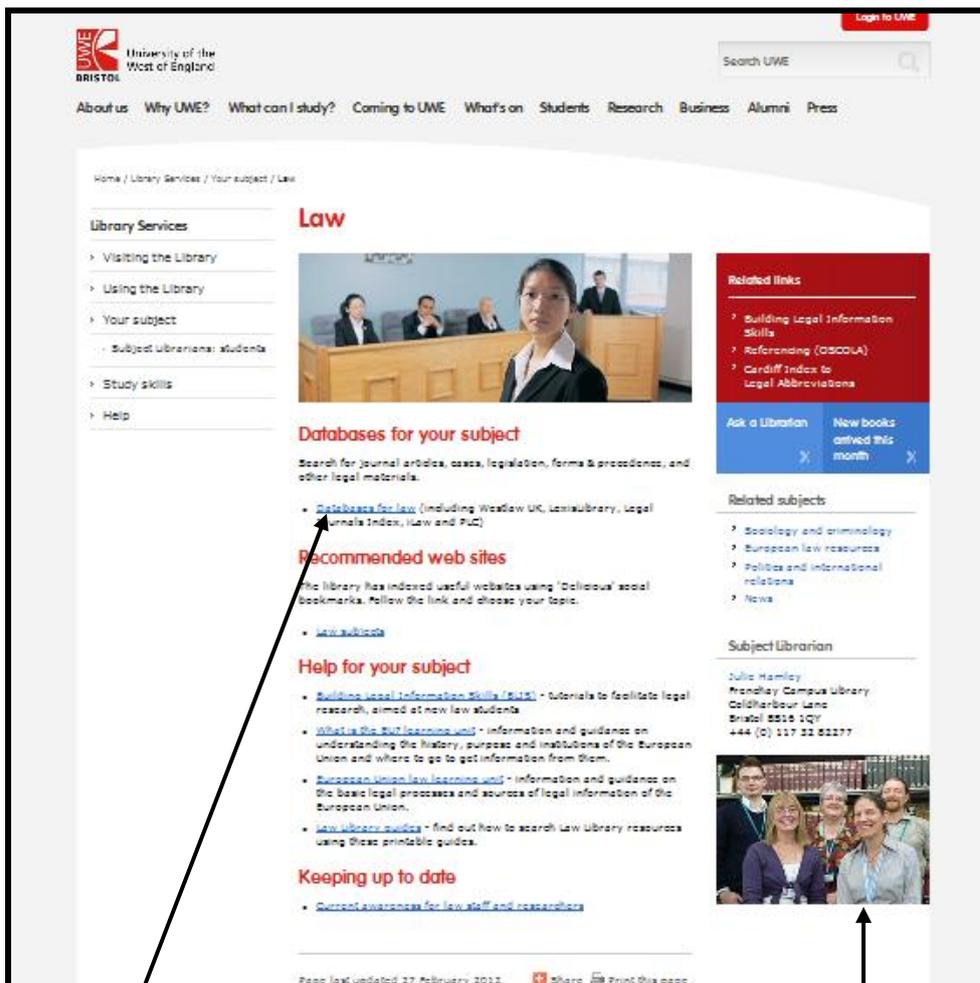
Here is a step by step guide to accessing Lexis Library & Westlaw through the UWE library.

To begin, go to the UWE home page, & find the link to the library



Then click on the link headed “Your Subject” and select “Law” from the list. This will take you to the screen in **Fig. i.** on the next page.

All of UWE’s subscription law databases can be accessed via the **Databases for Law** list from the Library’s subject resources web pages for law at <http://www1.uwe.ac.uk/library/yoursubject/law.aspx> (see **Fig. i.**).



Click on the link marked **Databases for law**.

If you have problems with any of the databases, contact your **Librarians**.

Fig. i

This will take you to an alphabetical list of all the electronic law resources available via **UWE** (see **Fig. ii.**) on the next page.

You can narrow down the list of databases by selecting one of the sub-categories at the top

Click on the title of the database you wish to access.

