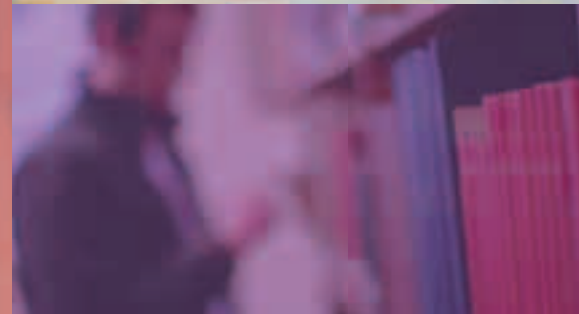


# LAW STUDENT

ISSUE 8



「REVISION」  
「SPECIAL」

- How to moot successfully
- Surviving on a budget
- The writing cycle – how to write for success
- Win a set of Nutcases and Nutshells and an Apple iPhone
- How to survive exams
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- Using law reports and journals



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# LAW STUDENT

3



## Letter from the Editor

Welcome to the eighth issue of Law Student from Sweet & Maxwell – a revision special packed full of essential advice on getting through the upcoming exam period.

Making effective use of the law sources available to you is crucial if you want to make the most of your time. We explain how to use law reports and journals effectively. Plus, we detail how your Westlaw UK student representative can help you make the most of this online resource.

We give advice on revising for examinations, as well as what to do once you are in the examination room. Plus, we provide details of a writing cycle that if followed, will help ensure your writing doesn't lose you vital marks.

To celebrate the new look Nutcases and Nutshells we are giving you the chance to win a brand new Apple iPhone as well as a set of Nutcases and Nutshells in the seven core subjects. These essential revision aids will definitely help with your exam preparation.

Plus, we also have a few non-revision articles to help take your mind off of your exams. We detail how you can survive on a budget and offer a cheap recipe which works out at just £1 per person. In addition there is guidance on how to moot successfully, as well as a personal account of voluntary work undertaken by a law student.

I hope you enjoy this issue as much as I do!

*Samantha Siddle*

Sam Siddle  
Editor



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# Sweet & Maxwell Law Prize and Sweet & Maxwell Vocational Law Prize

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In addition, the Sweet & Maxwell Vocational Law Prize enables those institutions who offer the LPC or BVC to be able to recognise the achievements of students undertaking the vocational stage of training. The Sweet & Maxwell Vocational Law Prize is the gift of books published by Sweet & Maxwell to the value of £100.

Find out from your Law Librarian if your institution is registered and what you need to do to be in with a chance of winning

## Help your fellow students and earn extra money in the process!

Westlaw UK, the online service from Sweet & Maxwell, has a network of Student Representatives in universities across the UK. Within their role each Student Representative is available to help students with general or specific Westlaw UK search queries. We are currently looking to expand our network of Representatives. If you are interested in learning more about the role please contact Cheza Ross by email at [cheza.ross@thomsonreuters.com](mailto:cheza.ross@thomsonreuters.com). You could soon be a font of knowledge on all things Westlaw UK!



# Learn on the move with our free podcasts!

We have added three new podcasts to our range of free podcasts. These bite sized updates provide thought provoking commentary for those of you starting a new subject and are perfect refreshers before your exams. We are adding new ones all the time so remember to regularly visit [www.sweetandmaxwell.co.uk/lecturers-students/podcasts](http://www.sweetandmaxwell.co.uk/lecturers-students/podcasts)

The following podcasts are now available:

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- **Maureen Spencer** – Constitutional and Administrative Law
- **Judith Masson & Rebecca Probert** – Family Law
- **Ryan Murray** – Contract Law
- **Jo Boylan-Kemp** – English Legal System
- **David Llewelyn** – Intellectual Property
- **Gwyneth Pitt** – Employment Law
- **Carl Stychin & Linda Mulcahy** – Legal Methods
- **Maureen Spencer** – Human Rights
- **Elizabeth Giussani** – Constitutional and Administrative Law
- **Rebecca Probert** – Family Law
- **John Sprack** – Employment Law
- **Sara Hadwin & Duncan Bloy** – Media Law
- **David Pope & Dan Hill** – Mooting and Advocacy Skills



## MAKE A SUCCESS OF LEGAL WRITING

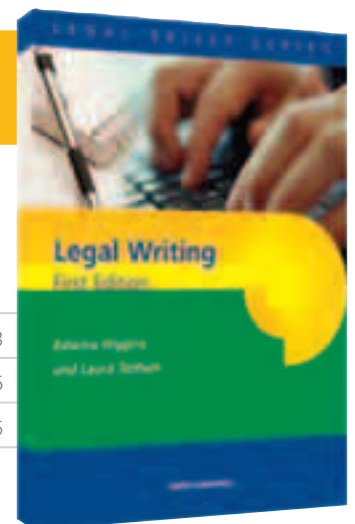
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- Details at the start of each chapter the key learning points and rounds each chapter off with a brief summary of what's been learnt

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# How to use law reports and journals

Making effective use of the law sources available to you is crucial if you are to make the most of your time. Here, adapted from *Effective Legal Research* is advice from John Knowles on how to make the most of law reports and journals.

In the course of your legal studies you will often need to look at reports of cases which have been heard in courts, both in the UK and abroad. These reports are published in a number of publications called law reports. Amongst the best known series of law reports are the *All England Law Reports*, the *Weekly Law Reports* and the *Law Reports*. A more detailed examination can be found in chapter three of *Effective Legal Research*.

The bound volumes of law reports found on library shelves are usually held in a separate sequence. These volumes are not for loan.

In a well-established library, the collections of law reports will be extensive. A single series of these reports, *The Law Reports*, first published in 1864 occupies many metres of shelving in the law library. Although this is the most extensive series, there are many others. In addition to the shelves containing such bound volumes, the library will also have prominently located display shelves for recent, unbound issues of law reports.

Most law reports are also available online and access is provided almost exclusively by the database services such as Westlaw

UK. It is worth keeping in mind just how much information these services contain. The *Law Reports* are almost certainly available to you online and they form only one part of a single database within Westlaw UK.

You will find, in addition, that you are referred to articles and case notes in journals (or periodicals). Journals provide commentary on cases and advanced discussion of legal issues. They are published for the most part either weekly, monthly or quarterly (hence the name, periodical). A journal reference should give you the author and title of a journal article, the year, the volume number, an abbreviation for the title of the journal in which the article appeared and the page number of the first page of the article itself, e.g. A Roberts "Pre-trial defence rights and the fair use of eyewitness identification procedures" (2008) 71 M.L.R. 331

Law database providers such as Westlaw UK provide access to the full text of journal articles as well as to law reports. However, not all UK journals are available online from these databases. Many other journals can be accessed directly from publisher's websites or through intermediary sites. If your library has a subscription for online access, the full text of articles will be available.

As is the case with law reports, the bound print volumes of printed journals are usually shelved in a separate sequence in the library. There is usually a display area for recent unbound issues similar to the display area for unbound law reports.

## ABBREVIATIONS

The tradition adopted by lecturers and authors of referring to journals and law reports only by an abbreviated form of their full title can present a major difficulty



for new students. Instead of writing the name of the journal or law report in full, they are invariably shortened to such cryptic abbreviations as:

(2008) 71(3) M.L.R. 331  
(2008) 3 W.L.R. 166

This may make it difficult for you to know whether you are looking for a law report or a journal article. To make things even more difficult, library catalogues use the full unabbreviated title of a journal or law report. As a result, abbreviations need to be de-coded before you can use them to check for online or print access. If you are in any doubt as to the nature of a reference, ask a member of the library staff for advice.

Many of the references are also confusingly similar, e.g. L.R. can be the abbreviation for both "law report" and "law review". This can be frustrating if you are looking for print volumes in the library. The law reports are shelved together, but separately from the law reviews, which are journals. Consequently, if you are looking along the shelves of bound volumes for a publication, you could find yourself looking in the wrong sequence. A common mistake, for instance, is to assume that a reference to a report of a case in "Crim.L.R." means that you must search amongst the law reports for a series entitled the *Criminal Law Reports*. There is no such series (although there is a series called the *Criminal Appeal Reports*). The reference "Crim.L.R." is the *Criminal Law Review*, which is a journal shelved with the other journals. It contains both articles and reports of cases. The meaning of abbreviations can be checked both online and in print.

#### TRACING JOURNALS AND LAW REPORTS

It can be difficult to establish which journals and law reports are available online. The library catalogue and web pages may provide an A-Z list of the journals and law reports you can access. Alternatively, if your library has a subscription, you can search the journals sections of an online database such as Westlaw UK.

Links to the websites of publishers providing subscription access may also be provided from the library catalogue. To discover if this is the case, search the catalogue as if you were looking for the print volumes of the journal. The full online text of journals is usually available for journal articles published after the mid 1990s, in many cases earlier articles are also available.

