UTS Law
Guide to Written Communication

law.uts.edu.au
Welcome to Legal Writing ................................................................. 4

1. Introduction .................................................................................. 5
   1.1 Why do I need a Guide to Written Communication? ..................... 5
   1.2 Australian Guide to Legal Citation (4th ed) ..................................... 5
   1.3 Academic Responsibility ............................................................ 6
   1.4 Services to assist you with your Research and Writing ............... 7
   1.5 HELPS (Higher Education Language & Presentation Support) ........ 7

2. Reading ....................................................................................... 8
   2.1 Reading skills: an essential part of good writing ...................... 8
   2.2 How to manage the amount of reading you must do ................ 8

3. Writing ....................................................................................... 14
   3.1 Cohesive and coherent ............................................................... 14
   3.2 Some basic rules of academic writing ....................................... 14
   3.3 The Importance of Plain English ............................................ 15
   3.4 Expressing your opinion ............................................................ 16
   3.5 Writing your first draft .............................................................. 16
   3.6 Structuring written work ............................................................ 17
   3.7 Writing about cases ................................................................. 22
   3.8 Writing about legislation ......................................................... 23
   3.9 Referring to authors ............................................................... 24
   3.10 Quotations ............................................................................. 24
   3.11 Citation .................................................................................. 26

4. Legal style .................................................................................. 41
Welcome to Legal Writing

Clear and concise written communication is critical for lawyers and professionals educated in law. All law graduates must develop and demonstrate strong spoken and written communication skills to inform and persuade different audiences. Communication is one of the six graduate attribute UTS Law students possess by the time they complete their study. Communication skills also underpin all learning outcomes. Throughout your study your effectiveness as a writer and a thinker will be assessed informally through your writing in learning activities, and formally in assessment tasks and exams. The writing you undertake as part of your course will provide valuable training for the demands that will be made on you as a practising lawyer or professional.

UTS Law is committed to helping all students achieve high standards of professional communication. The aim of this guide is to answer some of the questions and address some of the common issues that arise about the nature of academic and legal writing for students studying law. The guide provides information about the process of written legal communication and covers: researching, reading and understanding assessment tasks; as well as writing and referencing accurately using the footnoting system recommended by the Australian Guide to Legal Citation (AGLC). This guide has incorporated feedback from teachers and students to ensure its relevance to undergraduate and postgraduate law students.

We wish you great success and fulfilment with your writing during your course at UTS Law and beyond.

Maxine Evers

Associate Dean (Education)
1. Introduction

1.1 Why do I need a Guide to Written Communication?

Written assignments form a significant part of students’ assessments for a UTS Law course. Students are expected to write well-structured and convincingly argued essays, respond to problem questions on points of law and write clear case notes.

Lawyers and legally trained professionals produce a wide diversity of written work beyond the tasks referred to above. Although this guide does not cover every type of document you may need to write (such as letters to clients and file notes), the reading, writing and reasoning skills you develop while completing assessment tasks throughout your course will be of invaluable assistance in your professional life. This guide will provide a basic understanding of those writing conventions.

For postgraduate students who may have already developed sound writing skills, legal writing is often different to other disciplines. This guide is a useful resource for developing writing skills for a legal professional and developing a professional identity as a lawyer.

1.2 Australian Guide to Legal Citation (4th ed)

While studying law at UTS, you will be expected to properly cite authority to support your suppositions of law and properly reference other people’s work when adopting or discussing their ideas. UTS Law students are expected to adopt the style of legal writing found in the Australian Guide to Legal Citation (4th ed) (‘AGLC’), which is published by the Melbourne University Law Review. At the time of writing this guide the most current version of the AGLC is the 4th edition.

The AGLC can be downloaded to the desktop but it cannot be printed. It is important to become familiar with the AGLC as it covers the different text types you may encounter and need to reference in your writing throughout your degree. For example, you will need to know how to reference:

- cases;
- legislation;
- journal articles (both online and print);
• websites; and
• books.

Included in this guide is an overview of how to cite the above sources. This information has been adapted from the AGLC in order to show how citations are constructed. It is important that your first point of reference for all citations is the AGLC.

1.3 Academic Responsibility

Being part of the academic community involves respecting the opinions and arguments of other people. Your work will rely, in part, on the research that has come before you by others in your field. Correctly acknowledging the work of others in your writing is an essential requirement for all of your writing.

Referencing and accurate citations are extremely important in academic and legal writing. The reasons for this are:

• In any legal writing, a statement of law must be supported by citing a legal authority, such as a statute, a regulation, a case or any other authoritative text.

• When writing in an academic context it is expected that evidence will be provided to support arguments, as well as to build upon relevant previous work in the area. This is done by referring to the literature in a way that provides links to evidence and clear directions for those that wish to follow these.

• The work of others must be acknowledged. In Australian academic culture it is considered wrong to appropriate someone else’s opinion without properly acknowledging the source (this is known as plagiarism and is dealt with very seriously by the University).

1.3.1 Plagiarism and Academic Writing

Part of your responsibility as a member of the scholarly community is to accurately acknowledge the work of others. As a law student, knowingly plagiarising, and thereby infringing the UTS Student Rules, can have an impact on your professional life. Plagiarism is academic misconduct. When law students apply to be admitted to practise law, there is a requirement that past conduct, including academic misconduct, be disclosed.

Acknowledging sources correctly is a fundamental part of academic and legal writing. It is essential that you read and understand the information on plagiarism.

Information regarding academic misconduct and what constitutes plagiarism is available on
the faculty website under Academic Misconduct.

There are penalties for plagiarism and other forms of cheating and student misconduct. Please refer to the UTS Student Rules, section 16 - Student misconduct and appeals.

For more information on the definition of plagiarism, and how to avoid it, please refer to the University’s ‘Referencing and Plagiarism’ website and tutorials.

*Note that the citation examples on the ‘Referencing and Plagiarism’ website are not in the AGLC style.

1.4 Services to assist you with your Research and Writing

The library has a very wide collection of excellent law-related resources to help you with your research and writing, including law databases, law study guides and past exam papers on its website under Guides: Law.

The UTS Library website also provides information and workshops about using EndNote, which is a free bibliographic software program you can use to manage your referencing and footnotes throughout your course. At UTS the legal referencing style available for use with EndNote is AGLC (UTS). This style is based on the AGLC.

Find out about EndNote on the library’s website under referencing.

1.5 HELPS (Higher Education Language & Presentation Support)

UTS is committed to developing and supporting students' English language proficiency throughout their courses of study.

HELPS is a free student service that provides English language and academic literacy support to UTS students in various ways, including workshops, one-on-one consultations and resources.

HELPS supports students in their writing and presentation skills. Visit the HELPS website.
2. Reading

2.1 Reading skills: an essential part of good writing

Good writing skills can be learnt from reading widely. One of the best forms of preparation for academic and legal writing is to read published articles in refereed journals and modern case law. This enables readers to become familiar with the style and structure that are common in academic writing in law.

It is essential to read articles that are directly related to your essay task or research question for two purposes:

- to gain insights into the opinions and reasons for the opinions of other scholars; and
- to learn from their writing – to look at the structure of the introduction, how the purpose is stated, the use of subheadings, the sequence of reasons in an argument, the structure of the conclusion.

Before looking at how to write for an assessment in law, it is important to learn to be selective about what – and how – to read during your law degree.

2.2 How to manage the amount of reading you must do

The study of law involves a considerable amount of reading. Often students feel overwhelmed by the amount of reading they must do. This raises two particular problems: the volume of reading that will have to be done and understanding what is read.

2.2.1 Read strategically

Select your readings carefully. Sometimes it is just not possible – or necessary – to read every single word in your textbook, or an entire case. Nor do you have to read in full every textbook or case mentioned by your lecturer or listed as ‘recommended reading’ in your subject materials.

Here are some tips that may help you to read strategically.
2.2.1.1 What to read

You should ensure that you read the following in full:

- The essential readings listed in your subject outlines or supplementary materials.
- Leading cases relevant to the subject you are studying. Often these are specifically listed or emphasised in your subject outlines or supplementary materials. Teachers will often flag a case that is very important.

You can be more selective with other materials. Often subject outlines and supplementary materials provide lists of recommended readings that can be used to augment your essential readings.

2.2.1.2 How to read strategically

Sometimes the volume of essential readings can seem overwhelming. It is not uncommon for essential readings to consist of multiple chapters per week from a textbook of several hundred pages, or a leading case that is several hundred pages long. The key to reading these strategically is to look for linguistic signposts in the text that direct you to the most relevant sections. Good writers use signposts to guide their readers.

How can you evaluate the relevance of an article, chapter or case to your purpose?

- Read the abstract (for articles) or head note (for cases). This will give you a brief overview of the main issues addressed in the text.
- Read the introduction – identify the topic, purpose, scope, and background of the text (not necessarily in this order).
- When reading a case which involves complex facts, it may be useful to draw a diagram of the fact scenario to help you understand the interrelationships between the parties.
- Scan any headings and subheadings for relevance.
- Scan the topic sentences of each introductory paragraph.
- Read the conclusion/s.
- If you are reading a case, start first with the majority judgments.
- Textbooks always have a table of contents at the front of the book and an index of subjects at the back. Use both to locate exactly where in the book you need to read.
However, even though it is better to read strategically than to read redundant material, study in law does require a lot of reading and sometimes, for a full understanding of the principles, you will need to read the entire case or the entire chapter or you will need to read the material several times to understand its content. This is a matter of judgment and you will become better at choosing the most relevant materials as you progress.

Example

Read the sample text below. It is taken from a peer-reviewed journal article. It is written with clear signposting showing:

- strong topic sentence
- focus and scope
- organisation of ideas
- well-defined position/argument.

It will be seen that a quick glance over the introduction, noting the signposting provided by the author, gives you an idea of the content of the article. If you were assessing whether it is an article worth reading in support of your studies, you can see how you can quickly evaluate whether it would be worthwhile to read the entire text.

Note: Sections of the text are **bolded** to show you sign posting language, donot use bold when you are writing assessment tasks

Contractual Good Faith: Can Australia Benefit From the American Experience?

Introduction

The existence and enforceability of contractual good faith obligations seem less in doubt in Australia than ever before. Recent decisions in different jurisdictions reveal an increasing trend for courts to recognise and uphold express obligations and implied obligations of good faith. While there has been a greater acceptance of express and implied good faith obligations, there is still some uncertainty as to the meaning of ‘good faith’ and the actual content of the obligation in any context. **This article considers** the different meanings given to ‘good faith’ in Australia and compares those with ‘good faith’ in jurisdictions in the USA, which has incorporated good faith in contract law for some time, both at common law and through codification, such as the Uniform Commercial Code. Some Australian judges have tried to bolster their decisions for incorporating good faith by reference to the American experience. **This article considers** the use that is being made of American cases, and then considers the various meanings of ‘good faith’ used in America and Australia. **It reasons that Australian** law will not benefit significantly from the American experience, and goes on to argue that the best meaning of ‘good faith’ is...
honesty’ and is inherent in contract principles generally. Most often, ‘good faith’ will be seen in the process of construction.

Use of American Experience in Australian Decisions

It is generally thought that the decision of Priestley JA in Renard Constructions (ME) Pty Ltd v Minister for Public Works started the development of good faith in contractual performance in Australia. In his judgment, Priestley JA spends considerable time discussing the position in the USA, including the UCC. Since then, other courts have often approved Priestley JA’s discussion or added further references to American cases.¹

2.2.1.3 Reading in preparation for an assignment

If you are reading in preparation for an assignment, prepare a careful analysis of the set topic and continually consider the relevance of the material you are reading to that topic.

Be aware of the distinction between:

- primary sources of law (statutes, regulations and cases) which are foundation resources; and
- secondary sources of law (journal articles, books and other publications) which are materials/texts which comment on primary sources of law. It is important to note that parliamentary debates, which might be considered a primary source in other disciplines, are a secondary source of law, as it is a comment on or description of the law (i.e. it does not state what the law is).

2.2.1.4 Comprehending what you read, connecting ideas and recognising arguments

Being an active reader means reading with a clear purpose in mind, thinking about why you have been asked to do the reading and how it relates to your subject topics.

2.2.1.5 Ask yourself:

- Why you have been asked to read a certain case (chapter, article, extract)?
- What is the topic or legal principle you are currently studying?
- What are the objectives of this topic?
- What are you meant to have achieved in terms of learning objectives by the time you have completed this topic?

• Are there discussion starter questions set by your teacher that can frame the reading?