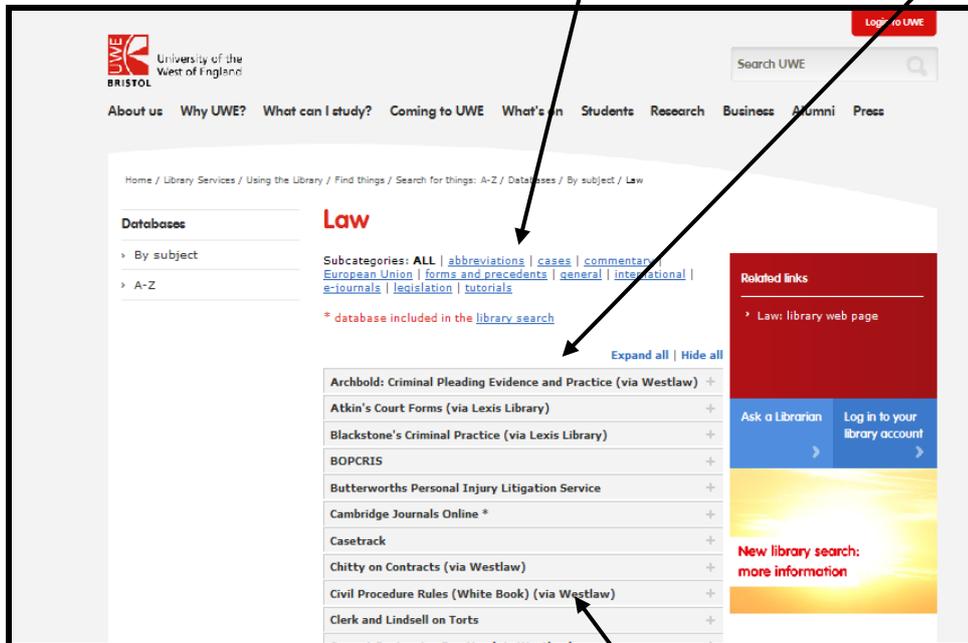


Fig. ii.

Click on the title for more in-depth guides for each of the resources available.

You can access any of the databases by clicking on their title in the alphabetical list. The database will open in a new window. This can take a few seconds depending on the database and the speed of your connection.

For the purposes of Study Unit 1 you need to select Lexis Library and Westlaw UK from the list of databases. (Note: you will need your UWE username and password to access these databases. These details will be issued to you once you have enrolled as a student on the course.)

If you need a reminder about using these databases, there are some guides on the UWE library website which you will see listed once you have selected the database from the list in **Fig. ii**. (Additionally when you start the course you will be issued with our PLR Resource Book which will give comprehensive illustrative guides in the appendices).

DOCUMENT 3

CASE CITATIONS & APPELLATE HISTORY

CASE CITATIONS

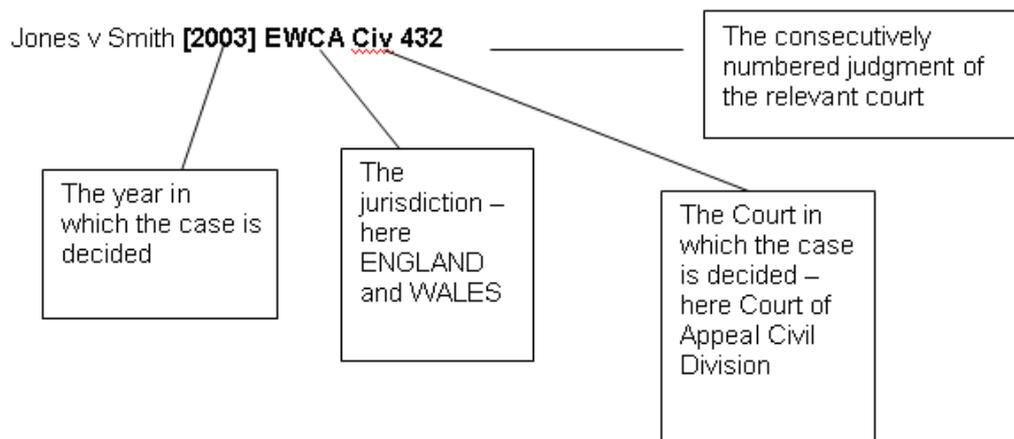
All cases in the High Court, Court of Appeal and Supreme Court now have a neutral citation (since January 2001) and these must be incorporated in the formal citation of a case.