To find out if the printed volumes of a journal or law report are available in the library, search the library catalogue using the full title of the journal or report, not its abbreviation. The catalogue should allow you to select a separate journal title search, so that you only search for journal entries. If you are looking for a journal which includes the name of an organisation in its title, you may be unsure of the precise title to use. Is it the *American Bar Association Journal*, for example, or the *Journal of the American Bar Association*? In these cases it is usually possible to search for the journal by the name of the organisation that produces it. If the publication you wish to find has "Bulletin", "Transactions" or "Proceedings" at the start of its title, retain these words when you make your search or use a "keyword in title" search.



This article is adapted from the new second edition of *Effective Legal Research*, by John Knowles, which is available from [amazon.co.uk](http://amazon.co.uk), [hammickslegal.com](http://hammickslegal.com) and all good booksellers priced £18.95 [978-1-847-03818-0]

# Revising for examinations: how to cope and what to do

With exams just around the corner, you need to be fully prepared. Michael Haley, Professor of Law at Keele University, and author of a number of books including *Nutshells Equity & Trusts* and *Nutshells Land Law*, offers some advice.

For all students, the examination period is a stressful and adrenaline fuelled time. The sense of panic can, moreover, be heightened by inconvenient examination timetabling and the sheer number of examinations to be taken within a particular assessment period. The possibility that essay submission dates occur around the same time can also add to the immediate pressure. These practical realities obviously fall beyond the control of students and often are not the responsibility of the department/school concerned.

As students will be given timely warning of examination and submission dates, it is crucial to plan ahead and to organise the workload accordingly. Deciding when to start revision and what to revise are vital steps in preparation for the fate that lies ahead. As different students work best in different ways, what follows is no more than general guidance and advice.

## WHAT TO REVISE FROM?

In the majority of institutions, the examination paper will be set by those that teach on the particular course. The paper will reflect the lectures and the tutorials/seminars provided. It is essential that students maintain a good set of lecture notes and keep a record of tutorial/seminar deliberations. Together with any written work submitted for the course, these documents will form the basis of revision material. For students who are aiming for an upper second standard and above, it is advisable to supplement this material with notes taken from text books, key cases and articles which have been referred to by the lecturer. If the lecturer has written on a topic, read the work and be able to refer to it. Although it might come as no surprise, academics often have an egotistical streak. The published work of the lecturer might even shape the nature of the questions set on a particular topic covered in the course.



## WHEN TO REVISE?

The assessment period may be preceded by a vacation or, at the least, some weeks within which teaching does not occur. It is during this time that the bulk of revision work will normally take place. It is crucial to set aside a number of hours each day and to plan carefully what subjects are to be covered and on what days. Once a plan has been devised, it is imperative that it is adhered to. Provided that the ground work has already been laid by attending lectures and tutorials/seminars, collating revision materials and undertaking the recommended reading, this should offer most students a sufficient period within which to finalise their preparation.

As the memory fades with each day that passes, it is essential that students go over their revision notes the day before the particular examination is to be taken. In the weeks

before, make notes from notes to recap the previous day's revision. This is particularly helpful as regards to memorising the names of cases and recalling statutory provisions.



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- Presents the information in a step-by-step format, leading students through the world of legal research from using a law library to searching online
- Explains how to research EU and ECHR materials
- Incorporates examples of Law Reports, Acts, Halsbury's, Current Law, Hansard and European materials from the Official Journal, Eur-Lex and the European Court of Justice
- Contains shaded tip boxes highlighting important points to remember
- Includes web shots from key online sources including Westlaw UK, LexisNexis Professional, BAILII, Europa and TSO
- Appendices include Abbreviations list of Reports, Series and Journals, Summary of Sources for English Law, Online Sources of Scots and Northern Ireland Law

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# Voluntary work – a personal account

Undertaking voluntary work is a rewarding experience both personally and professionally. In the following article, Richard Murtagh, a part-time law student, describes his experience of working in Ghana with the Commonwealth Human Rights Initiative.

My journey towards the law started with a contentious parking ticket issued against my mum! I wrote a nifty letter on her behalf which resulted in the ticket being quashed. Following this success (in 2005) I began studying law part-time with the Open University (OU). I graduate in 2010 and will undertake the Bar Vocational Course to become a barrister. I'll also do a one year Masters Degree in Human Rights, which is the field I wish to specialise in.

## UNDERTAKING WORK EXPERIENCE WITH THE COMMONWEALTH HUMAN RIGHTS INITIATIVE

Being an OU student is great because you have the time to earn and learn. You also have more time to pursue work experience opportunities. After completing my 2008 exams, I flew to Ghana, West Africa, and spent three months there working voluntarily as an intern with the Commonwealth Human Rights Initiative (CHRI). I applied for the placement through the Projects Abroad website ([www.projects-abroad.org](http://www.projects-abroad.org)).

Ghana is one of the better-developed African nations. The people are lovely and, for tourists, there is much to see and do. Still, one need only spend a single day there to witness such hardship as extreme poverty, water shortage, frequent power-cuts, lack of assistance for vulnerable groups such as the disabled, etc. And it makes you realise how luxurious European life is by comparison. We take so much for granted.

CHRI is led by a prominent human rights lawyer. As an intern, your role is to assist her with cases and projects that she is involved with. This varies between individual clients and workshops intended to make people aware of their rights. Whilst interns must never provide legal advice, the experience you will receive will be invaluable.

For example, two weeks into my placement, a client walked-in off the street and claimed to have been unlawfully detained by a public body. The lawyer delegated me the task of taking his statement, compiling a brief, researching the applicable law and submitting to her a legal opinion as to whether or not a solid case could be built.

I was also involved in a fact-finding mission, whereby volunteers were sent to a small village to knock on doors and collect statements regarding incidents of politically-motivated



violence. The information gathered by us was used to push for a formal police investigation.

Other tasks assigned to interns include report writing, attending court and conducting research. And you'll never be asked to make the tea!

## FREEDOM OF INFORMATION

One of the major issues facing Ghana right now is freedom of information. There is a strong culture of secrecy whereby officials at every level of society are reluctant to disclose information, for instance, details of how money from the public purse is being used. Undoubtedly, this lack of transparency encourages corruption. But hope is in sight. The Right to Information Bill is a welcome addition to the law, intended to empower citizens to demand the information that can help to improve their lives and living conditions. However, as things stand, the Bill contains some questionable provisions which must be amended if the new law is going to work. I was fortunate to assist CHRI in delivering advocacy workshops pertaining to this matter.

Above all though, the most precious thing that I gained from my time spent at CHRI was a ground-level insight into human rights, and how these rights affect regular people. Until

going to Ghana, I was naïve in thinking that once a country signs a treaty or declares something in its constitution, then that's the law and the law must be followed. But I was wrong. In reality, signing a document such as the Universal Declaration of Human Rights means nothing unless the subscribing country takes steps at the national level to ensure that human rights are expressed throughout all aspects of the legal system, from pensions to crime. This takes years, and even then, without fearless monitoring by bodies such as CHRI, there is nothing to stop police and officials from simply ignoring the law when it suits them.

Human rights are not just legal rules to be cited in court. They are also political objectives which shape society. Yet, in England at least, it's amazing the number of people who fail to appreciate their importance. Working in Ghana, I witnessed some awful abuses by public authority, and as stated, Ghana is one of the better African nations. One can only imagine the horrors in some parts of the world.

Ghana is moving forward with its human rights obligations, but there is still a long way to go. CHRI does an invaluable job and I feel privileged to have contributed during the past three months. The experience has surely improved my prospect of obtaining a pupillage, and I'd recommend the placement to anyone.

Richard Murtagh is studying law part time with the Open University. You can keep up-to-date with him by visiting his legal blog at [rMurtagh.blog.co.uk](http://rMurtagh.blog.co.uk)

## FURTHER INFORMATION ON VOLUNTARY WORK EXPERIENCE

Before you undertake voluntary work, decide what you want to get out of the experience. Useful websites include:

[www.projects-abroad.org](http://www.projects-abroad.org)  
[www.gapyear.com](http://www.gapyear.com)  
[www.yearoutgroup.org](http://www.yearoutgroup.org)  
[www.gap.org.uk](http://www.gap.org.uk)  
[www.gaprofile.co.uk](http://www.gaprofile.co.uk)  
[www.outreachinternational.co.uk](http://www.outreachinternational.co.uk)  
[www.raleigh.org.uk](http://www.raleigh.org.uk)  
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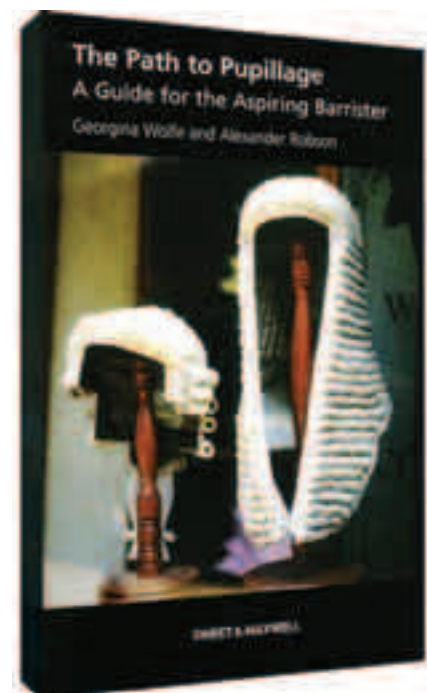
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- Details the extra-curricular activities that you should undertake in order to enhance your prospects
- Discusses the vocational – BVC – part of training, looking in depth at the four Inns



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[www.hammickslegal.com](http://www.hammickslegal.com) and all good bookshops

# Ensure your writing doesn't let you down

You might think that the difference between a student who does OK and one who does very well is down to how clever they are, how much they learned, how much effort they put in, or how many classes they attended. These are all important factors, but the difference could be that the student who did better was just more effective in communicating their understanding in the work they produced.