**2.2.1.6 Learn to identify:**

• the writer’s arguments;
• the reasoning of the decision;
• the principles relied upon by the judge or author; and
• the differences in points of view between one author and another, and between one judge and another. In your writing, you will be expected to attempt to articulate those differences and either reconcile them or support one view against another.

**2.2.1.7 Learn to evaluate the authority of the text**

Ask yourself:

• What is the authority of this text?
• Who has written the text?
• What are the qualifications of the author in terms of the content of the text?
• What evidence is presented to support the author’s argument?
• How much weight should I give this text in the context of other scholarship in the field?

If you are reading cases and weighing up the strengths of different decisions you will need to focus on which court made the decision, whether the court is in the same jurisdiction and so on. These are questions and considerations about the precedent value of a case (for example, a unanimous decision of the High Court has much greater weight and is binding, whereas a decision of a foreign court will be merely persuasive in the Australian context).

**2.2.1.8 Should I give it much ‘weight’? Learn to read critically**

You should not uncritically accept a point of view or piece of information just because it is stated in a book or article.

Ask yourself these questions:

• Is the argument justified in the light of the source material?
• Has it been rendered obsolete by later research or law?
• Is the ratio of the case you are reading consistent with other decided authority and with logic?

It is essential that you are capable of critically analysing any information or contention put to you, taking into account the context of the sources from which it is drawn, and then forming your own opinion as to whether it is a valid and sustainable argument.

2.2.1.9 Dealing with difficult texts

Specialised textbooks: If a text is too dense or there are too many concepts you are unfamiliar with, it may be worth going back to basics and looking at a more generalised textbook on the subject that may clarify the reading for you.

Journal article: Similar problems can arise with peer-reviewed journal articles. Sometimes it helps to read a review of that article, or a response to that scholar’s argument, to provide a different perspective on the topic being addressed in the article.

Complex cases: Search for case notes in academic journals. In a case note, the case will have been summarised and the most important points will have been identified. It will also contextualise the case with respect to existing law. It may also be useful to visually display a complex relationship between the parties.
3. Writing

3.1 Cohesive and coherent

Writing and reading skills inform one another and by reading widely from journal articles, seminar materials, selected readings, books and cases, you will become familiar with the language of law. You will be expected to produce a range of different text types including: case notes, research essays, reflections and responses to scenario problems.

There is more to academic and professional legal writing than simply putting down information in any order. You will be expected to develop an argument and to show the relationship between the ideas you are expressing; your writing must therefore demonstrate coherence and be cohesive.

- **Coherence**: means the essay or paper makes sense to the reader; it is logical and easy to follow.

- **Cohesion**: refers to the way ideas are related to one another. This is achieved by ensuring that your writing contains transition signals throughout.

  **Transition signals**: help to create a sense of cohesion by indicating relationships between ideas and connections between sentences. They have many functions including signalling: sequence, chronology, consequence, cause and effect, and contrast. See: *Transition Signals in Writing*, UNSW.

This section of the guide aims to give you tips that you can use when writing for any purpose in your law course. Specific tips for particular assessment types are provided in Chapter 6 of this guide.

3.2 Some basic rules of academic writing

- Cite case law or legislation for all propositions of law.
- Acknowledge all the references you use.
- Do not use colloquial language or slang. Use a more formal tone and an objective register.
- Write words in full and avoid contractions.
Do not use abbreviations that have not been introduced in full first.

Do not use colourful or strong emotional language.

Favour the active voice over the passive voice.

3.3 The Importance of Plain English

Students are expected to use a level of formality in their language and employ the use of Plain English where appropriate. The aim of Plain English is to simplify the language of legal writing, making it more inclusive and to the point. This does not mean that the language is simplistic or that specialised legal terms with very specific meanings are not used.

In summary, writing in Plain English can be achieved by:

- choosing the shortest and most appropriate word, and avoiding pretence or affectation; and
- avoiding adopting a ‘legal’ tone or using too much legalese.

Example

The following:

I am in agreement with your decision. You would be wise to effect an immediate termination of the contract.

Can be re-written as:

I agree with your decision. You would be wise to end the contract immediately.²

3.3.1 Plain English resources

Read more about the practice of plain language:

- Michèle M Asprey, Plain Language for Lawyers (Federation Press, 4th ed, 2010)
- Terry Hutchinson, Researching and Writing in Law (Thomson Reuters/Lawbook Co, 4th ed, 2018)


All books are available from UTS library.

### 3.4 Expressing your opinion

You must form your own opinion. Your opinions will be subjected to the same critical tests that you are asked to apply to the views of others. In the law, the better-informed opinion will carry more weight and command more respect.

The sincerity of your opinion is one matter: its legal quality is another. Do not confuse the two, nor expect that you will be rewarded for sincerity or intensity.

### 3.5 Writing your first draft

Writing is an iterative process of slowly building and improving on an argument. Do not expect that your first effort will be acceptable! No matter what type of assessment you are writing for, considerable thought and effort should go into the drafting and you should always be realistic enough to appreciate that what you have done could be improved upon.

★ **TIPS** ★

- Prepare a plan first. Organise your ideas or the issues you want to address in a logical order. Set them out as headings. Consider how you will lead from one issue into the next. Make sure you have answered all parts of the assessment.

- Start writing. Only when you have something on paper will the assignment take any shape. Be aware that there are many false starts when writing; this is normal and part of the process. You might start to write but then realise that you need to stop writing in order to conduct further research on a particular point or issue. However, you will reach the stage where you have conducted sufficient research to complete your assignment; this is usually because you are no longer uncovering any new information and do not need any further clarification of issues, and the writing will start to flow.

- Aim to prepare a draft that can then be improved upon. A first draft, for instance, might be a bit longer than a final work; editing work will then involve trimming, tightening your argument, rather than the more difficult task of supplementing.
• Write your introduction last. It is important that the introduction sets the scene for the reader. You will have a clearer idea of what concepts you want to emphasise in the introduction once you have completed a first draft.

3.6 Structuring written work

In most assessment tasks, it will be essential to structure your writing with the following:

• An introduction outlining the nature or scope of the argument or position you are putting in the assignment.

• The body of the text for discussion or analysis of the problems or questions. This is often broken down into parts by using subheadings.

• A conclusion that briefly sums up the discussion and states the final position to which you have arrived.

• Remember that your introduction and conclusion should be cohesive and that what you outlined in the introduction should be closed off, or summarised in the conclusion.

3.6.1 Headings and subheadings

Think about how to structure your paper in order to present your material in an easy to understand layout. Headings, which indicate the structure of your essay, are useful signposts to the reader because they identify what and where issues are discussed in your writing.

Setting out headings before you start writing will also provide a structure and direct your writing. If you create a list of headings and subheadings before you start writing, stop and consider how you have ordered them: do they lead logically and persuasively from one issue into the next?

Make sure your heading hierarchy is consistent. If you are using a heading as a signpost to an important concept, you should ensure that each topic covered by that style of heading has the same weight. Subheadings are used to expand concepts within the topic of the heading. Think of the headings and subheadings as a drop down menu used with an online resource. Does the topic of each subheading fit within the topic of the heading?

3.6.2 Consider using numbers

If you are writing a research paper or long essay, you may want to consider using numbers to reference your paragraphs. This is particularly useful if you need to cross-reference content within the assessment. This guide uses a simple numbering system, which allows quick
access to specific points discussed.

### 3.6.3 Writing an introduction

An introduction helps to orientate the reader; it is an important first step in writing a well-structured paper. It is essential to have an introduction which:

- identifies the issues raised by the question;
- states your topic and what position you will take on it;
- briefly states the major points you want to write about;
- outlines how your essay will be organised; and
- includes definitions if appropriate and identifies assumptions.

**Example**

If a question asks you to assess the advantages and disadvantages of a case, it is not sufficient to say:

This essay will assess the advantages and disadvantages of [case]. You also need to give an outline of the scope of your argument:

In this paper the advantages and disadvantages of [x] are examined. It is argued that the critical role of [one advantage] supports a shift in policy to implement [x], not withstanding the presence of other disadvantages.

**Further Examples**

This paper considers/does not consider ... This paper will focus upon...

The [issue] will be explored ...

This paper will address [three] issues which arise from [case]. First, [issue]. Secondly, [second issue]. Finally, the question of [issue] remains unsettled.

In the sample text below the choice of language indicates the aim, scope, main argument and structure of the paper. Being able to identify the staging will also help you evaluate the relevance of the text to your topic.

! **NOTE:** The relevant parts of the text have been bolded to demonstrate how to write a good introduction. Do NOT use bold when you are writing an essay.

**Introduction**
In what has recently been described as a classical statement of the doctrine of estoppel in pais, Dixon J said in *Grundt v Great Boulder Pty Gold Mines Ltd* that ‘the basal purpose of this doctrine ... is to avoid or prevent a detriment to the Party asserting the estoppel’. **The aim of this article is to consider** the extent to which... **doctrines of estoppel operating in Australia today**... While some judges and commentators have advocated unification of those doctrines... **This article argues that** protecting against detrimental reliance can, and should, be seen as that unifying force.

**The first part of this article** for the purpose of the subsequent analysis... **will summarise** the current state of estoppel in Australia today.

**The second part of the article** will briefly outline the three competing purposes of estoppel that have been articulated by judges and commentators.

**The article concludes** that the conflicts...3

See also the example at 2.2.1.2 How to read strategically.

Do not over promise in your introduction. Ensure that whatever statements you have made in your introduction are covered in the body of the work. You should read your introduction again after completing the body of the work to ensure that you have clearly made your case or point as outlined.

### 3.6.4 Body

In the body of your writing, you will expand on the outline of the argument in the introduction. Each paragraph should focus on an aspect of the argument or problem supported by several sentences containing evidence that supports the argument (this may also involve responding directly to possible counter arguments). Use subheadings between sections of the body to signify information about the content to the reader.

**★ TIPS ★**

- Begin with your strongest argument.
- Discuss and evaluate the major points you want to make with evidence from the readings.
- Use a topic sentence to set up each paragraph.
- Systematically discuss one point per paragraph.

• Move in a logical sequence from one point to the next.
• Show the connections between ideas with linking words. For example: ‘However ...’, ‘In contrast to ...’, ‘In addition ...’, ‘Furthermore ...’, ‘Taking into consideration ...’.
• Conclude paragraphs or sections of your writing with a sentence that relates the issue discussed back to the topic.

Examples

[The issue of] is currently unresolved.

It is well established that ..., [or] It is commonly understood that ... Commentators agree that ...

There is a difference of opinion amongst commentators in relation to ...

The question of [x] was considered in [case name]. The court held/ Harris J held ... The difficulty which this gives rise to is: ...

Under Australian law, the elements of this doctrine were established/ discussed in [case name]. They are: ...

[Case name] has been approved and applied in several recent cases: [case], [case] and [case].

3.6.4.1 Paragraphs

Written work should be presented in paragraphs. A paragraph is a group of connected sentences about one idea. Each paragraph should begin with a topic sentence that either refers back to the previous paragraph and expands on the ideas expressed or introduces a new idea. Cohesion is created by showing relationships between ideas indicated by transition signals, repeating key words and referring back to the subject of the paragraph. To write essays at university level, and to develop an argument that can satisfactorily deal with issues, it is imperative that you use coherent paragraphs. The format of a paragraph signals to the reader that it represents an integrated chain of sentences, and must be read as a whole.

It is rarely possible to develop your ideas and to discuss the ideas of others adequately unless you spend more than three or four sentences on each of the matters you have to consider. Do not make each sentence a separate paragraph: this makes your essay disjointed.
While it is tempting to reduce your work to a series of dot-points – especially when dealing with a strict word limit – this seriously inhibits your capacity to demonstrate to the marker that you can persuasively, elegantly and thoroughly make a point.

3.6.4.2 Concluding sentences

The concluding comments to each paragraph or section of your essay should draw out the main points and make sense of any conflicting opinions and findings.

 Examples

<table>
<thead>
<tr>
<th>The key findings in relation to X seem to be...</th>
</tr>
</thead>
<tbody>
<tr>
<td>The significant issues with respect to X appear to be ...</td>
</tr>
<tr>
<td>The fundamental problems identified by existing research are...</td>
</tr>
<tr>
<td>The most important factors associated with X can be categorised as... The noteworthy features of X are...</td>
</tr>
<tr>
<td>The most frequently mentioned drawbacks are the following: ... The predominant view appears to be...</td>
</tr>
<tr>
<td>The crucial factors related to X seem to be...</td>
</tr>
</tbody>
</table>

3.6.5 Conclusion

It is also essential to finish your assignment with a clear conclusion, which summarises the arguments you have made or problems you have identified. The conclusion:

- should be brief. It should summarise your main arguments and state clearly your conclusion.

