



UTS Law

Guide to Written Communication

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WELCOME TO LEGAL WRITING

Clear and concise written communication is critical for lawyers and legally trained professionals. All law graduates must develop and demonstrate strong spoken and written communication skills to inform and persuade different audiences. Communication skills is a key graduate attribute that UTS Law students will develop to a high standard by the time they complete their study. In fact, communication skills 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. 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.

The law faculty is committed to developing our students' professional capabilities working with and for Aboriginal and Torres Strait Islander Peoples. A key professional capability is using appropriate terminology and non-discriminatory language in written and oral communication when working with Aboriginal and Torres Strait Islanders peoples as colleagues and clients. This guide provides guidance on appropriate terminology as well as links to more detailed guides.

The faculty is also committed to helping all students achieve high standards of professional communication. This guide aims to address some of the common issues that arise about the nature of academic and professional writing for students studying law and law-related courses. The guide provides information about the process of written legal communication and covers researching, reading, and understanding the requirements of assessment tasks; as well as writing and referencing accurately using the footnoting system recommended by the Australian Guide to Legal Citation (AGLC).

At the end of this guide, you will find information relevant to professional etiquette and mental health and wellbeing. Although this information is not directly related to written communication, the faculty is committed to supporting all students in their study and you may, at some stage, require assistance.

We hope you enjoy your legal studies, and we wish you great success – especially with your writing - during your course at UTS Law and beyond.

Professor Tracey Booth

Associate Dean (Education)

1. INTRODUCTION

1.1 WHY DO I NEED A GUIDE TO WRITTEN COMMUNICATION?

Written communications are a critical component of professional life. As such, they form a significant part of students' assessments for UTS Law courses.

Lawyers and legally trained professionals produce a wide diversity of written work. Although this guide does not cover every type of document you may need to write, 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 foundational understanding of those common legal writing conventions.

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

1.2 APPROPRIATE TERMINOLOGY: ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES

UTS has a nationally significant Indigenous Graduate Attribute (IGA) which is embedded in all law courses. The IGA is designed to ensure that all UTS graduates develop knowledge and skills to be able to work effectively with and for Aboriginal and Torres Strait Islander peoples in your career. During your studies you will need to write about legal issues of significance to Aboriginal and Torres Strait Islander peoples. So it is important to get the terminology right!

Language is a powerful medium which helps to shape our perceptions and understanding of the world. Historically derogatory language was common when referring to Aboriginal and Torres Strait Islander peoples. Many terms that were previously used are now considered to be offensive and racist. In recent years there has been growing recognition of the unique status of Aboriginal and Torres Strait Islander peoples as the First Peoples and Nations of country. Indigenous knowledges of country are also increasingly being acknowledged for their innovation and sophistication.

When writing about Aboriginal and Torres Strait Islander peoples, it is important to use appropriate terminology and non-discriminatory language. Use of appropriate terminology is essential to establishing trust with Aboriginal and Torres Strait Islander peoples as both colleagues and clients. You need to become familiar with appropriate terminology to ensure that your communication is respectful and does not cause offence. Language is also dynamic and changes over time. Terminology now considered appropriate, may fall out of favour. It is good practice to keep up-to-date with appropriate terminology during your studies and beyond.

Here are some general tips for appropriate terminology when referring to Aboriginal and Torres Strait Islander peoples:

- Aboriginal and Torres Strait Islander peoples are diverse. When referring to specific groups it is best to use Aboriginal language names or regional identifiers, eg. Gomeroi and Murrís.
- Always capitalise the terms 'Aboriginal peoples', 'Torres Strait Islanders', or 'Indigenous Australians'. This puts Indigenous Australians groups on an equal footing with other cultural groups.
- Avoid the use of acronyms such as ATSI. This usage is considered offensive.

- Don't use the term 'Aborigines' or 'Aboriginals'. It is better to use Aboriginal peoples, or Torres Strait Islander peoples.
- Indigenous peoples is also used when referring to both Aboriginal and Torres Strait Islander peoples collectively. This term is commonly used in international law.
- First Nations or First Peoples is also used by many Indigenous peoples.
- If you don't know, it is best to ask. When working with local Indigenous groups it is important to use the terms used by that group to describe themselves. This is an important aspect of Indigenous identity and self-determination.

There are many detailed guides on the use of terminology with respect to Indigenous Australians. We recommend reading these guides to develop your understanding of respectful communication. Some good examples are given below.