This article, adapted from *Successful Legal Writing* by Edwina Higgins and Laura Tatham, gives an overview of a writing process that if followed, will help you to write assignments more effectively and get the grades you deserve.

The writing process can be broken down into a number of steps which are essential for successful legal academic writing. However, these will tend to overlap: as you go through a particular step, issues may arise which require you to revisit a previous step. This is an important part of keeping your writing under review, so do not think of the steps as being entirely separate. Nevertheless focusing on the steps will help you to go about your writing in a logical and structured way.

## STEP 1 – REFLECTION

Before you start to write an essay or other legal assignment you need to consider what your existing strengths and weaknesses are. This will help you work out what part of the writing cycle you need to put most thought in to. Think about how you currently write and compare this to any evidence you have of the results this produces, for example, previous marks or grades, and feedback from tutors (or peers).

## STEP 2 – DIAGNOSIS

The real key to successful writing is to understand exactly what you are being asked to do. Get this right, and you'll be well on the way to making a good job of the rest of the writing 'cycle'. When diagnosing your questions you need to:

- Identify the points of the question, for example by looking for key words, instruction words, and (on a problem question) picking out the material facts
- Break the question down into a series of sub-questions which need to be answered
- Think about which points are the most important (these are your major points which you'll want to spend more time/ words on)
- Pick out other points which are relevant



to the question but are not as vital as the major points (these are minor points, which you deal with more briefly)

- Work out whether there are any hidden issues which need discussing (your examiner may have 'hidden' an issue which is important to a sophisticated discussion of the subject matter but not referred to it directly in the wording of the question). Don't confuse hidden points with irrelevant points – only a student with a thorough grasp of the subject matter is going to be able to spot any hidden points.

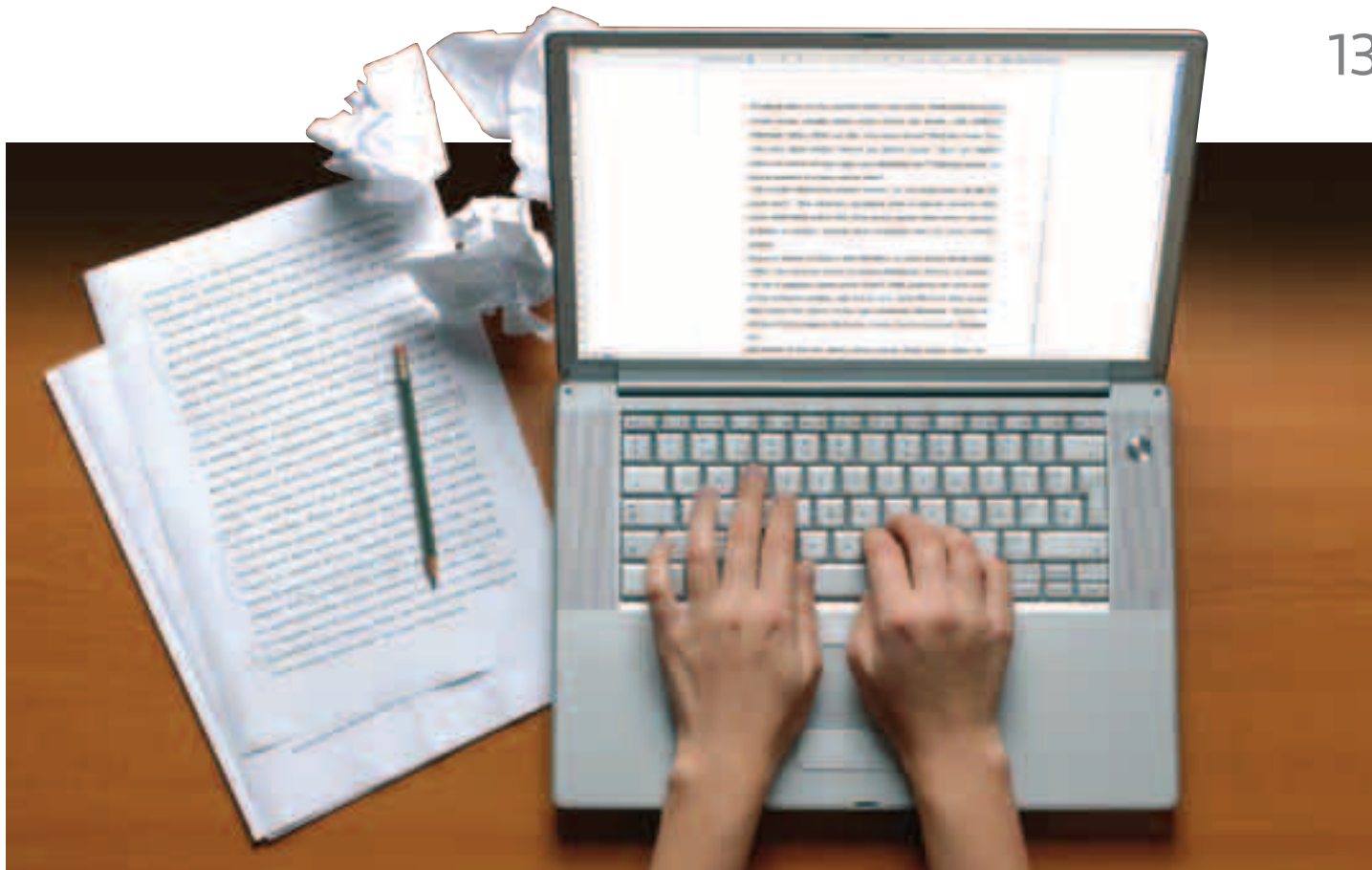
The last point raises an important issue. How can you diagnose without having a thorough understanding of the topic when your diagnosis gives you the direction in which to research, and it's from the research you get a thorough understanding? You make a *preliminary diagnosis* and then *keep it under review*. Your preliminary diagnosis sends you off to the right places, but you then have to keep reflecting on what you find in order to 'fine tune' your diagnosis.

Another important part of your diagnosis is to think about the general instructions:

- What's the word limit?
- Are you handing in a finished piece of work or does it need to be accompanied by a plan?
- Are there specific instructions for this piece of work?
- Does it need to be presented in a particular way?
- Does it need to conform to a certain style (such as a preferred footnote scheme)?
- Remember to apply your time management techniques to the assignment. Look at the word count. Check how much this assessment is worth – remember to keep things in proportion and split your effort accordingly.

## STEP 3 – REVIEW YOUR MATERIALS

The next step is to gather together the resources you need in order to complete the assignment. Carry out an audit of existing relevant materials. Your lecture notes and



### DID YOU KNOW?

**Contumacy is the refusal to obey the order of an ecclesiastical court.**

- Taken from the 11th edition of *Osborn's Concise Law Dictionary* [978-1-847-03308-6] available from all good booksellers priced £11.95

textbooks will be a good place to start but won't be enough on their own. You will be expected to read as widely as possible, but remember, in doing so your goal is to answer the questions you posed in your diagnosis phase. This is what you need to keep in mind as you move into your research phase.

#### STEP 4 – RESEARCH

The research phase is where you pursue a range of sources in order to answer the different points of the question that you identified in the diagnosis stage. It's really important that you remain focused on what you need and don't get side-tracked by information which is only of vague relevance. Keep in mind the length of the piece you have been asked to write. Reading eight full length books and six articles will yield much more than you could utilise in one 2000 piece of coursework.

You'll also need to learn how to make notes effectively from the readings you have chosen as being most relevant, so that you can make the most of them when you come to do your writing. Remember to keep reflecting on your diagnosis. Don't lose track of what you've been asked to do. When you have found the answers

you have finished your research – so stop. You are now in a position to start thinking about how to put your answer together.

#### STEP 5 – PLANNING AND ORGANISING YOUR ANSWER

A well-written assignment will have an organised structure, which flows logically from point to point. You therefore need to spend time planning this structure. Don't jump straight into writing as you are likely to lose your focus and your assignment will end up confused. If you have diagnosed your task effectively, the structure should flow logically from the points you identified. Once you have put your structure together, review it. Ask yourself:

*'If I write up my answer in this way, will it be answering what I've been asked?'*

If the answer is 'yes' then you can move onto the writing stage.