- cannot introduce any new argument.

- must be logically consistent with your argument.

- should be consistent with your introduction. Ensure that you have addressed the proposition/s that you told the reader you were going to address.

 Examples

<table>
<thead>
<tr>
<th>In conclusion by analysing Y it has been argued that X ...</th>
</tr>
</thead>
<tbody>
<tr>
<td>The concept of [x] has proven difficult to define. In [case] it was described in terms of [description]. However, in [case] it was treated as [having a broader/ narrower scope].</td>
</tr>
<tr>
<td>It is therefore logical to argue that because of ... it is likely to be held that ... After considering</td>
</tr>
</tbody>
</table>
these factors, I would advise Smith to ...

3.7 Writing about cases

Writing about cases employs particular language and particular writing conventions

Examples

A trial before a single judge (i.e. not an appeal) can be described as a trial or ‘at first instance’. An appeal decision is described as being ‘on appeal’:

At first instance, White J awarded the plaintiff damages. On appeal, the New South Wales Court of Appeal upheld the decision of the trial judge.

To describe what a judge decided, write:

Gregg J held ...

Gregg J found ...

Where you wish to refer to the reasons of a judge in a court of appeal, refer to the judge and note whether the other judges agreed with that judge, or whether that judge was in dissent. For example:

In Harris v Smith, Gregg JA (with whom Smiles JA and Frown JA agreed) observed that ...

In Harris v Smith, Gregg JA (in dissent/ dissenting) held that ...

For further information on how to indicate whether a judicial officer is in agreement with another judgment, see AGLC r 2.4.2.

3.7.1 Referring to judicial officers

See AGLC, r 2.4

Sometimes you will have to identify a particular judge – or judges – in your writing. For example, if you quote from a case you must cite the judge(s) from whose judgment you have taken the quote.

See rule 2.4 of the AGLC for guidance on how to properly refer to a judicial officer whose judgment is being cited. See rule 4.1.5 of the AGLC on guidance on how to properly refer to a judicial officer writing extra-curially.
3.8 Writing about legislation

Writing about legislation, like writing about cases, employs particular language and particular writing conventions.

Example

An action taken in respect of legislation because it is authorised or mandated by a particular section is often described as an action taken ‘under’ or ‘pursuant to’.

Having taken into account the evidence and submissions, I decided that the correct or preferable decision pursuant to section 69A(3) of the Act was to affirm the decision of the Conference Registrar in relation to Items 1 - 6 and to disallow the claim for $261. ...

For the section to apply, the requirements of both sub-sections (a) and (b) must be satisfied: that is, the applicant must both have been invited to comment on or respond to information under s 359A (s 359C(2)(a)), and must not have given the comments or response before the time for giving them had passed (s 359C(2)(b)). ...

Liability to pay damages for misleading and deceptive conduct in trade or commerce used to be found under Trade Practices Act 1974 (Cth) s 82. The equivalent liability is now found under Australian Consumer Law, s 236. ...

A statute that is no longer in force is referred to as ‘repealed’.

Section 121(1) of the Workers Compensation Act 1987 was repealed by the Workers Compensation (Compensation Court) Amendment Act 1989, sch 1, cl (14). The Compensation Court (Amendment) Act 1987, sch 1, cl (4), repealed s 18(3) of the 1984 Act. It was however re-enacted in substantially similar form as s 121(1) of the Workers Compensation Act 1987. ...

In Butler v Attorney-General (1961) 106 CLR 268, a majority of the High Court (Kitto, Taylor and Menzies JJ, Fullagar and Windeyer JJs dissenting) held that s 32(5) of the Public Service Act 1946 (Vic) had impliedly repealed s 10 of the Discharged Servicemen’s Preference Act 1943 (Vic). ...

This item amends section 28 by substituting a new subsection (1). The substituted subsection contains an amendment intended to be made by section 4(2)(b) of the Justice Legislation Amendment Act 2012 (now repealed). ...
3.9 Referring to authors

See AGLC r 4.1

For guidance on how to refer to an author in the body of your discussion (or, in rarer cases, where you provide extra commentary in your footnotes), see rule 4.1 of the AGLC.

Examples

The possession of the bailee is and must be distinguished from the possession of the owner and that of the thief by the fact that the bailee as bailee makes no accompanying claim to or assertion of *dominium*, but accepts a continuing interest of a previous owner or possessor. Street, however, takes the matter further. ... 4

More fundamentally, as Galanter argues, ‘justice is not primarily to be found in official justice-dispensing institutions’. ... 5

As might be expected, both in his judicial decisions and in his extra-curial writing, Sir Anthony Mason has addressed the issue of interpretation of the Constitution many times. Most recently he did so in an essay entitled ‘The Interpretation of a Constitution in a Modern Liberal Democracy’. In that essay, Sir Anthony Mason classified various approaches to the interpretation of the Constitution: ... 6

To find out how to refer to judicial officers in your writing, see 3.7.1 Referring to judicial officers.

3.10 Quotations

See AGLC, r 1.5

For guidance on how to quote a passage in your main text, see rule 1.5 of the AGLC.

Examples

A common starting point is the observation by Rob Gordon that supported decision-making ‘simply recognizes the way in which most adults function in their everyday lives’ through interdependent decision-making which marshals available advice and support. 7

---

6 Michael Kirby, ‘Constitutional Interpretation and Original Intent: A Form of Ancestor Worship?’ (2000) 24(1) *Melbourne University Law Review* 1, 6. Note that while honorific titles may be included in the main text they should not appear in footnote citations (see AGLC r 4.1.1).
7 Terry Carney and Fleur Beaupert, ‘Public and Private Bricolage – Challenges Balancing Law, Services and
For example, in *Minister of Home Affairs v Fourie*, Sachs J found that ‘the reference to “men and women” is descriptive of an assumed reality, rather that prescriptive of a normal structure for all time’. In *Hollingsworth v Perry*, the United States Supreme Court held that the lack of federal recognition of same-sex marriage...8

Importantly, this study has not attempted a comparison between special leave cases refused and actual cases heard in negligence before the High Court.

Doubtless, such further research would be instructive. It would have widespread implications across High Court decisions generally. For example, Luntz examined the special leave criteria applied by the High Court in 18 tort law cases in 2003. He summarised the result as follows:

... one sees few of the criteria for the grant of special leave to have been satisfied. Instead, one comes away with the impression that a court dominated by justices from New South Wales is concerned to put decisions of the New South Wales Court of Appeal right, often on points of interest to that jurisdiction only...

This area thus offers fertile ground for future analysis.9

### 3.10.1 Ellipses

See AGLC, r 1.5.3

An ellipsis within a quote is a series of three full stops (‘...’) which denotes that some words from the quote have been omitted. It is useful to omit words from quotes where they are not to the point or would interrupt the flow of your text. For further guidance on using ellipses, see rule 1.5.3 of the AGLC.

**Example**

If you wanted to quote part of the following passage:

Secondly, the essential notion is that of repugnancy to or incompatibility with that institutional integrity of the State courts which bespeaks their constitutionally mandated position in the Australian legal system.10

---

You would use an ellipsis to indicate that part of the passage has not been included in your quotation:

Earlier, in *Fardon v Attorney-General (Qld)*, Gummow J observed that the ‘institutional integrity of the State courts ... bespeaks their constitutionally mandated position in the Australian legal system’. His Honour was there referring to the Commonwealth Constitution.

### 3.11 Citation

Legal writing has distinctive conventions that you should adopt in all of your written work. In particular, you must know how to correctly cite primary authorities (statutes and cases). The citation style which you are required to follow is set out in the [AGLC](https://www.agc.gov.au/law-reform/publications-and-resources/legislative-grammar-and-citation).

The AGLC deals comprehensively with how to cite primary legal sources (for example, cases, statutes, and delegated legislation) and how to cite secondary sources (for example, books, journal articles, speeches, parliamentary debates and online material). This section provides a brief overview of the most common primary and secondary sources you will cite in your work. It is emphasised that this is a brief overview; please refer to the relevant sections of the AGLC for more detail.

#### 3.11.1 Footnotes

See AGLC, r 1.1

In law, generally footnotes are used and not endnotes or in-text referencing (also known as the ‘Harvard system’). For your assessments, you must use footnotes in your work.

##### 3.11.1.1 When to footnote

See AGLC, r 1.1.1

For guidance on when you should footnote, see r 1.1.1 of the AGLC.

##### 3.11.2 Position of footnotes

See AGLC, r 1.1.12

For guidance on where a footnote should appear, see rule 1.1.2 of the AGLC.

**Example**

In writing about the difference a feminist perspective would make to key Australian decisions, Heather Douglas and colleagues have argued that ‘the possibility or potential for
feminist influence in current legal processes may be limited by law's deeply embedded structures and methods’.\(^{11}\)

### 3.11.1.3 How to footnote

See AGLC, r 1.4

See rule 1.4 of the AGLC for guidance on:

- how to cite a source for the first time; and
- how to cite a source that you have already cited in your written assignment (what is referred to as a ‘repeat citation’).

**Example**

The following table demonstrates how a series of footnotes might look and includes examples of repeat citations. Three sources have been cited and each is highlighted in a different colour to show how each is first cited, then cited later depending upon where the later citations are in relation to the first.

2. Ibid 407.
3. **Austotel Pty Ltd v Franklins Self Serve Pty Ltd** (1989) 16 NSWLR 582, 585 (Kirby P) (*Austotel v Franklins*).
4. Ibid.
5. **Walton Stores** (n 1) 428 (Brennan J).
7. **Austotel v Franklins** (n 3) 586 (Kirby P).
8. Handley (n 6) 27.

### 3.11.2 Short titles/abbreviating names

See AGLC, r 1.4.4

A short title is an abbreviated title you may give to certain primary sources you cite multiple times in your writing. Using short titles saves you having to type out citations of primary sources in full each time you cite them. For further guidance on using short titles or

---

abbreviating names, see rule 1.4.4 of the AGLC.

Example

Commercial Bank of Australia Ltd v Amadio (1983) 151 CLR 447 (‘Amadio’)

Australian Securities and Investments Commission v Somerville (2009) 77 NSWLR 110 (‘ASIC v Somerville’)

Trade Practices Act 1974 (Cth) (‘TPA’)

3.11.2.1 Other uses of short titles

Short titles can also be applied to individuals or organisations with long names, where you will be referring to those individuals or organisations many times in your writing. Using short titles in this regard is not a citation issue, but it is worth mentioning.

Example

Australian Securities and Investments Commission (‘ASIC’)

Australian Competition and Consumer Commission (‘ACCC’)

The Minister for Immigration and Citizenship (‘the Minister’)

NOTE: It is not appropriate to abbreviate or give short titles to legal concepts as a way to save words. You must not abbreviate a concept like ‘misleading or deceptive conduct’ to ‘mdc’ or ‘promissory estoppel’ to ‘pe’.

3.11.3 Cases

See AGLC, r 2

The following tables are adapted from rule 2 of the AGLC. The first table shows how a reported case is cited. The second shows how unreported cases are cited.
Citing cases in the body of your writing

When writing an assignment, you may choose to cite a case in full in the main text (i.e. name and full citation to where the case is reported), or to refer to just the name of the case in the main text and footnote the rest of the citation.

For example, you could refer to a case in either of the following ways:

Example 1

The leading Australian case on ‘wrongful birth’, Cattanach v Melchior (2003) 214 CLR 1, determined...

OR

The leading Australian case on ‘wrongful birth’, Cattanach v Melchior, determined...

Example 2

Note that not all unreported decisions will have a medium-neutral citation; if an unreported decision does not have a medium-neutral citation then you need to follow AGLC, r. 2.3.2.
In Inre Bank of Credit and Commerce International SA (No 8) [1998] AC 214, 226, Lord Hoffmann, with whose speech the other Law Lords agreed, gave a description of an equitable charge in which he emphasised that the proprietary interest created thereby is held by way of security, so that the chargee may resort to the charged asset only for the purpose of satisfying some liability due to the chargee.

OR

In Inre Bank of Credit and Commerce International SA (No 8)[17], Lord Hoffmann, with whose speech the other Law Lords agreed, gave a description of an equitable charge in which he emphasised that the proprietary interest created thereby is held by way of security, so that the chargee may resort to the charged asset only for the purpose of satisfying some liability due to the chargee.