Australian Government, *Style Manual*, [Aboriginal and Torres Strait Islander peoples | Style Manual](#)

Flinders University, [Appropriate Terminology, Representations and Protocols of Acknowledgement for Aboriginal and Torres Strait Islander Peoples - DocsLib](#)

1.3 AUSTRALIAN GUIDE TO LEGAL CITATION (4TH ED)

As UTS law students, you are expected to properly cite authority to support your suppositions of law and accurately reference other people's work when adopting or discussing their ideas. UTS Law students are required to adopt the style of legal writing found in the [Australian Guide to Legal Citation \(4th ed\)](#) ('AGLC'), published by the Melbourne University Law Review.

The AGLC can be downloaded. It is important to become familiar with the AGLC as it covers the different text types you need to reference in your writing. For example, you will need to know how to reference:

- cases;
- legislation;
- journal articles;
- reports;
- international treaties;
- websites; and
- books.

This guide provides an overview of how to cite the above sources. It is essential that your first point of reference for all citations is the current version of the AGLC.

The library provides valuable information on [AGLC4](#), including a [Quick Guide To The Australian Guide to Legal Citation](#).

1.4 ACADEMIC INTEGRITY

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 in all your work.

Referencing and accurate citations are critical to academic and legal writing. The reasons for this are:

- In 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. This is done by referring to the literature in a way that links to the evidence with 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 **plagiarism** and is dealt with very seriously by the University).

1.4.1 ACADEMIC MISCONDUCT AND ACADEMIC WRITING

Part of your responsibility as a member of the academic community is to accurately acknowledge the work of others. As a law student, dishonesty in relation to your study is academic misconduct. Such misconduct infringes the [UTS Student Rules](#) and can have an adverse impact on your professional life. When law students apply to be admitted to practise law, there is a requirement that past conduct, including academic misconduct, be disclosed. In other law-related disciplines, disclosure of misconduct, is also required.

Academic misconduct includes:

- Plagiarism.
- Cheating or acting dishonestly in any academic assessment (for example, in an exam or an assignment);
- Using generative AI tools, unless permitted to do so by the Subject Coordinator;
- Copying or reworking any material (e.g., text, images, music, video) from generative AI tools, and claiming this work as your own without declaring use of the relevant tool;
- Having someone else (human or AI) complete your assessment; and
- Assisting or inciting another student to cheat or act dishonestly.

It is critical that you understand what constitutes academic misconduct. Information regarding academic misconduct, including examples, is available on the Faculty website under [Academic Misconduct](#). All students should be aware of the conduct that constitutes academic misconduct.

There are university penalties for student misconduct. These are set out in the UTS Student Rules, [section 16](#) - Student misconduct and appeals.

1.4.2 AI AND ACADEMIC INTEGRITY

The library has helpful information about generative AI (GenAI) [here](#). Generative Artificial Intelligence (AI) such as Chat GPT can create text that mimics human writing. It has already been used in many fields, including journalism and creative writing, and is now being explored in the legal domain. With the use of generative AI, you can input a topic or question and receive a written output ranging from one or two sentences to lengthy essays. Whether that output is a correct and/or quality response is contentious.

While the potential benefits of using generative AI may seem obvious, such as saving time and effort and generating ideas, there are significant disadvantages. Some of these include a lack of originality, AI's limited

'understanding' of complex legal problems, restrictions on the scope of sourced material, ethical concerns relating to academic integrity, potential for errors, fake references including fake cases and legislation, and inability to apply legal principles to real world problems.

However, a greater concern than the quality of AI responses (which will improve with time) is the long-term impact of generative AI on your ability to develop deep skills of critical thinking and analysis, and soft skills of communication and professionalism. Suppose, for example, that you were that student who got bare-passes for their courses by using generative AI wherever you could. Do you think an employer would want you on their team, without the skill to know whether the AI responses were accurate, reflected current law, or properly analysed clients' legal problems? Would you be wanted on a team where your capacity to write compelling English (i.e., to persuade others through language) was never developed beyond a high school level?

University and faculty policy is to promote ethical and effective use of generative AI tools. Make sure you follow the specific instructions relating to use of gen AI provided by your Subject Coordinator in each subject. Do not try to pass off work produced by a generative AI tool as your own. Make sure that you properly reference all material obtained from an outside source. According to [section 16 of the Student Rules](#), the following activities will be considered misconduct:

- Copying or reworking any material (e.g., text, images, music, video) from generative AI tools and claiming this work as your own without declaring use of the relevant tool; and
- Using generative AI tools, unless permitted use is specified for that assessment.

1.5 SERVICES TO ASSIST YOU WITH YOUR RESEARCH AND WRITING

The library has an extensive collection of excellent law-related resources to help you with your research and writing, including law study guides on its website, under Study Guides: [Law](#).