#### STEP 6 – WRITING

Keep the question you have been set in mind at all times. Unless you have completed Steps 1 – 5 carefully you are not going to be in the position to start the writing phase successfully. Remember you will need to:

- Use evidence to support assertions, acknowledge sources to avoid charges of plagiarism, and ensure your arguments form a logical structure
- Structure your writing appropriately by writing an effective introduction, main body and conclusion

- Write in good English in terms of use of grammar, your style, sentence construction, spelling, use of legal terminology and so on.

Write in the way that best suits you. If you find it easier to tackle some parts first and leave others to last then do that. But stick to the structure you worked out in the planning stage.

#### STEP 7 – FINISHING

In order to finish your work you need to review and reflect. Check for inaccuracies or irrelevancies and presentational errors. Remember to look at any specific requirements you've been set and make sure you comply with those. You can now submit your assignment.

#### STEP 8 – FEEDBACK

In order to keep improving your writing you need to reflect carefully on the marks and feedback you get back. This way you can identify where your weaknesses are and turn them into strengths.



This article is adapted from the first edition of *Successful Legal Writing*, by Edwina Higgins and Laura Tatham, which is available from [amazon.co.uk](http://amazon.co.uk), [hammickslegal.com](http://hammickslegal.com) and all good booksellers priced £17.95 [978-0-421-96120-3]

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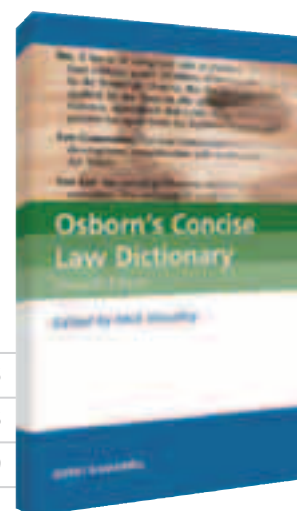
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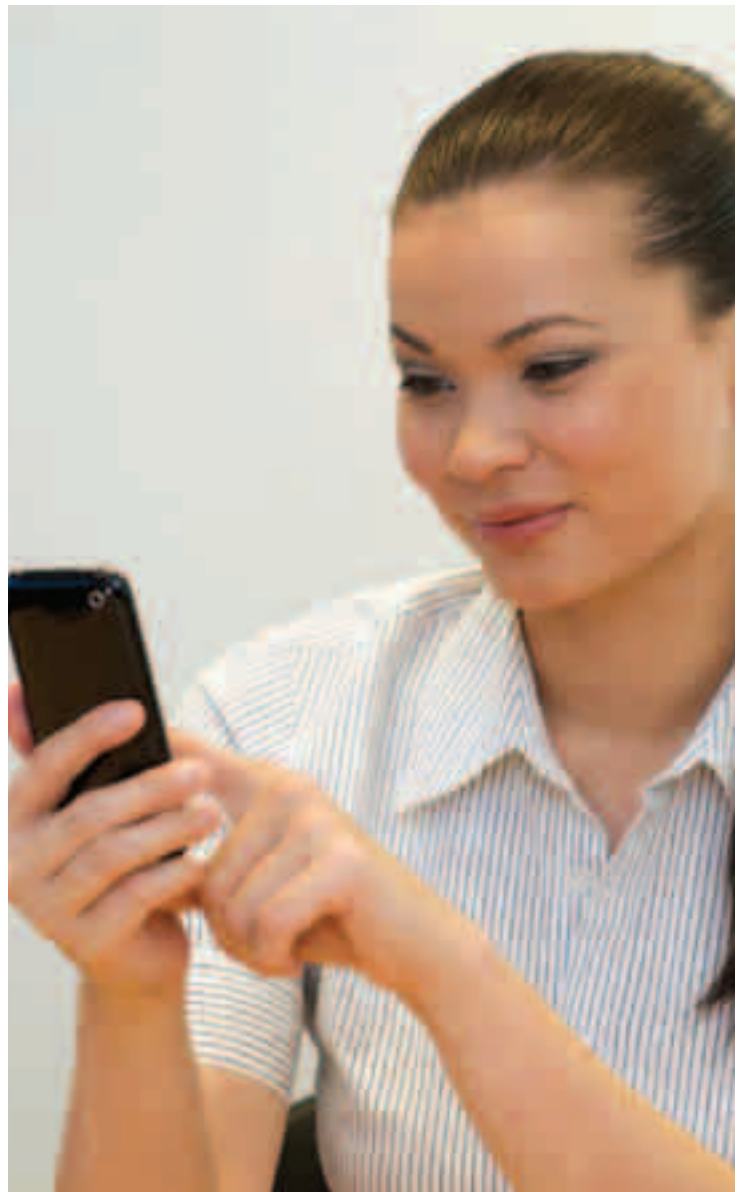
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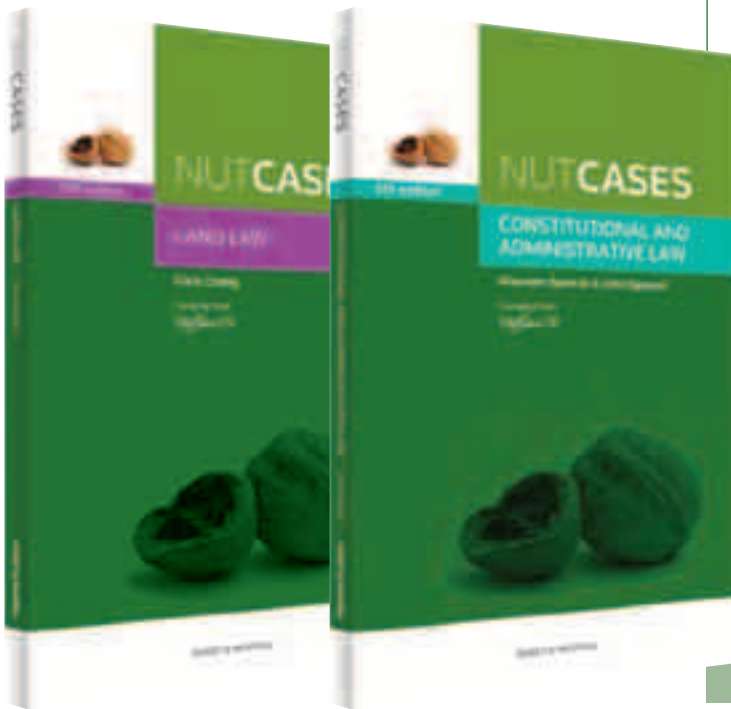


## DID YOU KNOW?

Recaption is a remedy available without recourse to the courts to a person where another wrongfully detains his wife, children or servants. The injured party can lawfully retake them, as long as it is done without causing a breach of the peace.

- Taken from the 11th edition of Osborn's Concise Law Dictionary [978-1-847-03308-6] available from all good booksellers priced £11.95

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# ells you've got it cracked



## NUTSHELLS – ESSENTIAL REVISION AIDS

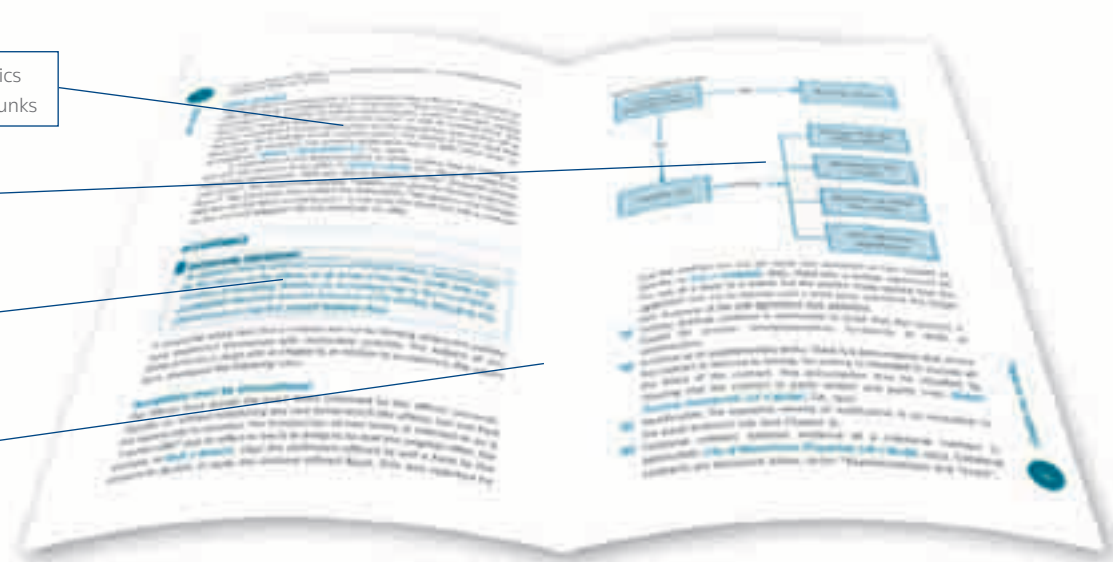
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### NUTSHELLS

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English Legal System

Equity and Trusts  
European Union Law  
Evidence  
Family Law

Human Rights  
Intellectual Property  
International Law  
Land Law

Medical Law  
Tort

# In the examination room

You've revised all you can and now you're in the examination room. But how do you make the most of the time you have? Francis Rose, author of *Nutshell's Company Law*, explains how you should approach your exams.