The advantages of referring to the case name in the main text and the rest of the citation in a footnote are that it:

- reduces clutter in your writing; and
- saves you precious words contributing towards your word count.

However, it is not essential to cite like this. The important point is to cite correctly and to be consistent!

3.11.3.2 Which case to cite?

See AGLC, rr 2.2.3, 2.3.1

You will often find that a particular case is published in several law reports. That case might have a:

- citation in an authorised law report;
- citation in an unauthorised generalist law report;
- citation in an unauthorised specialist law report; or
- medium-neutral citation.

The following table shows the difference between the different types of reports with the appropriate citation:
<table>
<thead>
<tr>
<th>Type</th>
<th>Content</th>
<th>Common examples</th>
<th>When cited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorised law report</td>
<td>An authorised report series is a publication that has been recognised by a particular court as reporting the preferred and authorised decisions made by it. Often the cases that are reported in these reports have been carefully scrutinised by a law reporting council whose function is to identify cases of note to be reported.</td>
<td>Commonwealth Law Reports (CLR) Federal Court Reports (FCR) New South Wales Law Reports (NSWLR)</td>
<td>If a case has been reported in an authorised law report, use this citation in place of all others.</td>
</tr>
<tr>
<td>Unauthorised generalist law report</td>
<td>An unauthorised generalist report series is general in scope and does not necessarily limit itself to reporting cases from a particular court or jurisdiction, nor is it recognised by a particular court as reporting its authorised cases. These reports tend to publish cases faster than the authorised law reports, so important cases often are made available in an unauthorised series before it is published in an authorised series.</td>
<td>Australian Law Reports (ALR) Federal Law Reports (FLR)</td>
<td>If a case has been reported in a generalist law report, but not (yet) in an authorised law report, use this citation in place of all others.</td>
</tr>
<tr>
<td>Unauthorised specialist law report</td>
<td>An unauthorised specialist report series is more specialised than an unauthorised generalist report series and similarly does not limit itself to reporting cases from a particular court or jurisdiction. It tends to focus on cases of a particular area of the law. For example: criminal law, administrative law, trade practices, etc. Sometimes, the cases reported will not be the entire judgment, but just extracts of key paragraphs.</td>
<td>Australian Corporation and Securities Reports (ACSR) Australian Criminal Reports (A Crim R) Administrative Law Decisions (ALD) Family Law Reports (FLR) Industrial Reports (IR)</td>
<td>If a case has been reported in a specialist law report, but not (yet) in an authorised law report or an unauthorised generalist report, use this citation in place of all others.</td>
</tr>
<tr>
<td>Unreported / Medium-neutral citation</td>
<td>The courts now report a significant amount of case law directly online. Because of this, every case reported since the late 1990s has been designated a medium-neutral citation.</td>
<td>See table under ‘Cases’ above.</td>
<td>Only use medium-neutral citations when the case has not been reported at</td>
</tr>
</tbody>
</table>

The AGLC provides a list of the most commonly cited Australian authorised reports series (see AGLC r 2.2.3).
Law dictionaries also commonly provide a list of authorised and unauthorised report series in their publication (e.g. see Trischa Mann (ed), *Australian Law Dictionary* (OUP, 2nd ed, 2013) 806-812).

3.11.3.3 **Parallel citations**

See AGLC, r 2.2.7

Given that a case can be reported in several places, it is not uncommon to see in judgments that it has been cited in all the reports in which the case has been reported. This is known as a ‘parallel citation’.

Example

... Leaving aside the difficulty of the absence of a relevant finding of mistake, the fact that such a vitiating factor exists may be necessary, but is not sufficient, for the making out of a claim for restitution. It is the injustice of the retention that founds the claim: *Ford (by his tutor Watkinson) v Perpetual Trustees Victoria Ltd* [2009] NSWCA 186; 75 NSWLR 42 at 69 [121] and 73 [134]; *Perpetual Trustees Australia Ltd v Heperu Pty Ltd* [2009] NSWCA 84; 76 NSWLR 195 at 221-222 [127]- [128] and 229 [161]; and *Heperu Pty Ltd v Belle* [2009] NSWCA 252; 76 NSWLR 230 at 264-265 [145]- [151], 269 [179] and 270 [180].

The above quote cites three cases, each of which has cited the authorised law report and the medium-neutral citation. You do not need to do this. The AGLC states that parallel citations are not to be used. Rather, applying the table above, the above quote would look like this:

... Leaving aside the difficulty of the absence of a relevant finding of mistake, the fact that such a vitiating factor exists may be necessary, but is not sufficient, for the making out of a claim for restitution. It is the injustice of the retention that founds the claim: *Ford (by his tutor Watkinson) v Perpetual Trustees Victoria Ltd* (2009) 75 NSWLR 42, 69; *Perpetual Trustees Australia Ltd v Heperu Pty Ltd* (2009) 76 NSWLR 195, 221-222 and 229; and *Heperu Pty Ltd v Belle* (2009) 76 NSWLR 230, 264-265, 269 and 270.

3.11.3.4 **Pinpoint referencing**

See AGLC, r 1.1.6

A pinpoint reference follows a case citation and directs the reader to the exact page(s) or paragraph(s) in a judgment. For example, you would use a pinpoint reference to indicate the page/paragraph number of:

- a quote; or
Rule 1.1.6 of the AGLC requires that pinpoint references must be done as follows:

<table>
<thead>
<tr>
<th>Case type</th>
<th>Rule</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reported but without paragraph numbering (Older cases)</td>
<td>A comma follows the case citation and the page number must be provided.</td>
<td>Heperu Pty Ltd v Belle (2009) 76 NSWLR 230, 269.</td>
</tr>
<tr>
<td></td>
<td>A series of sequential pages can be shown by a dash in between the first page of the sequence and the last.</td>
<td>Heperu Pty Ltd v Belle (2009) 76 NSWLR 230, 269-270.</td>
</tr>
<tr>
<td></td>
<td>Using a comma in between references shows a reference to multiple pages, not necessarily in sequential order.</td>
<td>Heperu Pty Ltd v Belle (2009) 76 NSWLR 230, 269-270, 289.</td>
</tr>
<tr>
<td>Reported with paragraph numbering (Modern cases)</td>
<td>A comma follows the case citation and the page number must be provided.</td>
<td>Heperu Pty Ltd v Belle (2009) 76 NSWLR 230, 269.</td>
</tr>
<tr>
<td></td>
<td>It is optional to include the paragraph reference in square brackets following the page number. Note that, again, a comma is used to separate pinpoint references on different pages.</td>
<td>Heperu Pty Ltd v Belle (2009) 76 NSWLR 230, 269 [179]. Heperu Pty Ltd v Belle (2009) 76 NSWLR 230, 264-265 [145]-[151], 270 [180].</td>
</tr>
<tr>
<td>Unreported cases</td>
<td>A comma follows the case citation and the paragraph number must be provided in square brackets.</td>
<td>Heperu Pty Ltd v Belle [2009] NSWCA 252, [179].</td>
</tr>
<tr>
<td></td>
<td>A series of sequential paragraphs can be shown by a dash in between the first page of the sequence and the last.</td>
<td>Heperu Pty Ltd v Belle [2009] NSWCA 252, [145]-[151].</td>
</tr>
<tr>
<td></td>
<td>Using a comma in between references shows a reference to multiple paragraphs, not necessarily in sequential order.</td>
<td>Heperu Pty Ltd v Belle [2009] NSWCA 252, [145]-[151], [179].</td>
</tr>
</tbody>
</table>

For completeness, your pinpoint reference in a case you should also refer to the judicial officer in whose judgment you have provided the pinpoint reference. Their name(s) is/are shown in round brackets following the pinpoint reference.

Examples


### 3.11.4 Decisions of tribunals and other ‘court-like’ bodies
Today there is a wide range of other tribunals and decision-making bodies. Like court judgments, those decisions are readily made available online and adopt the same – or very similar – medium-neutral citations; as such, the rules set out above will generally apply.

\[ \text{Note the following:} \]

- You need to know the appropriate titles of the tribunal members or equivalent. See AGLC, r 2.6.1.
- There are sometimes slight differences in the citation. See AGLC, r 2.6.2 for more details.

### 3.11.5 Statutes and delegated legislation

Statutes are a very important source of law, so it is imperative that you know how to cite them properly. Delegated legislation is also very important as it often contains the administrative details of particular statutes.

The following tables are adapted from the AGLC and provide examples and a breakdown of correct legislation citation.

<table>
<thead>
<tr>
<th>Statutes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Element</strong></td>
</tr>
<tr>
<td><strong>Examples</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td><strong>AGLC ref</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Delegated Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Element</strong></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
Essentially, there is no difference in form when citing statutes or delegated legislation.

### 3.11.5.1 Pinpoint referencing

See AGLC, rr 3.1.4-3.1.5, 3.4

A pinpoint reference follows a statute citation and directs the reader to the exact section(s) or sub-section(s) in a statute. When referring to a particular provision or power in your written work you must provide a pinpoint reference to that section or rule; it is not sufficient to generally refer to the entire statute (unless you are making a general statement, for example, ‘Laws relating to the legal profession in Victoria are set out in the *Legal Profession Uniform Law Application Act 2014* (Vic) and related Rules.’)

Rules 3.1.4-3.1.5 of the AGLC indicates what abbreviations to use when pinpoint referencing parts of a statute.

Rule 3.4 of the AGLC indicates what abbreviations to use when pinpoint referencing parts of delegated legislation. Unlike statutes, which are uniformly made up of ‘sections’ and ‘sub-sections’, the building blocks of delegated legislation vary between instruments.

<table>
<thead>
<tr>
<th>Example</th>
<th>Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schedule 2 of the Competition and Consumer Act 2010 (Cth)</td>
<td><em>Competition and Consumer Act 2010 (Cth) sch 2</em></td>
</tr>
<tr>
<td>Section 10 of the Competition and Consumer Act 2010 (Cth)</td>
<td><em>Competition and Consumer Act 2010 (Cth) s 10</em></td>
</tr>
<tr>
<td>Sections 10 to 13 of the Competition and Consumer Act 2010 (Cth)</td>
<td><em>Competition and Consumer Act 2010 (Cth) ss 10–13</em></td>
</tr>
<tr>
<td>Sections 10, 14 and 17 of the Competition and Consumer Act 2010 (Cth)</td>
<td><em>Competition and Consumer Act 2010 (Cth) ss 10, 14, 17</em></td>
</tr>
<tr>
<td>Sub-section 1 of section 10 of the Competition and Consumer Act 2010 (Cth)</td>
<td><em>Competition and Consumer Act 2010 (Cth) s 10(1)</em></td>
</tr>
</tbody>
</table>
Sub-sections 1 to 3 of section 10 of the Competition and Consumer Act 2010 (Cth) | Competition and Consumer Act 2010 (Cth) ss 10(1)-(3)
---|---
Sub-sections 1, 1B and 3 of section 10 of the Competition and Consumer Act 2010 (Cth) | Competition and Consumer Act 2010 (Cth) s 10(1), (1B), (3)

<table>
<thead>
<tr>
<th>Resource</th>
<th>AGLC reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bills</td>
<td>Rule 3.2</td>
</tr>
<tr>
<td>Explanatory memoranda, statements and notes</td>
<td>Rule 3.7</td>
</tr>
<tr>
<td>Gazettes</td>
<td>Rule 3.9.1</td>
</tr>
<tr>
<td>Orders and rulings of government instrumentalities and officers (ASIC class orders, taxation rulings, etc.)</td>
<td>Rule 3.9.2</td>
</tr>
<tr>
<td>Legislation delegated to non-government entities (ASX listing rules, professional conduct rules, etc.)</td>
<td>Rule 3.9.3</td>
</tr>
<tr>
<td>Court practice directions and practice notes</td>
<td>Rule 3.9.4</td>
</tr>
</tbody>
</table>

3.11.5.2 **Quasi-legislative materials**

The AGLC provides guidance on how to properly cite the following materials.

- Bills
- Explanatory memoranda, statements and notes
- Gazettes
- Orders and rulings of government instrumentalities and officers (ASIC class orders, taxation rulings, etc.)
- Legislation delegated to non-government entities (ASX listing rules, professional conduct rules, etc.)
- Court practice directions and practice notes

3.11.5.3 **The Australian Constitution(s)**

See AGLC, r 3.6

See rule 3.6 of the AGLC for guidance on how to cite the *Constitution of the Commonwealth of Australia* and the constitutions of the various Australian states.