The library has a [team of law librarians](#) who are available to assist law students.

The 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 follows the [AGLC style](#).

Find out about [EndNote](#) on the library's website.

1.6 HELPS (HIGHER EDUCATION LANGUAGE & PRESENTATION SUPPORT) AND U:PASS

UTS is committed to developing and supporting students' English language proficiency throughout your study.

HELPS is a free student service that provides English language and academic literacy support to students in various ways, including workshops, one-on-one consultations and resources. HELPS encourages students to gather in a small group and seek their assistance in specific areas, including interpreting a question and developing an argument. In particular, first year students report that HELPS is a valuable resource to discuss their early assignment tasks and feedback on early assignment tasks.

HELPS also offers [U:PASS](#): learning support through peer-led small group study in two LLB and JD subjects: Criminal Law and Procedure and Real Property.

Visit the [HELPS](#) website for further information.

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 you to become familiar with the style and structure common in academic writing in law.

It is essential to access materials that are directly related to your assessment task for two purposes:

- to gain insights into the opinions and reasons 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 study.

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 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 tutor or listed as ‘recommended reading’ in your subject materials. Recommended reading is usually selected to augment your required reading.

Here are some tips that will help you 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; and
- Leading cases relevant to the subject you are studying. Often these are specifically listed or emphasised in your Subject Outlines or supplementary materials.
- Tutors will often flag a case that is very important.

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), head note (for cases), executive summary or recommendations (for reports). 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 substantial reading. For a full understanding of the principles, you will need to read the entire case or the entire chapter. You may also 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.**

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, do not 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.

Strong topic sentence

Focus and Scope

Organisation of ideas

Well defined position/argume

Subheadings clearly indicate what is being discussed and where.

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, reports 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.

¹ Elisabeth Peden, 'Contractual Good Faith: Can Australia Benefit from the American Experience?' (2003) 15(2) *Bond Law Review* 186, 186.

2.2.1.5 ASK YOURSELF:

- Why have you 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 tutor 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 and whether the court is in the same jurisdiction. These are 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.

2.3 NOTE TAKING

As students, you will have developed your own style and structure with taking notes. It is helpful to have a system that you can use on a regular basis, regardless of the material you are summarising.

Evernote offers a program to assist with notes, tasks and schedules. This is a free version. Other programs are OneNote for Windows (from Office 365) and Glean.

Students with accessibility needs can access Read and Write in the Library as part of an accessibility consultation. Dragon dictation software that converts words into text may also be helpful.

3. WRITING

3.1 COHESIVE AND COHERENT

Writing and reading skills inform one another and by reading widely from journal articles, 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, submissions, client communications and responses to scenario problems.

Academic and professional legal writing requires the development of an argument and evidence of the relationship between the ideas you are expressing; your writing must therefore demonstrate *coherence* and be *cohesive*.

- **Coherence:** means the writing 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.

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 formal tone and an objective register.
- Write words in full and avoid contractions, for example, 'cannot' not 'can't'.
- 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, for example: 'The court dismissed the appeal' (active); 'The appeal was dismissed by the court' (passive). Also see 4.3.2.

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, accurate and succinct. 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

See Chapter 7 for a list of plain language texts available in the 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.

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. UP TO HERE

★ 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 written 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.
- Write your introduction to map your assignment plan. Revisit the introduction upon completion to ensure you have covered all points.
- 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.

² Ros Macdonald and Deborah Clark-Dickson, *Clear and Precise: Writing Skills for Today's Lawyer* (Thomson Reuters, 3rd ed, 2010) 20.

3.6 STRUCTURING WRITTEN WORK

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

- 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 problem or question. This is often broken down into parts by using subheadings.
- A conclusion that briefly sums up the discussion and states your final position.
- 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

 See AGLC, r1.12.2.

The AGLC4 sets out the rule for formal heading levels.

Think about how to structure your paper to present your material in an organised format. 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 sub-heading fit within the topic of the heading?

For work that does not require AGLC headings, 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. By way of example, this guide uses a simple numbering system, which allows quick access to specific points discussed.