## STARTING THE EXAM

It should go without saying that the whole of the question paper should be read carefully not only to elucidate the contents of the individual questions but to get quite clear what is generally being required. The examiner has decided how many questions need to be answered, if there are any compulsory questions, if a certain number of problems and/or essays must be answered, and if questions must be selected from particular sections. If there are such requirements, it is up to the candidate to satisfy them and not to present a script which has not been demanded. Normally there is some choice, and usually there is no requirement for questions to be answered in a particular order. But candidates must at all times do what they are told!

The last injunction extends to the particular directions issued in each question. Most problem questions ask the candidate to 'Advise X.' So, do so. Probably most of the question is concerned with more general matters: is the transaction valid? is there a breach of an obligation? and so on. And most of the marks will be gained in dealing with these matters.

But it frequently takes little effort or additional knowledge actually to advise X. Should he sue for damages or specific performance, bring a derivative action, petition for winding-up or for unfair prejudice, sell his shares, or be able to do these things but without it in fact being worth his while to do so. Set out the legal position and the possible remedies, and then give advice which suits X in the circumstances. To do this whilst writing mock answers helps to concentrate the mind as to how the law operates in practical circumstances.

Similarly, with essay questions. An older generation of teachers may still refer to these as 'bookwork questions,' the assumption being that they are set for the weaker candidates, unable to acquit themselves adequately on problem questions, who can at least, therefore, trot out a certain amount of knowledge on a general topic and pick up a few marks. Traces of this view do occasionally

persist. More frequently at present, however, candidates are expected to demonstrate analytical and critical skills. So 'Discuss' means 'Discuss' and not 'Write what you know about.'

This is not necessarily as demanding as it seems. A question requiring the candidate to discuss the extent to which a particular statement is or is not true will generally require the presentation of the information which would be provided if the candidate were simply required to write all he knows: where marks can be gained in an essay question is to do this with explicit reference to the question. It does not usually require much intelligence to link the facts with the demands of the question.

## THE CRUCIAL ISSUE OF TIMING

The question paper may indicate that more time should be spent on some parts than others (e.g. where certain questions carry a larger proportion of the overall marks). Usually, it can be presumed that an equal amount of time is to be devoted to each question. It is not uncommon for a little more time to be spent on a candidate's first (and expected best) question and a little less on the last question (when the race against time may increase the speed at which the words hit the page).



But there should not be much deviation from the principle of equality. It is not very difficult to pick up a minimum amount of marks for a question but examiners tend to be more cautious higher up the scale. And in practice the difference between poor marks and good marks may not be great. Assume a grading system for a degree where the marks per class are for: a pass, 40; a third, 45; a lower second, 50; an upper second, 60; and a first, 70. On a paper requiring four questions to be answered, this works out at 10, 11.25, 12.5, 15 and 17.5 for individual questions. Assume the marks of the majority of candidates fall between 38 and 72 per cent.

A not very strong candidate or an average candidate for some reason or other not performing very well on the day might amass, say, an average of 13 marks per question, which produces 52, a lower second class (even if not an especially good one). If that candidate (still performing generally below average) put in a special effort on his first three questions and left little time for the fourth, he might get marks of 16, 14, 13 and 4, i.e. a total of 47 per cent and a degree of the next class down. An even weaker candidate could succeed in failing! It is better to build up a sound overall foundation of marks for each and every question before taking chances.

## PLANNING YOUR ANSWER

Different teachers may give different advice on this. Candidates may consider varying the response depending upon whether the adviser is marking the paper, although that should not make a difference.

It is at least sensible to jot down briefly the points to be made and the order in which they should be made (plus the names of relevant authorities, lest they are forgotten). Some examiners like to see an introduction plus an outline of what is to be discussed. However, this may be a waste of time, particularly if the candidate is tempted just to waffle an introduction while he is waiting for his mind to start working. Don't ever waste time! It runs out soon enough. It is often best simply to get on with the answer.



In a problem, it is usually most convenient to take the points as they arise in the question. Conclusions should be brief and to the point and not simply repeat what has already been said (especially as it might be contradicted!). Conclusions should also appear at the end. It is not uncommon for a person answering an essay question to begin by agreeing with a quotation and then to proceed to find fault with it. Summarise at the end what you do think, not at the beginning what you hope you might think.

### DID YOU KNOW?

Wergild is compensation for personal injury

- Taken from the 11th edition of *Osborn's Concise Law Dictionary* [978-1-847-03308-6] available from all good booksellers priced £11.95

It can be helpful in answering both essay and problem questions to think in terms of discharging the functions of a barrister arguing in court, an academic writing a learned article, a judge giving judgment and a solicitor advising his client. Consider both sides of a point, offer some criticism of the merits of the relevant law, then come to a conclusion of the law and how that can dictate action.

All the time, however, follow the instructions in the question paper. It is not enough to try to impress the examiner with what you could do if that is not what is required. By setting a limited number of answers, the examiner is taking a sample of your general competence throughout the whole of a particular area of law. But you must give him the sample he asks for, not something different. Moreover, you are expected to show an ability to discriminate between the relevant and the irrelevant.

### ENSURING YOU INCLUDE KEY INFORMATION

However academic your answer may be, it must be as much supported by relevant information as the most practical of answers. So don't allow your attempts to show how clever you are to lead you to omit any of the relevant knowledge which you can usefully demonstrate. Always cite relevant authorities – using underlining to highlight them. Don't regurgitate more facts than are necessary, though try succinctly to give an indication of the precise relevance of the authorities to the points in the question.

Never assume that you can acquire information in the examination room. It is a common practice to allow candidates to have a collection of statutes with them. (If you must provide these yourself, make sure you get the approved edition well before the shops are sold out, and find out if you are permitted to make any



marks, of any description, in the book. If in doubt, make sure there are no such marks – otherwise you may commit an examination offence and fail the examination.) If you are not familiar with such materials before the examination, it is too late to attempt familiarity in the examination room, when

you are under pressure and probably will not be able to find something even if you have a rough idea of where to look. This is especially so where the legislation is very complex. Such materials can only be relied upon to verify points which you have already learnt but where the precise detail has escaped you.

## EXAMINERS ARE HUMAN

There is no such thing as a perfect answer. And, surprising as it may seem, examiners are human beings with inevitably varying preferences and prejudices. Nonetheless, the job of marking produces remarkably consistent results whoever the examiner is. The trick is to present an informed, well reasoned and intelligent argument.



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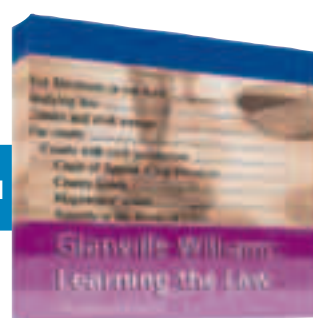
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STUDENT – OXFORD INSTITUTE OF LEGAL PRACTICE

# The art of winning

Mooting gives you the chance to practice the skills of advocacy and gives you a taste for what it is like to argue cases in court. It's essential to take place in mootings whilst at university. It will improve your legal skills and is a must for anyone who wants to go on to be a barrister. This article, taken from the new second edition of *The Devil's Advocate* by Iain Morley, provides you with a fresh approach to some dos and don'ts of advocacy.

Being an advocate is about WINNING WITHIN THE RULES. Perhaps it shouldn't be. But it is.

The goal is to win; the means of winning is by being persuasive. We each strive, and should strive, to win, but always, always, always within the rules. There are the rules of evidence and the rules of law. You are assumed to know these. Nothing more will be said about them here.

It appears to me there are also three primary professional rules. These are really about attitudes of mind. I am not trying here to rewrite the Codes of Conduct for solicitors or for the Bar. The Codes need careful reading and you are assumed to know them. I am simply emphasising the seemingly most important beacons of integrity which ought to burn bright in every lawyer, and should guide the way we think. And I think there are three beacons. They are commandments of behaviour.

**THE FIRST RULE IS:  
THOU SHALT NOT MISLEAD THE COURT**

You are assumed to know this. It is a long subject and will have been studied at law school. Always remember to consult colleagues and if necessary your professional body telephone help-line, which you ought to know off by heart, if in any doubt. Always consult.