Pinpoint referencing when citing a provision in a constitution is the same as ordinary statutes.

3.11.6 **Secondary resources**

See AGLC, pt III

You will also have to cite secondary resources in your writing, particularly if you are writing a research essay. The most common secondary resources you cite are books and journal articles.
Once again, the AGLC provides comprehensive guidance to citing all forms of secondary material and you must refer to it to find out more. This guide will provide a brief overview of the above two resources.

### 3.11.7 Books

See AGLC, r 6

The following table is adapted from rule 6 of the AGLC and provides examples of how to cite books.

<table>
<thead>
<tr>
<th>Element</th>
<th>Author</th>
<th>Title</th>
<th>Publication details</th>
<th>Pinpoint reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Examples</td>
<td>Peter Butt,</td>
<td><em>Land Law</em></td>
<td>(Thomson Reuters, 6th ed, 2010)</td>
<td>[12 54]</td>
</tr>
<tr>
<td>AGLC ref</td>
<td>Rule 6.1</td>
<td>Rule 6.2</td>
<td>Rule 6.3</td>
<td>Rule 6.4</td>
</tr>
</tbody>
</table>

#### 3.11.7.1 Pinpoint referencing

A pinpoint reference is placed after a citation and directs the reader to the exact page(s) or paragraph(s) in a book. For example, you would use a pinpoint reference to indicate the page/paragraph number of:

- a quote; or
- where a particular point is made by the author that you refer to in your text.

**Examples**


### 3.11.8 Chapters in books

See AGLC, r 6.6.1

Chapters in books that contain contributions from many authors are cited the same way as books, but with additional information at the beginning of the citation that identifies the author of the chapter. For further guidance, see rule 6.6.1 of the AGLC.

**Examples**


### 3.11.8.1 Pinpoint referencing

Pinpoint referencing chapters in books is the same as pinpoint referencing books generally. See 3.11.7.1 Pinpoint referencing (for books).

### 3.11.9 Journal articles

See AGLC, r 5

The following table is adapted from rule 5 of the AGLC and provides examples of how to cite journal articles.

<table>
<thead>
<tr>
<th>Element</th>
<th>Author</th>
<th>Title</th>
<th>Year</th>
<th>Volume and</th>
<th>Journal name</th>
<th>First page</th>
<th>Pinpoint ref</th>
</tr>
</thead>
</table>

Guide to Written Communication (updated 2019) 38
Examples

<table>
<thead>
<tr>
<th>Authors</th>
<th>Title</th>
<th>Volume and Issue</th>
<th>Journal/Volume/Number</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Keith Mason</td>
<td>‘Ethics and the Environment’</td>
<td>(2011) 10</td>
<td>The Judicial Review</td>
<td>187, 188</td>
</tr>
</tbody>
</table>

AGLC ref

Rule 5.1 | Rule 5.2 | Rule 5.3 | Rule 5.4 | Rule 5.5 | Rule 5.6 | Rule 5.7 |
---------|---------|---------|---------|---------|---------|---------|

3.11.9.1 Volume and issue number

See AGLC, r 5.4

A given volume of a journal, or a journal published by year, will consist of several issues. For further guidance on issue numbers, see rule 5.4 of the AGLC.

3.11.9.2 Pinpoint referencing

See AGLC, r 5.7

A pinpoint reference is placed after a citation and directs the reader to the exact page(s) or paragraph(s) in a journal. For example, you would use a pinpoint reference to indicate the page/paragraph number of:

- a quote; or
- where a particular point is made by the author that you refer to in your text.

Examples

185, 186.


### 3.11.10 Internet resources

📖 See AGLC, r 7.15

The internet is a rich source of secondary materials. However, you must carefully evaluate the credibility, reliability and authorship of any material you use.

Scholarly articles usually include information about the background of the author. Peer-reviewed journal articles are generally reliable and your teacher will often refer you to these sources.

Wikipedia is not considered to be a source of information to be relied upon as a key reference.

### 3.11.11 Bibliographies

📖 See AGLC, r 1/13

For general rules on writing bibliographies see rule 1.13 of the AGLC.
4. Legal style

4.1 Reviewing and editing

Your first draft will never be good enough. Valuable marks can be gained by leaving enough time to reflect on your writing and review it for errors and inconsistencies.

When reviewing your work check for:

- Content, coherence, cohesion – does it hold together logically?
- Common grammar errors that reduce clarity of expression.
- Typographical errors (See also: 4.5 Spelling).

★ TIPS ★

- If there is time to leave the draft for a day or more, a re-reading with refreshed eyes will usually reveal errors.
- Consider also giving your writing to a friend or family member to read. Even if they are not lawyers and cannot comment on your legal analysis, they will be able to pick up on typographical errors you have missed or comment on the clarity of your expression, and the clarity of your argument.
- Finishing a first draft with days to spare will also allow time for reflection. It is common to realise a few days after you have written a piece, you may have overlooked a point or that the argument is logically inconsistent.

4.2 Word Limits

Word limits must be observed. Some subjects will make an allowance for writing up to 10% over the specified word limit; other subjects will strictly apply the word limit and make no such allowance. This information is usually clearly set out in the subject outline or the instructions for each assessment item; if you are still unclear check with the subject coordinator whether there is any allowance for the assessment items for that subject. Penalties for deviation from the specified word limit may be stipulated in subject outlines and the faculty’s Law student Guidebook. The set word length will help you to remain focused.
on the relevant issues in your writing. The legal profession is increasingly required to write submissions and court documents to a word limit. Clients expect concise and relevant advice. It is essential in practice to address the crucial issues in a clear, succinct manner.

Footnotes, bibliographies and endnotes are not usually included in the word count, however you should check the subject outline as to whether such notes are included.

4.3 Grammar

4.3.1 Assumed knowledge

Students are presumed to know the rules of:

- grammar (the conventions governing the use of words);
- syntax (the correct order of words);
- semantics (the meaning of words); and
- punctuation (the division of written or printed matter into sentences and clauses, by means of points, commas, stops or other forms of punctuation).

4.3.2 Use of the passive

The passive voice is used when the doer of an action or the subject of a sentence is not the focus of the sentence. It is often used in legal writing to make writing seem more ‘official’ or ‘formal’. Indeed, judgments often make use of the passive voice.

However, overuse of the passive voice can create a heavy, forced tone. It does not necessarily make the text sound more formal. You should try to mix the active voice and the first person (‘I’/‘we’) with the passive voice. Use the passive when you do not want to stress the subject or agent or the doer of an action in a sentence.

It is acceptable to use the first person where appropriate, particularly in a piece of reflective writing. For more guidance on this, see the next section.

<table>
<thead>
<tr>
<th>Passive voice</th>
<th>Active voice</th>
</tr>
</thead>
<tbody>
<tr>
<td>The bank was robbed at 2:30 on Friday afternoon.</td>
<td>Neddy White robbed the bank at 2:30 on Friday afternoon.</td>
</tr>
<tr>
<td>The accused was fined $1 000 by the judge.</td>
<td>The judge fined the accused $1 000.</td>
</tr>
<tr>
<td>It may be argued that Brown should have known of the extenuating circumstances.</td>
<td>I will argue that Brown should have known of the extenuating circumstances.</td>
</tr>
</tbody>
</table>
4.3.3 Use of first (I/me/us/we) and second (you) person

The writer’s opinions can be expressed in different ways. The use of the first person (‘I’/’we’) is not common in academic writing, but can be used in the right context, such as reflective journals. However, as a general rule, you should avoid using the first person when expressing an opinion, as it is a given that your writing is an expression of your opinion. It is better to express arguments without a personal opinion, and to draw on the strength of the research and arguments considered in your essay.

Examples

It would be inappropriate to write:

In light of these cases, I think the law is a mess.

However, it would be appropriate to write:

The cases considered in this article demonstrate that there is evident confusion as to the scope of the doctrine of [x]. This confusion requires clarification by the High Court.

Alternatively, it might be expressed in this way:

In the writer’s view, these cases demonstrate uncertainty by the courts as to the scope of the doctrine of [x].

In Sample A below, the student repeats the first person; Sample B shows how to reduce the use of the first person and use more precise language.

Sample A

The concept of fusion fallacy has become so broad ... However to my mind the words of the learned Professor Tilbury seek progress for progress’ sake ... Within my essay I will provide advocacy for what I believe is equity’s ... Within such I will illustrate that ... I will end by turning to modern legal scholarship ....

Sample B
The concept of fusion fallacy has become so broad.... However, according to the arguments made by... This essay argues that... equity... In addition, the argument will be supported with evidence from.... In conclusion through looking at modern legal scholarship it may be that....

Note: Do not address the reader directly as 'you', 'us' or 'our' because you cannot make assumptions about the reader's position.

4.4 Punctuation

The following is a brief introduction to some common problems relating to punctuation in academic writing.

4.4.1 Full stops

Use full stops only at the end of sentences. Do no use full stops to indicate an abbreviation.

Examples

<table>
<thead>
<tr>
<th>Type</th>
<th>Do not type</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Crimes Act 1900 (NSW) s 5</em></td>
<td><em>Crimes Act 1900 (NSW), s. 5</em></td>
</tr>
<tr>
<td><em>Barnes v Addy (1874) LR 9 CH App 244</em></td>
<td><em>Barnes v. Addy (1874) LR 9 CH App 244</em></td>
</tr>
<tr>
<td>Mr Smith</td>
<td>Mr. Smith</td>
</tr>
</tbody>
</table>

4.4.2 Commas, colons and semi colons

Commas can be used to separate items in a list, to punctuate a sentence into more readable units and to connect clauses.

Examples

The judge’s decision was predicated on obtaining new evidence from the key witness; however, the witness was absent from court that day.

The greatest composers of all time are considered to be Bach, Mozart, Beethoven and Brahms.

Given that the journey would take five hours, Tom decided to finish the Tolstoy novel he started reading eight months ago.

Colons can be used to show that what follows are related examples or to introduce lists.
Students have three main problems with writing: not answering the question, not developing an argument, and writing poor paragraphs.

Semi-colons can be used to separate longer entries that may contain commas.

Southern cities and states have been affected by the ash; Adelaide, South Australia; Melbourne, Victoria; and Hobart, Tasmania.

Semi-colons can also be used to join two sentences that are thematically but not grammatically related.

The barrister suggested a break in proceedings; immediately the court emptied.

### 4.4.3 Ampersands

The ampersand (‘&’) is used to denote the word ‘and’. As a general rule you should avoid using it in place of the word ‘and’ in your writing, unless you are:

- quoting writing that uses the ampersand; or
- citing a title or heading of a text that uses the ampersand.

### 4.4.4 Apostrophes

Apostrophes are used to show either possession or contraction.

#### 4.4.4.1 Possession

Using an apostrophe to denote possession means that you are showing that an object belongs to something or someone.

<table>
<thead>
<tr>
<th>Example</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harry's gun.</td>
<td>The gun belonging to Harry.</td>
</tr>
<tr>
<td>The defendant's cross-claim.</td>
<td>The cross-claim made by the defendant.</td>
</tr>
</tbody>
</table>

If a singular word ends in ‘s’, there is no need to add another “’s” to the end. However, it is not
incorrect to do so.

Examples

<table>
<thead>
<tr>
<th>Example</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chris’ red car.</td>
<td>The red car belonging to Chris.</td>
</tr>
<tr>
<td>Mr Jenkins’s house.</td>
<td>The house belonging to Mr Jenkins.</td>
</tr>
</tbody>
</table>

If the subject is a plural and ends in ‘s’, then you just add an apostrophe.

Examples

<table>
<thead>
<tr>
<th>Example</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>The girls’ change room.</td>
<td>The change room for girls.</td>
</tr>
<tr>
<td>The dogs’ owner.</td>
<td>The dogs belonging to the owner.</td>
</tr>
</tbody>
</table>

**NOTE:** If the subject is in an irregular plural form that does not end in ‘s’, then you need to add “’s”:

Examples

<table>
<thead>
<tr>
<th>Example</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>The women’s collective.</td>
<td>The collective for women.</td>
</tr>
<tr>
<td>The men’s group.</td>
<td>The group for men.</td>
</tr>
</tbody>
</table>

4.4.4.2 Contraction

A contraction indicates that letters have been omitted from a word, producing a shorter version of it. The role of the apostrophe is to denote that there are letters missing.

