

ESSAY WRITING

The materials in this section are designed to supplement the contents of Chapters 2 and 3. Here we look at three specific topics:

- devising a strategy for answering ‘problem questions’
- the importance of references, footnotes and bibliography
- using the correct form of legal citation

1. Answering legal problem questions (Section 3.4.2)

In *Learning Legal Rules* we identified three strategies to assist you in answering problems:

- (1) BE CLEAR THAT YOU KNOW WHAT THE QUESTION WANTS AND DELIVER IT (ie, if it says “Advise Dan whether there is a contract” do that, and nothing else)
- (2) LOOK FOR THE “EXTRA MARKS” – as we said most questions are set to enable you to show what you know: there will be some marks allocated for showing basic knowledge and understanding of the law, but most of the credit is awarded for showing an ability to apply knowledge to the facts, and for identifying points of difficulty (eg, recognising that the law on a particular point is uncertain, and identifying alternative legal solutions)
- (3) BEING SYSTEMATIC IN YOUR APPROACH – that is, use the structure of and information contained in the question to help you construct an answer, ie by checking that you have identified every material fact; that you have noted any important gaps in the facts which could influence the legal outcome.

What we have not given you in the book, however, is a *model* for structuring your answer utilising these strategies. In fact, there are a number of (similar) models available. Though some law teachers take the view that they can be too formulaic, we think they are a useful tool in developing competence and confidence in answering problem questions. One of the most widely used is “**IRAC**”. This requires you to break your answer down into four elements:

1. Introduce the **Issues**: show that you have correctly identified that the problem raises the issues (say) of the *mens rea* in homicide and defences to murder, or of what steps can constitute consideration in contract.
2. Discuss the **Rules**: this enables you to show that you know the law. Don’t use it as an opportunity just to write everything you know about murder, or consideration. Keep it focused to the issues, but don’t stray into the detailed analysis of fact at this stage
3. Next, **Apply** the rules to the facts in this scenario. Make sure

here that you state the legal implications of all the material facts, and identify any issues of doubt. Cross-refer to authorities (statute, precedent or maybe even academic authority) wherever possible – most of these you will have already discussed in the **Rules** part of your answer.

4. Finally, **Conclude** by summarising your analysis. This is an opportunity to make clear that you have appreciated your instructions. If the question says “advise Diana” than phrase your conclusion as legal advice to Diana – make it clear (so far as the information given to you allows) whether, on these facts, you think Diana is liable. If you cannot come to a definite conclusion clearly state why and identify what information you would need to complete your advice.

2. Referencing your work

Referencing is an important skill, particularly if you are undertaking coursework or completing a project.

Why does referencing matter?

Referencing is really a matter of integrity. Effective referencing:

- should be clear and accurate enough for your reader to identify precisely the sources you have used and your care and accuracy in using them
- protects you from charges of *plagiarism*. At its simplest plagiarism is using someone else’s words and ideas and passing them off as your own. Deliberate plagiarism is simply dishonest
- enables you to show accurately the breadth and depth of your research, and hence to obtain the credit you deserve for that effort.

How should you reference your work?

There are a number of approaches, and you may find that your law school (or even a particular tutor) has a preferred style. The following options are more or less standard, and in the absence of more specific guidance, should be considered:

Footnotes/Endnotes

These perform the same function. Footnotes appear at the bottom of the page

to which the reference refers, endnotes are collated at the end of the document. All good word-processing packages (eg, Word, WordPerfect, etc) have automatic footnote/endnote facilities which make the creation of notes relatively easy.

They should provide the following information:

- If you are using footnotes/endnotes, you should provide a full bibliographic reference to your sources. This means
 - books should identify author(s), title, edition, place of publication and publisher, date of publication, thus:

Holland, JA & Webb, JS, *Learning Legal Rules*, 6th Edition, (Oxford, Oxford University Press, 2006).

- articles should cite the author(s), title, and journal reference. The title of the journal may either be cited in full or, if there is one, by using a recognised abbreviation (see the list of citations, below), thus:

Webb, J, 'Being a Lawyer/Being a Human Being' [2002] *Legal Ethics* 130

or

Webb, J, 'Being a Lawyer/Being a Human Being' [2002] LE 130

- cases, except where the case name appears in the text, your note should cite the full case name and its citation using the accepted form of reference for that series of reports (see also the list below). Thus:

R v Simpson [2003] EWCA Crim 1499

Where the case name appears in the text, for that reference only it is acceptable for the note to give the year and citation only.

- Wherever you are quoting or paraphrasing a particular passage of a book, case, article or statute, you **must** reference it. Your reference should include the specific page number of the resource to which you refer.