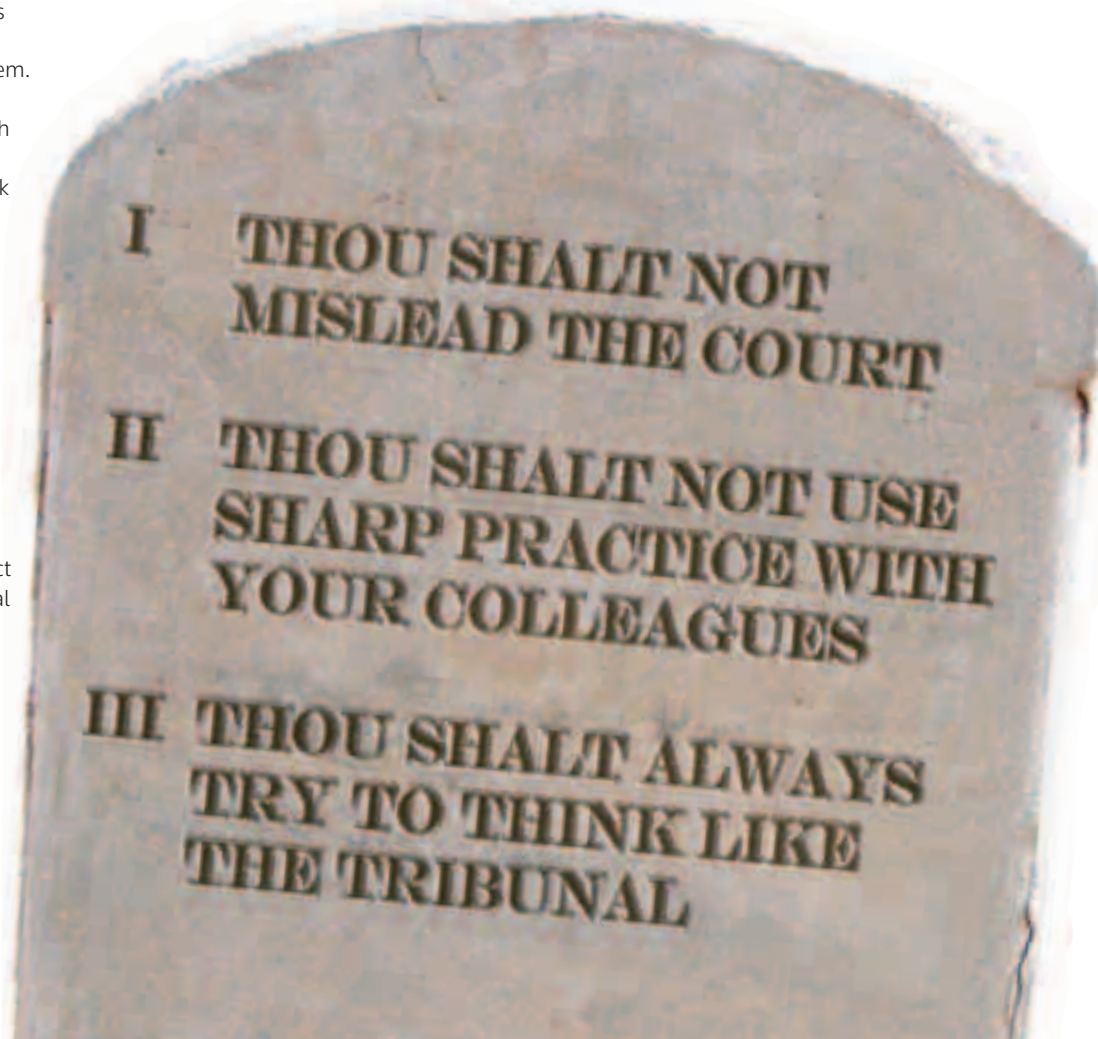
Misleading the court is serious misconduct and will, and rightly should, lead to formal proceedings of censure. For God's sake, don't lie. Even if it means you will win the case and you think no one will find out. Don't ever say something you KNOW IS NOT TRUE. Ever. And I mean EVER. If you tell one lie, and by this I don't mean mentioning something which may not be true, which is unclear, but instead you KNOW it, KNOW KNOW KNOW IT, no matter how small a teeny weeny lie, you should never step into court again. NEVER EVER AGAIN.

Witnesses might lie. Criminal defendants often lie. But an officer of the court – and that's what you are – is upon his honour, and never ever ever ever lies. You must be trustworthy to the Judge, to the jury, to your colleagues, as without this you cannot be persuasive, and if you are caught out on just one occasion, no one will ever believe you again. May the ground open and swallow you, may lightening bolts cascade from the Heavens, may the monsters of Hades surface and drag you down to Hell's darkest dungeon, if you do it even once. Just don't do it.

I won't say anymore about it as it is so huge an issue, it need only simply be mentioned to make the point of how important it is.

**THE SECOND RULE IS:  
THOU SHALT NOT USE SHARP PRACTICE  
WITH YOUR COLLEAGUES**

This is a difficult area. You have a duty to the client. But equally, that duty cannot be fulfilled if you are sharp with your colleagues as they won't trust you, and this will make running your case to the advantage of the client very difficult.



We are not talking about lying here. We are talking about being nasty, evasive, weasily, too clever by half, mealy-mouthed, disingenuous, and manipulative.

Generally, the trick is it is better to refuse to be drawn on what you will do, it is better to say nothing and make it clear you are saying nothing, than to say you will do one thing and then do another. If you say you will do something, then do it; if you say you will not do something, then don't do it.

If you wish to raise a matter of law, give your opposition at least some notice. If you have legal authorities on which you will rely, alert the opposition early, not at the moment of submission. It is often a question of how it's done, not what is done. Be Henry V not Richard III.

#### MAINTAIN POLITENESS AND CLARITY

A rule of thumb is it is best to deal with your opposition, as you would want them to deal with you. Why not confound them?

The answer is clear. As advocates, we spend our working lives together. Clients usually come but once or twice. However, we encounter each other all the time. It is professional suicide to have a reputation for being sharp. Reputation travels quickly. Lawyers love to gossip. There will come a time when meeting a new advocate, we see eyes narrow, and inexplicably co-operation is withdrawn. Sadly they have heard about us.

In Britain and Ireland, and most of the Commonwealth and Common Law world, we rightly pride ourselves on the level of co-operation between advocates against each other. Outside court, decisions are taken which speed up the smooth running of trials and allow the parties and the court to focus quickly on the real issues. Long may this continue. Don't blow it by being sharp.

Please don't confuse this with selling your client out to keep in with your lawyer friends. This is not what is being suggested. Your duty to your client is paramount, but remember, it must be within the rules. The rules require you do not mislead the court. In the same way, there is an unspoken rule you do not deliberately mislead your colleagues.

#### DID YOU KNOW?

Xenotransplantation is the transplanting of organs, eg a heart, from one species to another

- Taken from the 11th edition of *Osborn's Concise Law Dictionary* [978-1-847-03308-6] available from all good booksellers priced £11.95



Don't lie. Don't u-turn on what you have promised, without very, very good reason which you must then explain fully. Don't say things intending to renege on them later. As I say, it is better to say nothing, and point out you are saying nothing, than to say something you later change.

#### THE THIRD RULE IS: THOU SHALT ALWAYS TRY TO THINK LIKE THE TRIBUNAL

Why? Because if you do this, you will automatically become less partisan. Being perceived to be less partisan is really very important. You will become more reliable in the eyes of the judge or jury and your later arguments are more likely to succeed.

There is all the difference in the world between representing someone and taking sides. Your job is the former, not in the style of B-movies being a hired gun.

You should try to take decisions with this thought in mind: *"What should the judge do about this problem?"*, or *"what is the jury likely to make of the general circumstances of this case, or appearance of the defendant, or the presentation of his mother as a character witness?"* The thought should not be: *"What would I like the judge to do?"* nor is it *"I wonder if I can get this past the jury?"* nor is it: *"I'll have a go"*.

Or another way of looking at it is ask yourself: *"If I were the tribunal, what would I think?"* The thing to avoid here is trying to think like the client. You are paid to predict and influence what will happen in court. Whoever it is, be it a burglar, the local constabulary, a multi-million pound business, the client wants you to think for him. And he wants you to work out what will best serve his interests while he lies in the power of the court.

However, there is sometimes a tension created by the client appearing to tell the advocate what he wants done in court. Remember, without becoming arrogant, you will usually know what is best for the client if you can develop an understanding of how the tribunal thinks. If we all did everything clients insisted upon, court could descend into a circus.

Your job is to straddle the fine line between pleasing the client and pleasing the court. Pleasing the court will usually benefit the client. Don't roll over, but at the same time don't undermine the entire courtroom process by becoming the unthinking mouthpiece of a

difficult or inexperienced client. If you can anticipate the way the tribunal is thinking, you can craft so much of your presentation to meet its expectation, and soothe its concerns. You are the one with the training. Don't forget it.

If we follow the rules, then within their constraint, it is your job to win. The constraining rules are the rules of law and evidence, the codes of conduct, and the rules of advocacy. You're assumed to know the rules of law and evidence. You're assumed to know the codes of conduct. But you'll be learning the rules of advocacy throughout your whole career. So, within those rules, it is your job to win. But not at any cost. Keep the three beacons burning.

And with them burning, now you must fight your case. And really fight it. Simply detachedly presenting the case is insufficient. An advocate must try to be totally committed. Of course, we may lose in the end, but it will be fearlessly, bright eyed, and not for want of trying.