<table>
<thead>
<tr>
<th>Example</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>cannot</td>
<td>can’t</td>
</tr>
<tr>
<td>shall not</td>
<td>shan’t</td>
</tr>
<tr>
<td>they are</td>
<td>they’re</td>
</tr>
<tr>
<td>would not</td>
<td>wouldn’t</td>
</tr>
<tr>
<td>of the clock</td>
<td>o’clock</td>
</tr>
<tr>
<td>it is</td>
<td>it’s</td>
</tr>
</tbody>
</table>

**NOTE:** Do not use contractions in your academic writing. Using contractions can
give your writing an informal or colloquial tone, which is inappropriate.

4.5 Spelling

4.5.1 Importance of correct spelling

Spelling correctly is essential. Repeatedly misspelling legal terms suggests to your audience (often your marker) that you have not paid attention to your study. It also suggests that you have not thoroughly prepared your work or given it the level of attention that it deserves. It is essential to proofread your work before final submission.

Common words and phrases, such as ‘negligence’, may bear specialised legal meanings or be defined by statute or case law. You should also be certain of your spelling, and not rely upon computer-generated spell checks, which cannot distinguish when a word is correctly spelt, but is the wrong word (for example, ‘I have to hands’ rather than ‘I have two hands’).

4.5.2 Macquarie Dictionary

The Macquarie Dictionary is the authoritative text on Australian English spelling.

It is available as an online resource accessible through the University’s Library website. Simply search for ‘Macquarie Dictionary’ in the catalogue.

The AGLC provides that where a word does not appear in the Macquarie Dictionary, the Oxford English Dictionary may not also be consulted (rule 1.9.1).

4.5.3 There – they’re – their

Remember that although they sound the same there is a difference in meaning between ‘there’ (place), ‘they’re’ (they are) and ‘their’ (possessive).

**There** is used:

- to refer to a place;
- as a pronoun and the subject of a sentence when conjugated with the verb ‘to be’; and
- as an adverb.

**They’re** is a contraction of ‘they are’. Only use ‘they’re’ when you would say ‘they are’.

**Their** is a possessive adjective that indicates that something belongs to ‘them’. Only use it to denote possession.

4.5.4 Its – it’s
There is a very simple difference between ‘it’s’ and ‘its’:

- its = possessive adjective
- it’s = contraction of ‘it is’

A simple rule when working out which one to use is to ask yourself whether ‘it’s’ can be expressed as ‘it is’, and if so does the sentence still make sense.

**Examples**

- It’s not fair. = It is not fair.
- It’s the best thing that has ever happened to me. = It is the best thing that has ever happened to me.
- It’s written here, in its title. = It is written here, in its title.

### 4.5.5 Spell checking

Use the spell check feature on your computer but be aware that it has limitations.

A particular problem with spell check is that it will not identify the use of a *wrong word*. For example:

- bare v bear
- analysis v analyses
- their v there
- you’re v your

You must check that you have used the correct form of the word you want to use and the correct spelling. This will require close proofreading.

You should also be aware of the language, which your spell checker is set to. An American based spell check will not spell words correctly for use in Australia.

### 4.5.6 Beware! Autocorrect and legal terms

Another feature of word processor software that is related to the spell checker is the autocorrect function. Often the particular spelling of precise legal terms is not stored in the word processor’s default dictionary. If that software also has an autocorrect function enabled, it may take your correctly-spelt legal term and automatically change its spelling to an ordinary English word with very similar spelling. Particular culprits in Microsoft Word are:
• parol → parole
• estoppel → estoppels

There are probably more, so beware! This is another reason to carefully proofread and edit your work before handing it in.

4.6 Additional resources on punctuation, grammar and style

For additional information about punctuation, spelling, grammar and style, see:
• R W Burchfield, Fowler’s Modern English Usage (Oxford University Press, 2005) (This is the AGLC official guide); and

4.6.1 Editing and Proofreading

It is important to edit and proofread writing. Always leave time to work on a draft.

Editing refers to checking the structure of the whole text to ensure that it follows a logical pattern, which is easy for the reader to follow. In this process you are not considering the content in detail but rather how the whole text fits together from the reader’s perspective. Look out for long sentences that may be confusing to the reader. Sometimes it is useful to read sentences out loud to determine if they are clear. Remember that you may be so familiar with the concepts that are contained within the text that you have made assumptions or omitted important stepping-stones.

Once you are satisfied with the structure you should then review the content to ensure that the proposition/s set out in the introduction and conclusion are covered in a logical manner. Will the reader be able to follow the argument and understand the conclusions reached? Have you used plain English or are your sentences too long or complex for the reader? Remember that writing is about taking the reader on a journey. Whether you are writing a novel or a piece of assessment, you want to lead the reader to a conclusion. If you want to convince the reader of your interpretation, then you need to explain your proposition in an inviting manner, which keeps the reader engaged. The task of a barrister in court is to persuade the Judge that he or she has the best argument. The task of a student when writing an assessment piece is to persuade the marker that they have understood the question, thought about the issues and come to a valid conclusion.
After you have done this, you should then proof read your assessment. The role of a proof-reader is to ensure the following:

- formatting is correct and all hyperlinks work;
- spelling and grammar are correct;
- correct citations have been used; and
- footnotes are correct.

As part of your proof reading you should also check the word count.

4.7 Numbers, dates and currency

4.7.1 Numbers

See AGLC, r 1.10.1

For guidance on how to reference numbers, see rule 1.10.1 of the AGLC.

Examples

There are eight sheep in the meadow.
The degustation menu was made up of 11 courses. Approximately 250 000 people signed the petition.
The stereo had been reduced from $1 225 to $950.
BigCorp predicted losses in excess of $1.5 million.

! Note:

- Page, section, chapter numbers etc., are always written as numbers, irrespective of whether they are from one to nine or greater.
- Never start a sentence with a numeral, unless that numeral is part of a proper noun.

4.7.2 Dates

See AGLC, r 1.11.1

Dates should appear as follows: [Day] [Month] [Year].

Examples

1 January 1901
25 December 2011
Not:

1/1/1901
25th January 2011

4.7.3 Currency

See AGLC, r 1.10.2

Monetary amounts, when it is clear that you are only ever referring to Australian dollars, should be shown as: $1 000; $4; $32.65

Take care to ensure that you put the correct currency type before the amount.

Examples

<table>
<thead>
<tr>
<th>Figure</th>
<th>Currency</th>
</tr>
</thead>
<tbody>
<tr>
<td>AUD1 500</td>
<td>Either form denotes Australian dollars where elsewhere in your writing you refer to other types of currency.</td>
</tr>
<tr>
<td>A$1 500</td>
<td></td>
</tr>
<tr>
<td>USD1 500</td>
<td>Either form denotes American dollars.</td>
</tr>
<tr>
<td>US$1 500</td>
<td></td>
</tr>
<tr>
<td>£1 500</td>
<td>Either form denotes British pounds sterling.</td>
</tr>
<tr>
<td>GBP1 500</td>
<td></td>
</tr>
<tr>
<td>€1 500</td>
<td>Either form denotes the Eurozone’s euro.</td>
</tr>
<tr>
<td>EUR1 500</td>
<td></td>
</tr>
</tbody>
</table>

4.8 Formatting

Your subject outlines will tell you exactly in what format your writing should be. Always ensure that you check formatting requirements for a particular assignment before handing it in. The following are some formatting tips that tend to be used for all legal writing and which exist to make reading easier.

★ TIPS ★

Use one consistent font (Cambria 12, Arial 11 or Times Roman 12).

Headings may be underlined, in bold or upper case, however, be consistent throughout the
Line spacing should be 2 lines space for normal text; 1.5 line space for indented quotes.

Do not underline typed text in the body of your paragraphs. Underlining (or alternatively, blue text) may only be used on html documents where the underlined text is hyperlinked to another webpage.

The left margin should be approximately 3cm and right, top and bottom margins should be at least 2cm.

Put your name and student number on the paper. Consider putting it on every page in a header or footer so that it is easily identified if a page becomes separated.

Use page numbering.
5. What markers are looking for

Included here is a summary of feedback from various law assessment tasks. The most frequent comments from teachers, relevant to where students can improve, are that:

- Students do not answer the question or only give very broad, generalised answers that cover the topic area but not the question they have been required to answer.

- Students fail to articulate a clear argument, or present an inconsistent argument. The objective is to present a logical development of an argument that responds to the topic or question.

- Students do not use correct citation (always consult the AGLC).

- Students include too many direct quotes in place of their own writing. Students should paraphrase or summarise ideas using their own words. This shows the marker that the student understands the issues they are writing about and can connect them to their own arguments.

- Essays lack a clear structure. Introductions should be clearly set out and show how and what will be addressed in the essay.

- Some students use a report style using bullet points and numbering. **Avoid this.**

- Students do not clearly and precisely address the relevant issues.

**Higher marks** are usually awarded for having a clear thesis, developing a critical point of view, referencing correctly, providing a discursive commentary on the problem in the question, referring to or supporting the question statement, and addressing the assessment criteria.
6. Specific assessment types

6.1 What type of assessment are you writing for?

Having looked at the general writing skills you will use in any assignment during your law degree, this next section will explore certain skills that are relevant to specific assignment types. In this section you will find out more about:

- writing research essays;
- answering problem questions;
- writing case notes; and
- writing in exams.

Although there are common rules such as grammar and spelling that apply to all types of assessment, it is important to adapt your writing to the type of assessment you are completing.

6.2 Research essays

As the name suggests, the gist of a research essay is the research. This will require reading widely, and synthesising and reconciling information from multiple sources.

Key words used in the question set by research essays include: ‘critically analyse’, ‘evaluate’, ‘discuss’ and ‘argue’.

6.2.1 What are ‘critical skills’ in a research essay?

In research essays you are often asked to ‘critically analyse...’ or to ‘critically evaluate ...’ an issue raised in a quote or a decision, but what does this mean?

The following is adapted from the Graduate Attributes Handbook:

> A critical thinker evaluates information by breaking it down and examining its component parts, or takes dispersed, disconnected ideas and information and synthesises them or creates something new from them.¹³

¹³ Graduate Attributes 2010, 4.
An analytical person appraises and assesses the value and significance of legal issues and viewpoints.\textsuperscript{14}

A discussion involves looking at both sides of the question, weighing up the evidence and coming to a conclusion. That means being able to identify:

- what the writer is trying to argue; and
- how the writer is using evidence to construct and support the argument.

It also means that when you write you must:

- synthesise ideas from different sources; and
- identify where writers agree and disagree in their arguments and approaches to problems.

Critical writing is more than criticising ideas and it is more than a description or a narrative. Being critical means:

- Analysing texts – breaking down what you read into components and considering how they all work together.
- Asking questions of what you read and write – Do I agree/disagree? Why do I agree/disagree? Has the author overlooked or not adequately addressed something? Would taking a different perspective to the author vis-à-vis the subject matter lead to a different conclusion?
- Exploring all the sides of an argument – considering the arguments for a certain position as well as against it. Evaluating the persuasiveness of those arguments.

6.2.2 Steps to writing a research essay

6.2.3 Plan your response

Marker feedback suggests that students do not answer every part of the question.

- First, read the question then highlight or number the various parts of the

\textsuperscript{14} 14 Ibid 9.
question. Consider:

- What issues are you being asked to address?
- What are you being asked to do in response to those issues? Look at both the **content words** (in the quote or statement) and the **task verbs** (‘discuss’, ‘critically analyse’, ‘evaluate’).
- Are there any issues of **definition** which arise from the terms of the question itself? Use a legal dictionary, even just to check your understanding of the terms.
- What is the **scope** of the question? Does it ask you about Commonwealth law, State law, or both? Does it ask about the law as it has been, as it is, as it should be, or a mixture of these? Are you asked to focus on statute law, customary law, convention, or common law, or are all of these pertinent? Are you asked to consider not just the black letter law, but also the policy behind it?

- Draw a mind map of your first response to the question and the central issue or issues it raises.
- Try to see the connection between the issues that are raised.
- Ask yourself: does my response really answer the question?

★ **TIPS FROM MARKERS ★**

- Make the most of all the information in the question.
- Minor grammatical errors are not as much of a problem as not answering all parts of the question i.e. failure to answer the question asked.
- Think about structure – often marks are lost due to the lack of a suitable structure. Exercise critical thinking – merely regurgitating the law and the facts without any analysis will not earn you high marks.

6.2.4 **Research the topic**

- Begin with suggested reading and/or the relevant weekly reading(s) for the topic.
- Search through peer-reviewed journal articles to find relevant material, become
familiar with the current thinking on your topic and build up a field of knowledge around the topic. Also, journal articles will most likely lead to you other sources to consider.