3.6.2 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 paper 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], notwithstanding 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

While IoT devices deliver benefits to consumers, they create challenges in the form of threats of harms that are distinct from the potential harms arising from other consumer products.³ **[article's core argument]**

The article has five substantive parts and a conclusion. Following this Introduction, Part II **introduces** IoT devices and **explains** how they differ from traditional consumer products. In Part III, the article **introduces** the Consumer Guarantee Law ('CGL') and **briefly reviews** concerns about how the current guarantees apply to 'smart' products. Part IV of the article **explains** the distinction between 'goods' and 'services' under the ACL and examines the case for introducing a new category of consumer products, distinct from 'goods' and 'services', that would include IoT devices. In Part V, the article **evaluates** the application of the most relevant of the current consumer guarantees to IoT devices, and **analyses** the case for introducing new guarantees designed to address the distinctive features of such devices. Part VI of the article **introduces** the current agenda for reform of the CGL, which is focused on enhancing enforcement of the consumer guarantees and examines the extent to which enhanced enforcement can address uncertainties in the law. Finally, the article **concludes by arguing** for the introduction of a new category of 'digital products', which would include both digital content and IoT devices, and for introducing bespoke consumer guarantees that are specifically designed to address the distinctive features of these products.⁴

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 and that your conclusion supports your introduction.

³ David Lindsay, Genevieve Wilkinson and Evana Wright, 'Responding to the Challenges of Consumer Internet of Things Devices: The Case for Reforming the Australian Consumer Guarantees' (2022) 29 *Competition & Consumer Law Journal* 226, 227.

⁴ Ibid 226-227.

3.6.3 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].

3.6.3.1 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. 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.

3.6.3.2 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

The key findings in relation to X seem to be...

The significant issues with respect to X appear to be ...

The fundamental problems identified by existing research are...

The most important factors associated with X can be categorised as... The noteworthy features of X are...

The most frequently mentioned drawbacks are the following: ... The predominant view appears to be...

The crucial factors related to X seem to be...

3.6.4 CONCLUSION

It is also essential to finish your work 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

In conclusion by analysing Y it has been argued that X ...

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].

It is therefore logical to argue that because of ... it is likely to be held that ... After considering 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 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 agrees with another judgment, see AGLC r 2.4.2.

3.7.1 REFERRING TO JUDICIAL OFFICERS

 See AGLC, r 2.4

Sometimes you will need 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 (not a judgement or decision, e.g., journal article)

3.8 WRITING ABOUT LEGISLATION

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

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'.

! NOTE: *Sections of the text are bolded to show how to refer to legislation, do not use bold when you are writing assessment tasks.*

 Example

When the time came for cross-examination of the complainant the defendants refused both the offer of counsel and a person appointed by the court to conduct the cross-examination of the complainant on their behalf **pursuant to section 294A of the *Criminal Procedure Act 1986 (NSW)***. As a result, no cross-examination took place. On appeal from their conviction, the defendants argued that the section was 'invalid for various reasons and that its application led to unfairness and a fundamentally flawed trial'. The NSWCCA dismissed the appeal with Wood CJ at CL reflecting on the trauma experienced by complainants in sexual offence proceedings and how this would be exacerbated if a defendant was able to conduct direct cross-examination. His Honour also noted that given the defendants refused legal representation for the purposes of conducting cross-examination as provided **under this provision**, then 'it is difficult to see why they have any basis whatsoever for claiming that they were denied a fair trial'.⁵

For example, in Queensland under **section 151(4)(b) of the *Domestic and Family Violence Protection Act 2012***, if the court has ordered that the respondent cannot directly cross-examine the protected witness, the respondent cannot cross-examine the protected witness unless they have arranged for a lawyer to conduct the cross-examination.⁶

⁵ Tracey Booth, Miranda Kaye and Jane Wangmann, 'Family Violence, Cross-Examination and Self-Represented Parties in the Courtroom: The Differences, Gaps and Deficiencies' (2019) 42(3) *UNSW Law Journal* 1106, 1118.

⁶ *Ibid* 1130.

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 JJ 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

From the role of Country in fictionalised legal storytelling to the storytelling about Country in a real legal setting, **Dr Virginia Marshall** explores the creation of proprietary personalities in settler law. In *Removing the veil from the 'rights of nature'* (footnote is here, however omitted) **Marshall** proposes a way of distinguishing property from personality in the recognition of Country, and instead suggests a model of empowerment and obligations of First Nations people in caring for Country (footnote is here, however omitted).⁷

The Tribunal noted that RG 98 did not discuss the interplay between ASIC's complementary criminal and civil enforcement powers; (footnote is here, however omitted) that **Santow J's** 15 propositions in *Adler* (2002) had emphasised the protective rather than punitive focus of banning orders; (footnote is here, however omitted) and that the High Court in *Rich v Australian Securities & Investments Commission* (2004) 220 CLR 129 had held the concepts of public protection and personal punishment to not be mutually exclusive fields of discourse. (footnote is here, however omitted). Noting that the sentencing judge was satisfied of the unlikelihood of Mr Musumeci re-offending, the Tribunal concluded that neither personal nor general deterrence warranted ASIC's four year ban (footnote is here, however omitted).⁸

To find out how to refer to judicial officers in your writing, see 4.1.5 Referring to judicial officers.