And remember. There are some who will say expansively with an easy smile they are not interested in winning, but just in presenting the evidence. It is a fashionable thing to say. It makes them seem harmless. Don't believe a word of it.

### WHAT LEGAL WEEK HAS TO SAY

In a review in Legal Week, Charles Hollander QC, a member of Brick Court Chambers said of *The Devil's Advocate*:

"As someone who has never generally found books on advocacy much use, I would be genuinely happy to recommend this work. It is easy to pick up and flick through. It is nothing if not fun to read. You could happily read it on the beach... you could probably read it before breakfast one morning. It rams home some mostly basic, but nevertheless intelligent and important propositions, which even the best advocates often lose sight of.

Mr Morley tells us that he has written the book in pretty much his style of speech from when he teaches advocacy students. It sounds as though going to one of his classes might be rather interesting. Any takers?"



This article is adapted from the new second edition of *The Devil's Advocate*, by Iain Morley, which is available from [amazon.co.uk](http://amazon.co.uk), [hammickslegal.com](http://hammickslegal.com) and all good booksellers priced £16.95 [978-1-847-03768-8]

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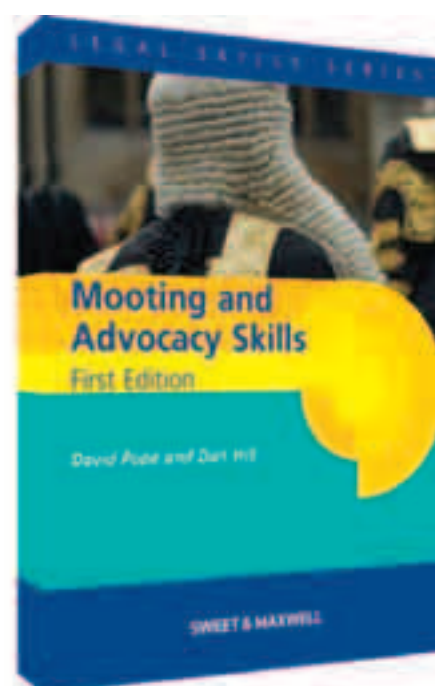
David Pope and Dan Hill

1ST EDITION

**“The book is ideal and highly recommended for those starting out in the world of mooting. The authors introduce an example moot problem, and then use this as the basis of taking you through the various stages of research, preparation, and making submissions. You can even find out what to do if your team clearly has the weaker case!”**

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- Uses worked examples and an illustrative moot problem to explain key advocacy skills including drafting skeleton arguments, drafting notes for submissions and making oral submissions to the judge
- Highlights common mistakes that mooters make and explains how to avoid them
- Contains material, including precedents and templates, that will be helpful for junior solicitors and barristers who have just started to appear in court
- Gives guidance to those involved in organising moots, providing them with sample documentation for conducting and promoting mooting competitions
- Answers many of the questions commonly asked by those participating in and those organising moots
- Draws on the authors' extensive practical experience of appearing in court and regularly judging moots to provide participants and organisers of moots with a clear, comprehensive and accessible guide



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# Surviving on a budget

Surviving on a student budget can be a struggle at the best of times. But now the credit crunch has led to an increase in competition for part-time jobs and left many students without extra income. However, there's no need to despair. With a bit of planning, you can make your money go further.

## **STICK TO A BUDGET**

As dull as it may sound, setting a budget and sticking to it can really help. Draw up a spreadsheet of all your outgoings and any income you have and set yourself a spending limit. Also, setting up direct debits for bills will help you manage your money. You could also try and leave your cash card at home when you go out. Take out only what you need – all those tenners you draw out soon add up.

## **SUPERMARKET SWEEP**

All supermarkets have 'value' ranges, which might not be as bad as you think. Cleaning products and toiletries in particular are usually significantly cheaper than named brands and will noticeably reduce your shopping bill. Also, it is usually cheaper to buy multi-packs, a four-can of baked beans, or 12 toilet rolls, for example.

Another tip is to go to the supermarket at the end of the day. Often, they will have reduced the

price on products that are due to go out of date, including bread (one of the most expensive food items), which you can take home and freeze.

## **COOK TOGETHER**

Why not club in together for food and plan meals that will last you all week. Not only will you save money, you will improve your cooking skills and spend quality time with your friends. You can download free recipes from a number of websites, such as [www.bbc.co.uk/food](http://www.bbc.co.uk/food) which means you don't even have to spend money on a cook book. Think about having a pack lunch – making your own lunch for a week will save you enough for a night out.

## **GET ONLINE**

Buying goods online can be cheaper and often more convenient. eBay is an excellent place to buy and sell goods. Freecycle is another useful website where you'll find everything from desks to books.

## **WALK EVERYWHERE**

If you live close to your university, you could save a lot of money on transport by walking. You can always walk with friends if you are worried about your safety, especially at night time.

## **USE YOUR NUS EXTRA CARD**

NUS Extra offers discounts on a range of shops offering between 10–25 per cent discounts. Look out for the student discount sign in every shop you go in. If you can't see it, ask. You could be missing out.

## **DO IT FOR CHARITY**

Charity shops are excellent places to dig out a bargain. Most charity shops sell clothes and shoes, and all for a fraction of the cost of the high street. You can also pick up homeware and used books in most shops.

For more information on this and other topics, visit NUS at [www.nusonline.co.uk](http://www.nusonline.co.uk)



# Back to basics cooking

Long since fallen out of fashion, Corned Beef Hash is synonymous with wartime cooking. But due to the credit-crunch the dish is making a resurgence, with everyone from James Martin to Hugh Fearnley-Whittingstall offering their own personal take. Below is a recipe for the dish, which at around £1 per portion is well worth trying!

## CORNED BEEF HASH – SERVES 2, TAKES 10 MINUTES TO PREP AND 30 MINUTES TO COOK

### YOU WILL NEED

- 400g potatoes, peeled and diced for boiling
- 1 large carrot, chopped for boiling
- 200g tinned corned beef
- 1 tbsp oil – can be sunflower, vegetable or olive oil
- 1 small onion thinly diced
- 2 tbsp tomato ketchup
- Salt and pepper for seasoning
- 2 eggs (optional)
- Baked beans (optional)

1. Place the diced potatoes and chopped carrot in a large pan of water. Bring to the boil and simmer for 10 minutes. Then drain well.
2. At the same time, heat the oil in a good-sized frying pan and gently cook the diced onion until softened and translucent.
3. Very roughly mash the potatoes and carrot. Then crumble in the corned beef and mix together, still keeping a lot of texture in the mixture – you don't want to make this smooth.
4. Add to the frying pan with the onions along with the tomato ketchup and the salt and pepper for seasoning.
5. Mix together gently and cook for ten minutes until piping hot throughout.
6. You can then serve on its own or top with a fried or poached egg. If you are particularly hungry, baked beans make a good match.

### ALTERNATIVE TAKES

The exciting thing about Corned Beef Hash is that it's easy to experiment with and invent your own version. Listed below are some possible ideas to get you started:

- Add in Worcester sauce and mustard for an added kick, or even a red chilli
- Swede or brussel sprouts taste delicious and give an extra dimension to the dish – as well as added vitamins!
- Garlic is also a good choice for adding some extra zing
- Try serving with a green salad and crusty bread

# What types of books are help with your studies?

Sweet & Maxwell publish a huge range of titles to help you all the way through your studies. From your first dip into a subject, to more detailed information to help you through your course, to easy-to-use revision guides to help ensure you are fully prepared for your exams. In addition, Sweet & Maxwell publish a number of titles related to helping you with the general aspects of your studying – such as *Successful Legal Writing*.

## UNDERSTANDING LAW SERIES



The *Understanding Law Series* is a collection of introductions designed particularly with the new law student in mind.

Written in an engaging style that avoids unnecessary legal jargon, each text offers an overview of a specific area of law, highlights the variety of legal problems which legislation strives to address and explains why the law has evolved in its current form. These texts are ideal as pre-course reading for the new law undergraduate and CPE student.

Titles include:

- Understanding Law
- Understanding Public Law
- Understanding Contract Law
- Understanding Criminal Law
- Understanding Environmental Law
- Understanding EU Law
- Understanding Family Law
- Understanding Property Law
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## TEXTBOOKS



Whether for your core or optional subjects, Sweet & Maxwell publish the ideal textbook for your needs in a range of different formats.