- Do not forget the Library! While considerable information is now available on the internet and via electronic databases, do not forget that books are incredibly valuable resources: they often contain significant, detailed information that is unable to be addressed in shorter pieces such as journal articles or other commentary. Take the time to browse the shelves for books relevant to your essay. Seek the valuable assistance of the law librarians.

- Do more research if you think there is a lack of evidence to support your argument. However, it is also important to know when to stop reading and start writing. Once you start writing, only then will you become aware of further gaps in your knowledge that will require further research.

6.2.5 Make thorough notes

When undertaking research and reading it is essential to note important details such as the citation of important cases, or significant quotes, which you may use in your assignment to support or advance your argument. To cite material properly you must have the building blocks: author, title of source, date of publication, and page/paragraph reference.

6.2.5.1 Books

Record:

- author’s/editor’s name and the author of any chapters within the book to which you refer;
- title of book;
- year of publication;
- the edition of the book if it has seen more than one edition; and
- the page number(s) of whatever notes you take.

6.2.5.2 Journals

Record:

- author’s name;
• title of article;
• title of journal;
• year of volume;
• volume number and issue (if relevant);
• page number of first page; and
• page number of any pages from which you record notes or quotes.

6.2.5.3 Cases

Record:

• the case name;
• the law report title, year and first page of the report (if case is reported);
• the medium-neutral citation (if the case is unreported);
• the court;
• the paragraph(s) or page number(s) from which you record notes or quotes; and
• the identity of the judge(s).

6.2.5.4 Make your notes relevant

★ TIPS ★

• Keep in mind the subject of your essay.
• Do not write down everything; only extract the information which can help in your task. Scan a piece once, or even twice, before beginning to take notes and assess its value.
• Make notes of relevant opinions expressed, and of your preliminary thoughts on those points. Remember that you should develop your own arguments and not simply adopt someone else's, because it may not suit your specific topic.

6.2.5.5 Organising Notes

Once you have taken notes, or while you are completing this process, give some thought to the organisation of those notes, so as to make your writing task easier.
★ TIPS ★

- Organise notes alphabetically by author name or case name.
- Use tabs to identify the most relevant pages.

6.2.6 Write the first draft

Refer back to your mind map and the initial thoughts you noted down before you started your research. Has your research changed your thoughts? Make any necessary changes to your plan. Otherwise, refer to 3.5 Writing your first draft, for more tips on writing your first draft.

See also:
- ‘3.6 Structuring written work’;
- ‘3.6.1 Headings and subheadings’;
- ‘3.6.3 Writing an introduction’;
- ‘3.6.4 Body’;
- ‘3.6.5 Conclusion’; and
- other useful tips on writing above in this guide.

6.2.7 Review and edit your work

A key element in writing a good piece of research is leaving enough time to edit your work. If you can finish early and go back to your writing after a day or so, you might see areas that could be improved or grammar mistakes that could be corrected.

See also: 4.1 Reviewing and editing.

6.3 Problem Questions

6.3.1 Think like a lawyer

Problem questions call for legal advice on the law as it applies to a given set of facts. Therefore, to answer them, you must think carefully about the facts, and identify the legal issues arising from them. These questions, unlike research essays, are not so much concerned with policy issues, but black letter law. That is, by applying the law as it currently stands to the set of facts, what would be the legal outcome? Hence, preparation to answer
problem questions tends to focus on researching primary resources such as cases and legislation.

The point of a problem question is to ‘think like a lawyer’ by advising a person on the facts. This means that you must objectively and rationally assess the facts and apply the law to those facts in order to predict the legal outcome. It is not about always attempting to come to a ‘happy ending’ for your client and you are not expected to always come to such a conclusion. Sometimes, when you apply the law to the facts, there will be no relief in law for your client. Your role as a lawyer is to provide that advice. Do not needlessly strain facts to suit your idealised outcome.

6.3.2 Writing an answer to a problem question

6.3.3 Plan your response

- First, read the question then highlight or number the various parts of the question. Consider:
  
  - What issues are you being asked to address? Or, what legal issues arise from the facts?
  - What is the scope of the question: does it ask you about Commonwealth law, State law, or both? Are you asked to focus on statute law, customary law, convention, or common law, or are all of these pertinent?

- Master the facts, they are important! Draw diagrams of the relationships between the parties to clarify exactly what is going on in the question. Highlight or underline material facts.

- Identify the grey areas. Often problem questions are deliberately set to test your awareness of unsettled areas of the law, or to see how you apply clear law to facts that do not clearly point to a certain legal outcome.

- Draw a mind map of your first response to the question and the central issue or
issues it raises.

6.3.4 Research the topic

Once you have isolated the issues in the task, you should then be able to direct your reading. Remember that your task as a lawyer is to identify the pertinent principles of law, and to state how those principles operate in that factual context. In doing this, concentrate on how the law applies to the facts of your particular problem.

Start your research by referring to your set textbook and case list. Often, problem questions are not set as research assessments, so you will already have been given the resources you need to complete it.

Do the facts remind you of any cases? Often facts will be similar in some respects to cases you have learned in lectures. If that is the case, then that is a strong sign that the issues raised in that case are relevant to your problem question. You should research that case and note similarities and differences on the facts.

Be aware that sometimes the question will contain a set of facts that closely resembles the facts from a relevant case but with an important difference. This will test your attention to detail and your ability to apply your knowledge to any fact situation.

Remember that law is often made when a set of facts has one important distinguishing characteristic from a fact scenario in a precedent case.

6.3.5 Make thorough notes

Take careful note of important details and especially of key citations from decided cases that can be used to support your contentions. To properly cite material you must have the building blocks: author, title of source, date of publication, and page/paragraph reference.

! NOTE: Problem questions are about applying law to facts. For this reason, overwhelmingly the sources cited in your response should be case law or legislation. It is generally NOT appropriate to cite your textbook as authority for any propositions of law.

6.3.5.1 Cases

Record:

- the case name;
- the law report title, year and first page of the report (if case is reported);
• the medium-neutral citation (if the case is unreported);
• the court;
• the paragraph(s) or page number(s) from which you record notes or quotes; and
• the identity of the judge(s).

6.3.5.2 Legislation

Record:

• the short title and year;
• the jurisdiction; and
• the relevant sections and sub-sections.

6.3.6 Write the first draft

Refer back to your mind map and initial thoughts you noted down before you started your research. Has your research changed your thoughts? Make any necessary changes to your plan.

6.3.6.1 Where to start

Write your advice by dealing with each of the issues that arise from the facts in the most logical order.

The order will be dictated by the relationships between the issues and the number of parties. A question of the appropriate remedy, for example, can only be considered after the issue of liability has been determined.

There is a very simple, logical and effective way to approach writing responses to problem questions and that is to use the IRAC approach (see below).

See also: 3.6 Structuring written work and other useful tips on writing contained in this guide.

6.3.7 Issues, rules, application and conclusion
IRAC provides a structure to answering legal problem questions. In short, IRAC stands for:

- **I**dentify the ISSUES
- **R**ead the rules to the facts of the case
- **A**pply the rules to the facts of the case
- **C**onclude on the outcome of applying the law to the facts

Each element is considered in more detail below.

Before you can apply IRAC, you must first assess the entire problem question to work out where IRAC needs to be applied. Therefore, read the question carefully to ascertain:

- what broad area of law should be applied to the fact problem (e.g., contract law, criminal law, administrative law etc.);
- what cause(s) of action within the broad area of law is relevant to base the client’s case upon (e.g., breach of contract, misrepresentation, etc.); and
- what elements of each cause of action need to be proved or disproved.

Once you have done the above and identified the ‘live issues’ (issues that need resolution), you apply IRAC to each of them. Live issues can sometimes be broken up into sub-issues, and you would apply IRAC to each of those sub-issues as well.

The facts provided in a problem question clearly show that the broad area of law to be applied is contract law. A close reading of the facts discloses that the live issues to be resolved relate to the doctrines of misrepresentation, privity of contract and unconscionable conduct. Therefore, you already know that IRAC will be applied three times in your question as you address each of the live issues. It might also be apparent that the misrepresentation issue can be broken down into two sub-issues: (1) proving the misrepresentation and (2) a ‘defence’
against it. Therefore, IRAC can be applied to both sub-issues.

Read the following example to see how the application of IRAC to the above example might look; it focuses on the misrepresentation issue and sub-issues.

! NOTE: To highlight where IRAC is being applied in the example below, the elements of IRAC have been put in colour in square brackets in the relevant places. Do NOT do this in your writing; it is done below purely for demonstrative purposes.

! NOTE: the use of headings to clearly indicate to the reader the structure of the response and where certain issues are being considered.

Introduction

Susan seeks to avoid a contract of guarantee that she has entered into in favour of her son. The facts suggest that she may have a right to do so by arguing misrepresentation by the Bank...

[ISSUE] Misrepresentation

[RULES] A party that has entered into a contract relying upon the misrepresentation of the other party to the contract may seek to have the contract rescinded\(^1\). The elements that need to be proven are:

1. A representation... \(^2\)
2. Made to the representee... \(^3\)
3. Intended to induce... \(^4\)
4. That in fact induces... \(^5\)

[APPLICATION] Applying the above rules to the facts of this case, we can see that...

[CONCLUSION] Therefore, it seems that Susan has a viable cause of action to have the contract rescinded for misrepresentation.

[(SUB)ISSUE] Is rescission available?

[RULES] Rescission is only available when... \(^6\)...

[APPLICATION] Applying the above rules to the facts of this case, we can see that...

[CONCLUSION] Therefore, it seems that rescission is a viable remedy for Susan.

[(SUB)ISSUE] However, it should be noted at common law that rescission is not available unless... \(^7\)
**I: Identify the issues**

It is essential that you identify the ‘real live’ issues on the facts. This means limiting yourself to only discussion areas of controversy. You will lose marks by:

- failing to identify the live issues; and
- discussing at length issues that are not controversial.

**R: State the relevant rules**

State the rules you are applying in as short and succinct a manner as you can. Do not forget to properly support your statements of the rules by reference to properly cited primary authority.

You should consider the question of comprehensiveness, and the weight of authority of each case. For example, the court concerned may not be an Australian court, or it might be inferior to the court you are before. In either case, its decision will only be persuasive, not binding. Perhaps the legislation has been amended since that case was decided, or the facts may have occurred in a social context different from that which prevails today, thereby lessening the force of any conclusions made by the court.

See also: 3.11 Citation.

**A: Apply the rules to the facts of the case**

Stating the law in the abstract is not the appropriate method for writing an advice on a problem question, for it does not explain how or why the principles you have described are relevant to the facts of the problem. It is not sufficient to state the law in the abstract, and then conclude that A or B must win. The skill you must develop as a lawyer is that of...
applying the law to the facts. Simply being able to recite the law (for example, simply stating the legislative provision or ratio of a case) without application is not sufficient and will earn you limited marks.

You must explain how the law you have cited applies to the facts of your problem. It is unlikely that the law as stated by the authorities will provide you with a complete answer to the question before you. You will have to develop an argument that encompasses the facts in your case and the law as stated by the authorities in the form of a proposition. Draft any such proposition carefully and consider whether it is sustainable in both logic and law.

In your application, deal with any issues of controversy which might arise. For example, would a different result flow if one particular decision was followed, rather than another of equal authority? Explain which decision is to be preferred and why.

**B: Conclude on the outcome of applying the law to the facts**

Always come to a conclusion when applying IRAC, even if it is just a short conclusion to a sub-issue. The conclusion should neatly and succinctly sum up the application of the law to the facts. In many cases, the summary may be just a one-sentence summary.

Conclusions in law do not have to be all or nothing. Often the law you are being tested on is complex and deals with an area that is not settled. Therefore it is acceptable to conclude in the style of the following example:

*Although the issue is not free from controversy, it seems likely that ... but this is not free from doubt.*

*Because the current law is unclear, it cannot be said with certainty how this issue will be resolved. If the court were minded to find [x] then [y]. However, if the court were minded to find [a] then [b].*

It is expected that you will argue in the alternative where the facts and law do not lead to a certain conclusion.

6.3.8 Review and edit your work

See 4.1 Reviewing and Editing.

6.4 Case notes

6.4.1 What is a casenote?

A case note is a genre of legal writing. It is a concise overview of a case that includes an
analysis of its:

- correctness;
- value as law; and
- impact (if any).

A case note is NOT just a summary of the case. Too many students assume it is sufficient to list the parties and then edit down the facts and any legal discussion to fit within the word limit.