Harvard Referencing

This is much less used in legal scholarship than it is in the social sciences, but you may come across this style in inter-disciplinary or socio-legal materials and courses, so it is helpful to be aware of how it works. It is also a means of referencing without resorting to footnotes (this why we used a modified form of Harvard referencing in *Learning Legal Rules*.). The system works like this:

Works are cited in the text by author and year only (with page references if appropriate), thus:

A number of writers (eg Flood, 1996; Martiny, 1999) argue that the international law firms are extremely sensitive to “choice-of-law” problems that may arise when conflicts occur in their clients transnational business transactions

or you could say

Flood (1996:170) argues that.... (where 170 is the relevant page number)

The references in the text are then cross-referable to your bibliography where they should appear thus:

Flood, J (1996) “Megalawyering in the Global Order: The Cultural, Social and Economic Transformation of Global Legal Practice”, *International Journal of the Legal Profession*, 3, 169. [Note: here ‘3’ is the volume number and ‘169’ is the first page; note also that standard journal abbreviations are not used with the Harvard method]

The format for citing books is similar, thus:

Downes, D & Rock, P (2003) *Understanding Deviance*, 4th edition (Oxford: Oxford University Press)

Cases and statutes must be cited in the text when you are using Harvard. It is OK to use the standard system of case citation however.

3. Current UK Law Report & Journal Citations (Sections 2.2.3 and 3.4)

Law Reports

The following abbreviations are those in accepted use for the more commonly cited, current, series of law reports in the UK and Commonwealth. A number of earlier series, which were discontinued during the C20th are also included. There has been a massive explosion in the number of specialist law reports since the early 1990s. Many of these new series have been created primarily for the practitioner market as an alternative to the more traditional generalist

series. There is often relatively little that can be found in them that cannot be found elsewhere (albeit with greater difficulty). Moreover, many of these series are not carried by most university libraries, consequently we have not, for the most part, included them here. References for the various nominate reports and earlier (C19th) publications of the Incorporated Council of Law Reporting are also not included here. They can be found in Donald Raistrick's Index to Legal Citations and Abbreviations (1981).

-A-

AC	Law Reports – Appeal Cases (since 1890)
All ER	All England Law Reports
All ER (D)	All England Law Reports Direct (on-line)
All ER (EC)	All England Law Reports European Cases
All ER Rep	All England Law Reports Reprint (leading cases, 1558-1935)
All ER Rep Ext	All England Law Reports Reprint Extension (1861-1935)

-B-

BLR	Building Law Reports
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-C-

Ch	Law Reports – Chancery (since 1890)
CLR	Commonwealth Law Reports (Australia)
CLY	Current Law Yearbook (case summaries only)
CMLR	Common Market Law Reports
Cr App R	Criminal Appeal Reports
Cr App R (S)	Criminal Appeal Reports (Sentencing)

-D-

DLR	Dominion Law Reports (Canada)
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-E-

ECR	European Case Reports
EG	Estates Gazette
EHRR	European Human Rights Reports
ELR	Education Law Reports
Env LR	Environmental Law Reports
EPOR	European Patent Office Reports
ER	English Reports
Eur LR Ireland)	European Law Reports (of Cases in the UK & Ireland)
EWCA	Court of Appeal (neutral citation)

EWHC	High Court (neutral citation)
-F-	
Fam	Law Reports – Family (since 1972)
FCR	Family Court Reporter
FLR	Family Law Reports
FSR	Fleet Street Reports
-G-	
-none listed	
-H-	
HLR	Housing Law Reports
-I-	
ICR	Industrial Case Reports
IHRR	International Human Rights Reports
IR	Irish Reports
IRLR	Industrial Relations Law Reports
-J-	
JP	Justice of the Peace Reports
-K-	
KB	Law Reports – King’s Bench (1900-1952)
KIR	Knights Industrial Reports
-L-	
LGR	Local Government Reports
LJ Ch	Law Journal, Chancery (1831-1946)
LJ CCR	Law Journal, County Courts Reporter (1912-1947)
LJ KB (or QB)	Law Journal, Kings (or Queens) Bench (1831-1946)
LJ P	Law Journal, Probate, Divorce & Admiralty (1875-1946)
LJ PC	Law Journal, Privy Council (1865-1946)
LJR	Law Journal Reports (1947-49)
Lloyds Rep	Lloyd’s List Law Reports
-M-	
Med LR	Medical Law Reports
-N-	