You should always cite the neutral citation of a case when referring to it in an answer to a legal research problem

The abbreviations for the Courts used in neutral citations are:

Supreme Court	UKSC
House of Lords	UKHL
Court of Appeal	EWCA
High Court	EWHC

The neutral citation is:-



So this case is the 432nd decision of the Court of Appeal civil division of England and Wales in 2003.

With effect from 14 January 2002 the practice of neutral citation was extended to all judgments given by judges in the High Court in London. A unique number will be furnished to every such High Court judgment from a register kept at the High Court. A unique number will also be furnished, on request (see below) to High Court judgments delivered by judges outside London.

The judgments are numbered in the following way:

Court	Neutral citation
Chancery Division	EWHC number (Ch)
Patents Court	EWHC number (Pat)
Queen's Bench Division	EWHC number (QB)
Administrative Court	EWHC number (Admin)
Commercial Court	EWHC number (Comm)
Admiralty Court	EWHC number (Admlty)
Technology & Construction Court	EWHC number (TCC)
Family Division	EWHC number (Fam)

For example, [2002] EWHC 123 (Fam), or [2002] EWHC 124 (QB), or [2002] EWHC 125 (Ch).

When referring to a case when answering a legal research problem, then as well as citing the neutral citation you must also cite the (or one of the) written report citations e.g.

Jones v Smith [2003] EWCA Civ 432, [2003] AC 503

Year of report. Square brackets indicate that you need year to find case. Round brackets indicate that the year is not important but the Volume is

Reports series. Look in Raistrick for abbreviations. The Law Reports (AC, Ch, Fam, QB) must be cited if a case is reported in there. Otherwise you can cite from any formal written source.

Page number

APPELLATE HISTORY

You may be asked to give the appellate history of a case – this is a brief summary of the progress of the case through the courts. You may choose to add a little detail (this is not essential) but in its briefest form an appellate history will simply set out which courts considered the case and whether they upheld or reversed earlier decisions.

Here is an example of an appellate history (note the use of neutral & reporting citations in the Court of Appeal & House of Lords decisions!)

Employment Appeal Tribunal

Dunnachie v Kingston upon Hull City Council [2003] I.C.R. 1294

Reversed the decision of an Employment Tribunal to award an employee damages for non-economic loss in an unfair dismissal claim

Reversed by Court of Appeal (Civil Division)

Dunnachie v Kingston upon Hull City Council [2004] EWCA Civ 84; [2004] 2 All E.R. 501;

Damages for non-economic loss could be awarded by an Employment Tribunal in an unfair dismissal claim

Reversed by House of Lords

Dunnachie v Kingston upon Hull City Council [2004] UKHL 36; [2005] 1 A.C. 226;

Damages for non-economic loss (such as injury to feelings) should not form part of the compensation awarded under s123(1) Employment Rights Act in an unfair dismissal claim.

DOCUMENT 4

SAMPLE LEGAL RESEARCH PROBLEM

Question

To: Trainee
From: Principal
Matter: Wayne Deville – constitution of magistrates' bench
Date: Today

Wayne is 15 and is constantly in trouble. Last month I represented him in the Youth Court on a charge of criminal damage and, unfortunately he was found guilty. I was visiting him last week to discuss yet another pending matter and he tells me that he thinks he has grounds for appeal against the magistrates' decision.

A "mate" of Wayne's has suggested that he should appeal because there was no woman on the bench at his trial. The Clerk raised this at the time of the hearing. He told me that it was not practicably possible to provide a properly constituted bench that day but we could adjourn if Wayne and his father were unhappy about the situation.

My understanding was that if the defendant was legally represented and consented to the constitution of the tribunal, the absence of a woman was not a problem. I couldn't see any prejudice to Wayne. I explained the position to him and his father and both were keen for the hearing to be dealt with that day. I gave consent for the hearing to proceed, as did the solicitor from the CPS.

I'm sure that this is the end of the matter but please could you double check for me.

Many thanks.

Principal