The skill in writing a case note is in being able to:

- **isolate** the relevant facts which give rise to the legal issue:
- **explain** the reasoning which has led to the decision; and
- **establish** the context of the decision.

Throughout your study you will be required to write case notes for various subjects. In these assessment tasks the expectation is that your case note may contain the following elements – but not necessarily in this order.

### 6.4.2 Elements of a case note

<table>
<thead>
<tr>
<th>Element</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>Briefly identify the case by party name and citation, the nature of the legal issue or issues and perhaps suggest why this case may be of interest.</td>
</tr>
<tr>
<td>Procedural history</td>
<td>Is it an appeal from a first instance decision or has there been a series of appeals? If the latter it might be useful to discuss the reasoning in previous decisions.</td>
</tr>
<tr>
<td>Facts</td>
<td>What are the circumstances in which the dispute arose? Think about what is relevant to the law. You only need to provide enough factual information to explain how the legal issues arose. Identify the parties clearly and be consistent; for example avoid referring to the applicant, plaintiff, aggrieved party or party by name interchangeably.</td>
</tr>
</tbody>
</table>
| Legal issues                                                                 | What is the applicable law, or what has been argued to be the applicable law?  
|                                                                             | Is the dispute about defining specific circumstances when a particular legal principle may be relevant? For example, whether in the circumstances has a duty of care arisen and if there has been a breach of the duty of care; or whether a particular term in a contract be interpreted in a specific way and if that term has been breached based on that interpretation. |
| Decision                                                                   | What is the outcome of the case?  
|                                                                             | What was the law the judge or judges applied?  
|                                                                             | What is the reasoning of the judge or judges that has led to that outcome? |
| Analysis                                                                   | Does the reasoning support the decision?  
|                                                                             | If it is a split decision (there is a dissenting judgment) is the majority's approach convincing?  
|                                                                             | If the case is the outcome of a series of appeals how does the decision reconcile or justify earlier decisions?  
|                                                                             | How has the case been treated subsequently?  
|                                                                             | Are there any social implications? Will this affect business practice? |
| Summary                                                                    | What can you say overall about the importance of the case?  
|                                                                             | In order to complete the case note you may have to do further research. How would you familiarise yourself with the law?  
|                                                                             | How would you determine whether the case is important or not? |

6.4.3 Steps to writing a case note

Plan Research Make detailed notes Write draft Review and edit

6.4.4 Plan your response
Using the table of elements on the previous page to prepare a plan for your case note. The table itself provides a fairly logical structure for your case note.

**6.4.5 Research the topic**

- Read the case!
- The case will probably relate to a legal principle studied in your subject. Read the suggested readings and/or the relevant weekly readings for that topic.
- Search through peer-reviewed journal articles to find relevant material and become familiar with the current thinking on that area of law in order to build on your knowledge and understanding of the topic area covered by the case you have been asked to write a case note about. There may also be existing case notes on the case you have been given – read them to gain background information and analytical questions about how you will approach your case note. Be careful not to simply adopt the same approach as a case note you have read – your case note must be your own work derived from your own reading of the case.

**6.4.6 Make thorough notes**

Take careful note of important details, and especially of key citations from decided cases, which can be used to support your contentions, or quotes by authors of journal articles or books. To properly cite material you must have the building blocks: author, title of source, date of publication, page/paragraph reference.

**6.4.6.1 Books**

Record:

- author's/editor's name and the author of any chapters within the book to which you refer;
- title of book;
- year of publication;
- the edition of the book if it has seen more than one edition; and
- the page number(s) of whatever notes you take.

**6.4.6.2 Journals**

Record:
• author's name;
• title of article;
• title of journal;
• year of volume;
• volume number and issue (if relevant);
• page number of first page; and
• page number of any pages from which you record notes or quotes.

6.4.6.3 Cases

Record the:

• case name;
• law report title, year and first page of the report (if case is reported);
• medium-neutral citation (if the case is unreported);
• court;
• paragraph(s) or page number(s) from which you record notes or quotes; and
• identity of the judge(s).

6.4.6.4 Make your notes relevant

★ TIPS ★

• Keep in mind the subject of your case note.
• Do not write down everything; only extract the information which can help in your task. Scan a piece once, or even twice, before beginning to take notes and assess its value.
• Make notes of relevant opinions expressed, and of your preliminary thoughts on those points. Remember that you should develop your own arguments and not simply adopt someone else's, because it may not suit your specific topic.

6.4.6.5 Organising notes

Once you have taken notes, or while you are completing this process, give some thought to the organisation of those notes, so as to make your writing task easier.
★ TIPS ★

- Organise notes alphabetically by author name or case name.
- Use tabs to identify the most relevant pages.

6.4.7 Write the first draft

Refer back to your mind map and the initial thoughts you noted down before you started your research. Has your research changed your thoughts? Make any necessary changes to your plan. Otherwise, refer to 3.5 Writing your first draft, for more tips on writing your first draft.

See also:
- 3.6 Structuring written work;
- 3.6.1 Headings and subheadings;
- 3.6.3 Writing an introduction;
- 3.6.4 Body;
- 3.6.5 Conclusion;

and other useful tips on writing above in this guide.

6.4.8 Review and edit your work

A key element in writing a good case note is leaving enough time to edit your work. If you can finish early and go back to your writing after a day or so, you might see areas that could be improved or grammar mistakes that could be corrected.

See also: 4.1 Reviewing and editing.

6.5 Professional Writing

Effective communication is the cornerstone for any lawyer or legally trained professional. An essential component of being an effective communicator is writing for your audience, for example:

- a client, either personal or a corporation (letter or advice);
- a judicial officer (pleading, affidavit or submission);
- an expert (requesting a report); or
• government (submission, tender).

Embracing the practice of professional writing requires the writer to consider:

• use of language;
• structure – headings, points;
• relevant application of tools i.e. graphs, tables; and
• whether this form of writing uses footnotes and citations (for example, letters and pleadings do not)

The focus of the writer is to ensure that the reader understands the purpose of the document and what, if anything, they are required to do in response.

If you are writing for a lay person remember that there may be some legal terms which you will need to explain or write in plain English if possible.

**Additional resources on Professional Writing**


### 6.6 Reflective Writing

Being able to think critically about your learning, behaviour and responsibilities is a valuable element in developing communication skills in order to interact successfully with clients and colleagues. Reflective thinking is the first step in developing critical self-awareness as an emerging lawyer or professional. As research indicates, reflective writing, in part, contributes towards developing a professional identity because, ‘Reflective practitioners probably have better collaborative relationships with their clients’.\(^5\)

Reflective writing can be a very useful way to ‘capture’ different events and experiences throughout your degree, so that you are able to return to these and review them for different purposes. There are many different ways to engage in reflective writing: for example, keeping a personal professional journal, or creating blogs or portfolios to record reflections.

Reflective writing is more than a DESCRIPTION or a summary. Reflective writing is:

• **expressive** (I learnt, I think, I felt/feel ...);
• **descriptive** (what happened or what enhanced your learning); and

---

• **analytical** (how an event or reading connects to your understanding of a topic, what you have learnt and how clearly you can express it).

The samples below show the difference between **A)** descriptive writing and **B)** reflective writing.

**A)** The article discusses copyright laws in Australia and identifies different types of intellectual property. It provides a definition of the 1995 Trade Mark Act. In Australia the right to first use is given priority over the right form registration...

**B)** Reading the article on 'Trade Mark Ownership' I realised that a trade mark is more likely a sign... The other key point I learnt about was that the author of the trade mark... The other interesting point that I came across was that... I was completely confused by... until I did some further reading then I realised...

For additional information on reflective writing and reflective journals go to the library website at the following address: [http://www.lib.uts.edu.au/help/study-skills/group-work/thinking](http://www.lib.uts.edu.au/help/study-skills/group-work/thinking)

**6.7 Exams**

**6.7.1 Open book exams**

In order to prepare for an open book exam you need to be familiar with all the material you are permitted to take into the exam.

You will save precious time by having a system in place with post-it notes or an index that allows you to navigate your notes and readings efficiently. You will use a modified version of referencing.

You will be expected to structure your answers, develop arguments and write clearly in Plain English.

Do not fall in to the trap of thinking that in an open book exam you will have time to research the answer.

**6.7.2 Writing strategies**

• Unpack the question – highlight key words.

• Identify instruction verbs – topic words. Students often misunderstand the difference between task verbs (‘explain’, ‘justify’, ‘analyse’, ‘critically analyse’).
• Manage the time – make a plan. Use the blank work page in the exam booklet to do a quick outline of the essay.

• Apportion time by the number of marks available for each questions and stick to it. It is much easier to achieve the first 50 per cent of marks in each question than to perfect a single question to a High Distinction level.

• Structure your answer with an introduction, body and conclusion – use headings in the body.

• If you are referring to a case studied in the course it is generally acceptable to just state the case name in the exam (i.e. not the full citation), or, if one of the names is particularly distinctive, just that case name. (e.g., ‘Walton Stores’ instead of ‘Walton Stores (Interstate) Ltd v Maher (1988) 164 CLR 387’). If there are two cases with the same name, state the year. However, if you are referring to a case not mentioned in the course but gathered through your own additional research then you should provide a full citation the first time you refer to that case in your exam answer.

• Underline or highlight your citations; this draws the eye of the marker to your authorities and will give them an immediate impression as to whether you have correctly identified the issues.

• If you do not have enough time to attempt every question, attempt a bullet-point response to the remaining questions. You may gain some marks (if you have addressed the correct issues).

6.7.3 Essay questions

A common form of law exam question is a quote followed by a question.

For example: ‘Positivism has prevailed over natural law theory’. Do you agree? Discuss.

In answering the above question, it is apparent that there are two or three parts to it:

1. discussing what positivism is;
2. discussing what natural law theory is; and
3. discussing the relative application of each theory in the law today.

A common error with these question types is not answering all components of the question. For example, some students will write down all they know about positivism or natural law...
theory, but fail to say if they agree or disagree with the proposition that positivism has prevailed over natural law theory.

6.7.4 Practise, practise, practise

If past exam questions are available, attempt to complete them. If you can practise writing exam questions under the same conditions as the exam (limit yourself to the same time that you will have in the exam) you will be much better prepared than attempting the exam without any practice. At the very least, you will have rehearsed how you can engage with writing an answer and will be able to start planning and writing much more quickly.

You will also have become familiar with locating information in your notes. At best, you will have practised writing an answer to a question that is very similar to one that is given in the exam and you will have to save time when planning your response.

6.8 Email communication

When writing you must always bear in mind who your audience is and the context for your writing. For example, when an email is used to communicate with a university staff member, a work colleague or an employer a different form of expression and tone is required than would be used when writing an email to a friend.

When addressing a university staff member, a work colleague or an employer you must use a more formal tone. That means no contractions, no text style abbreviations or colloquial language.

You should also use the correct form of address for the person you are writing to: ‘Mr…’, ‘Mrs …’, ‘Ms …’ or use an honorific. If the recipient has indicated it is acceptable to do so you may use their first name. Do not address a person simply by their surname or with ‘Hey’ ‘Hi’ or ‘Heya’!

When you sign off use ‘Regards,’ or ‘Thanks,’ and your name and student number.

Do not expect an immediate response to your email. You may need to wait a day or two to receive a response.

Email from the University to a student will only be sent to the student’s UTS email address. Email sent from a student to the University must be sent from the student’s UTS email address. University staff will not respond to emails sent from any other email accounts for currently enrolled students.
7. Further reading on writing for law and academic writing generally

Books
Alex Osmond, *Academic Writing and Grammar for Students* (Sage, 2nd ed, 2016)

Online material
Melbourne Law School, Legal Academic Writing Resources, available at:
8. Glossary

**Dicta** refers to obiter dicta which are remarks made by a judge which are not necessary in reaching the decision but contain a useful illustration or thought. The dicta does not provide a precedent but can be highly persuasive.

**Iterative process** in relation to writing refers to the process of drafting, revising, receiving feedback and rewriting. It is a process that is repeated and improvements made at each stage of the process.

**Precedent** refers to a court decision that must be followed by subsequent courts of the same or lesser level.

**Ratio** refers to the ratio decidendi of a judgment which is the legal principle upon which the decision is based. It is the ration of a case which provides the precedent.

**Transition signals** are connecting words or phrases that strengthen the internal cohesion of a piece of writing. Transition signals act like bridges between parts of writing.

**Vis-à-vis** means in relation to or with regard to.