NILR	Northern Ireland Law Reports
NZLR	New Zealand Law Reports
-O-	
none listed	
-P-	
P	Law Reports – Probate (1891-1971)
P & CR	Property, Planning and Compensation Reports
Pen LR	Pensions Law Reports
-Q-	
QB	Law Reports – Queen’s Bench (since 1952)
-R-	
RPC	Reports of Patent, Design and Trade Mark Cases
RTR	Road Traffic Reports
-S-	
SC	Session Cases (Scotland)
SCCR	Scottish Criminal Case Reports
SCLR	Scottish Civil Law Reports
STC	Simon’s Tax Cases
-T-	
TC	Tax Cases
TCLR	Technology and Construction Law Reports
TLR	Times Law Reports (1884-1952)
TrLR	Trading Law Reports
-U-	
UKCLR	UK Competition Law Reports
UKHL	House of Lords (neutral citation)
UKHRR	UK Human Rights Reports
UKPC	Privy Council (neutral citation)
-V-	
none listed	
-W-	
WLR	Weekly Law Reports (since 1953)
WN	Law Reports – Weekly Notes (1866-1952)

Journals

The following is an alphabetical listing of the titles of 67 law journals published in the UK for which there is a standardised, accepted, abbreviation. This is not a listing of all available UK law journals. Journal publishing has also expanded massively in the last 20 years, to the extent that a full listing would take many pages – see the following website: smlawpub.co.uk/docdel/abbrev.doc, for a complete listing. Our criteria for inclusion are somewhat arbitrary, but essentially we have included journals (peer reviewed and ‘trade press’) which our experience suggests students are most likely to come across in their studies, plus a number of those which are so specialised that we think they merit inclusion because they are a primary (UK) reference point in their field, and/or give an indication of the diversity of legal journals publishing. Exclusion from our list should not be seen as an implied criticism of the quality or authority of any journal. It also excludes some, such as Arbitration, Counsel, Social & Legal Studies, or Law and Critique which (so far as we are aware) have not adopted an abbreviated form and should therefore be cited in full.

BJLS JLS)	British Journal of Law & Society (now published as the
Brit J Crim	British Journal of Criminology
BTR	British Tax Review
Bus LR	Business Law Review
CFLQ	Child & Family Law Quarterly
CJQ	Civil Justice Quarterly
CLJ	Cambridge Law Journal
CLP	Current Legal Problems
CML Rev	Common Market Law Review
Comp Law	Company Lawyer
Const LJ	Construction Law Journal
Conv	Conveyancer & Property Lawyer
Crim LR	Criminal Law Review
Ecc LJ	Ecclesiastical Law Journal
Edin LR	Edinburgh Law Review
EG	Estates Gazette
EHRLR	European Human Rights Law Review
ELJ	European Law Journal
ELM	Environmental Law & Management
EL Rev	European Law Review
Ent LR	Entertainment Law Review
Env L Rev	Environmental Law Review
EOR	Equal Opportunities Review
EPLI	Education, Public Law and the Individual

Fam Law	Family Law
Fem LS	Feminist Legal Studies
F&DLR	Futures & Derivatives Law Review
ICLQ	International & Comparative Law Quarterly
IFLR	International Financial Law Review
IJLP	International Journal of the Legal Profession
IJMCL	International Journal of Marine & Coastal Law (formerly
IJECL)	
IJRL	International Journal of Refugee Law
ILJ	Industrial Law Journal
Int J Soc L	International Journal of the Sociology of Law
Int Rev Law & Econ	International Review of Law & Economics
IRLCT	International Review of Law, Computers and Technology
JBL	Journal of Business Law
JCLS	Journal of Corporate Law Studies
JILT	Journal of Information Law and Technology (on-line)
JLS	Journal of Law and Society
J Leg Hist	Journal of Legal History
JP	Justice of the Peace
JPL	Journal of Planning and Environment Law
JR	Judicial Review
JSSL	Journal of Social Security Law
JSWFL	Journal of Social Welfare and Family Law (formerly
JSWL)	
Jur Rev	Juridical Review
JWT	Journal of World Trade (formerly JWTL)
LE	Legal Ethics
LG Rev	Local Government Review
LMCLQ	Lloyds Maritime & Commercial Law Quarterly
LP&R	Law, Probability & Risk
LQR	Law Quarterly Review
LS	Legal Studies
LSG	Law Society's Gazette
Med L Rev	Medical Law Review
MLR	Modern Law Review
NILQ	Northern Ireland Legal Quarterly
NLJ	New Law Journal
OJLS	Oxford Journal of Legal Studies
OUCLJ	Oxford University Commonwealth Law Journal

PL	Public Law
PPLR	Public Procurement Law Review
RLR	Restitution Law Review
SJ (or Sol Jo)	Solicitors' Journal
Stat LR	Statute Law Review
WebJCLI	Web Journal of Current Legal Issues (on-line)