They include:

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- Cases and Materials Series – provides you with cases and the major statutory materials in a particular field
- Texts and Materials – gives you extracts from original material – both cases and academic articles – along with expert commentary which puts the material into perspective for you
- Classic Textbooks Series – supplies you with detailed coverage of the core subjects. Written in a traditional and straightforward way they are essential reading

## LEGAL SKILLS BOOKS



As well as helping you with the actual subjects of your course, Sweet & Maxwell publish a range of titles to help you with the skills you need to do well in your degree and in your future career. Checking out some of the Legal Skills titles available is a must:

- Mooting and Advocacy Skills
- Effective Legal Research
- Successful Legal Writing
- Glanville Williams: Learning the Law
- How to Study Law
- The Devil's Advocate
- Osborn's Concise Law Dictionary
- The Path to Pupillage: a Guide for the Aspiring Barrister

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## NUTSHELLS



Nutshells present you with the essentials of law in clear, straightforward language, explaining the basic principles and highlighting key cases and statutes. They have been revamped to make your revision even easier. New features include colour throughout to help distinguish cases and legislation and aid ease of use as well as a model question and answer plan at the end of each and every chapter. There are Nutshells on all of the following areas:

- Constitutional & Administrative Law
- Medical Law
- Criminal Law
- Evidence
- Intellectual Property
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- Company Law
- Consumer Law
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- Equity & Trusts
- European Union Law
- Family Law
- Human Rights
- International Law
- Land Law

## NUTCASES



Another revision aid loved by students, Nutcases provide you with in-depth case analysis of the facts, principles and decision of the most important cases in an area of law. The Nutcases have also been completely revamped to make it even easier for you to get up to speed with the key cases in a subject and maximise your revision time. At £9.50 each, Sweet & Maxwell publish them in a range of subjects:

- Contract Law
- Human Rights
- Criminal Law
- Tort
- Constitutional & Administrative Law
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- Equity & Trusts
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- Land Law
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The full range can be viewed on our online catalogue by visiting us at [www.sweetandmaxwell.co.uk/academic](http://www.sweetandmaxwell.co.uk/academic)

# ELSA – preparing for your future

The European Law Students' Association (ELSA) was founded in 1981 by law students from Austria, Hungary, Poland and West Germany. Today, ELSA is the world's largest independent law students association with a membership of in excess of 30,000 members in more than 220 universities in 36 countries throughout Europe. As a non-political and non-profit making Association, ELSA is run by and for law students and recent graduates who have demonstrated a special devotion and commitment to international legal issues.

ELSA operates on three levels; Local, National and International level and has in addition developed its own international alumni society, The ELSA Lawyers' Society. ELSA has gained consultative status with several United Nations bodies; in 1997 ELSA obtained Special Consultative Status with UN ECOSOC (United Nations Economic and Social Council) and Consultative Status with UNCITRAL (UN Commission on International Trade Law), in 1994 ELSA was granted Consultative Status in Category C in UNESCO (UN Educational, Scientific and Cultural Organisation). Furthermore, in 2000 ELSA was granted Participatory Status with the Council of Europe. In addition, ELSA has a co-operation agreement with UNHCR (UN High Commissioner for Refugees). In October 2005 ELSA obtained Observer Status with the World Intellectual Property Organization (WIPO). Through its special commitment to Human Rights, ELSA has contributed to the developments within the area of Human Rights and at the moment ELSA has a Human Right Partnership with Council of Europe.

The Association carries out its activities through its three Key Areas; Seminars & Conferences, Academic Activities and Student Trainee Exchange Programme. ELSA offers a broad variety of activities such as law schools, seminars, conferences, lectures, panel discussions, moot courts, lawyers@work events, study visits to international organisations and institutions, essay competitions, Selected Papers on European Law among many other activities.

ELSA has also established its own trainee programme, which enables law students from all over Europe to gain work experience in the legal field of employment through traineeships abroad. One of the biggest projects going on is the ELSA Moot Court Competition on WTO law. Regional Rounds are organised in Europe, Asia, Australia, South- and North America. The winners face off in a Final Oral Round, this year in Taiwan.

ELSA is renowned for its high academic value in the International Legal Community and has established co-operation with its sister organisations and many international legal associations. Through joining ELSA, law students are able to participate in our activities and events taking place in various parts of Europe, thus having an excellent possibility of improving their international legal education on a legal topic of special interest for their education. Law students from different

cultural backgrounds get the possibility of sharing experiences and discuss legal topics in an international legal environment.

People who join ELSA are internationally minded and interested in legal issues. ELSA is the melting pot for many important legal discussions and gives you the possibility of participating in activities and events arranged abroad, throughout our Network of 36 countries. The Association is also a brilliant opportunity for improving your language skills and creating your network of future colleagues from all across Europe. ELSA teaches you cultural awareness and gives you an insight in other legal systems, all given in a multicultural environment and is thus an outstanding tool for preparing your future work in the international legal community.

**Anna Ziemnicka**

**President, ELSA International**

For more details, including how to join visit:  
[www.elsa.org](http://www.elsa.org)

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The European Law Students' Association

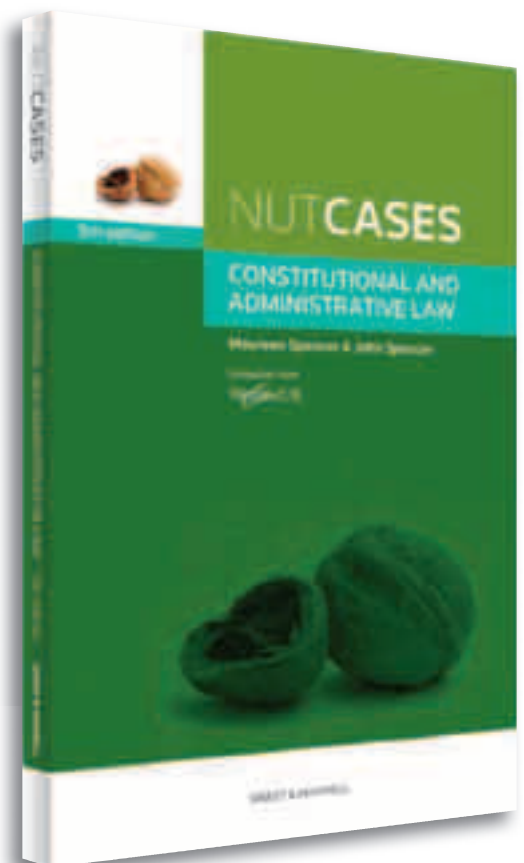


# YOU'VE GOT IT CRACKED



**NUTCASES** – your essential revision and starter guides

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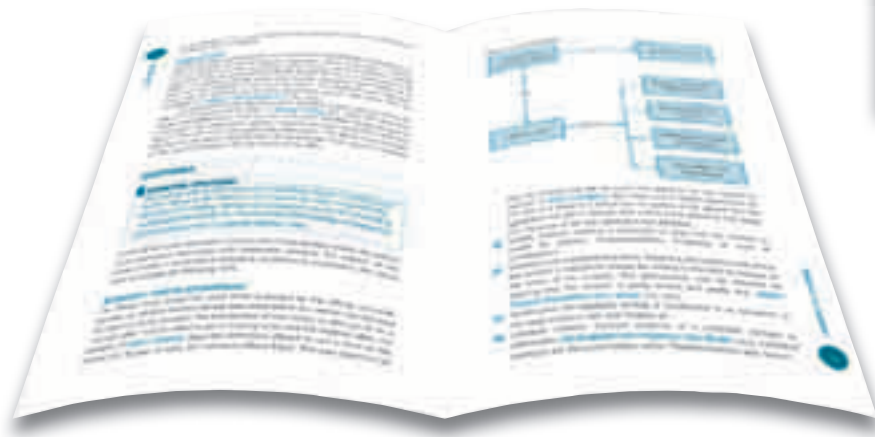
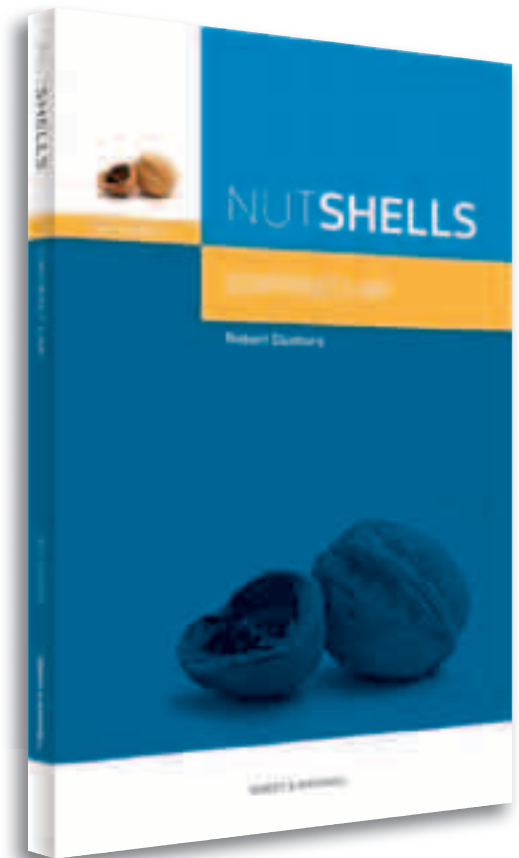
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- Opens each chapter with a short introduction to outline the key concepts covered and condense complex and important information
- Closes each chapter with a checklist to enable you to check that all your learning needs have been met
- Provides a model question with answer plan at the end of each chapter to enable you to fully prepare for both exam and essay questions
- Includes diagrams throughout to illustrate difficult concepts
- Places important key definitions and statutory provisions in boxes to help highlight the key points to remember
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