⁷ Alison Whittaker and Nicole Watson, 'First Nations Women: Law, Power, Story' (2019) 45(2) *Australian Feminist Law Journal* 179, 181.

⁸ Robin Bowley, 'An Analysis of Challenges to ASIC's s 920A Banning Orders against Financial Services Providers in the AAT and the Courts' (2018) 36(4) *Companies and Securities Law Journal* 307, 318.

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.

 Example

In a 2018–19 South Australian study based on interviews with 19 refugees living on SHEVs or bridging visas, 16 interviewees ‘reported experiencing some form of exploitation [or] discrimination’ in a current or previous job, including systematic underpayment, overwork or hazardous conditions. (footnote is here, however omitted).⁹

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.¹⁰

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 need to quote only 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.¹¹

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’.¹² His Honour was there referring to the Commonwealth Constitution.

⁹ Laurie Berg, Sara Dehm and Anthea Vogl, ‘Refugees and Asylum Seekers as Workers: Radical Temporariness and Labour Exploitation in Australia’ (2022) 45(1) *UNSW Law Journal* 35, 50.

¹⁰ Pam Stewart and Anita Stuhmcke, ‘High Court Negligence Cases 2000–10’ (2014) 36(4) *Sydney Law Review* 585, 590.

¹¹ *Fardon v Attorney-General (Qld)* (2004) 223 CLR 575, [101] (Gummow J).

¹² *Ibid.*

3.11 CITATION

Legal writing has distinctive conventions that you should adopt in your written work.

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’).

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.

3.11.1.2 POSITION OF FOOTNOTES

 See AGLC, r 1.1.2

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

 Example

Modern love has been described by leading theorists as a ‘blank form’ whose content is a ‘subject and mutual invention.’ (footnote is here, however omitted), and as a set of self-imposed ties. (footnote is here, however omitted)


Extract from Renata Grossi, ‘What can contract law learn from #Me Too?’ (2022) 49(2) *Journal of Law and Society* 263, 276.

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 (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.

1. *Waltons Stores (Interstate) Ltd v Maher* (1988) 164 CLR 387, 406 (Mason CJ and Wilson J) ('Walton Stores').
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).
6. Kenneth Robert Handley, *Estoppel by Conduct and Election* (Sweet and Maxwell, 2006) 25.
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 repeat 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.

 Examples


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 Marks Act 1995 (Cth) ('TMA')

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.

 Examples

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.

Reported cases						
Element	Case name	Year	Law report volume	Law report name	First page of judgment	Pinpoint reference
Examples	<i>R v Tang</i>	(2008)	237	CLR	1	, 7.
	<i>Bakker v Stewart</i>	[1980]		VR	17	, 22.
	<i>Rowe v McCartney</i>	[1976]	2	NSWR	72	, 75.
AGLC Reference	Rule 2.1	Rule 2.2.1	Rule 2.2.1	Rule 2.2.2	Rule 2.2.4	Rule 2.2.5

Unreported / Medium-Neutral Cases ¹³					
Element	Case name	Year	Court	Judgment number	Pinpoint ref.
Examples	<i>Associated Alloys Pty Limited v ACN 001 452 106 Pty Limited</i>	[2000]	HCA	25	, [7].
	<i>R v Ozbec</i>	[2008]	VSCA	9	, [15].
	<i>Larsen v Linch</i>	[2006]	FCA	385	, [20].
	<i>Francis v CPI Graphics Ltd</i>	[2011]	NSWSC	317	, [6].
AGLC Reference	Rule 2.1		Rule 2.3.1		Rules 1.1.6-1.1.7

3.11.3.1 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*¹ determined...

1. (2003) 214 CLR 1.

¹³ 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.

Example 2

In *In re 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 *In re 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.


¹⁷[1998] AC 214, 226.

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 2.2.2, 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:

Type	Content	Common examples	When cited
Authorised law report	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.	Commonwealth Law Reports (CLR) Federal Court Reports (FCR) New South Wales Law Reports (NSWLR)	If a case has been reported in an authorised law report, use this citation in place of all others.
Unauthorised generalist law report	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.	Australian Law Reports (ALR) Federal Law Reports (FLR)	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.
Unauthorised specialist law report	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.	Australian Corporation and Securities Reports (ACSR) Australian Criminal Reports (A Crim R) Administrative Law Decisions (ALD) Family Law Reports (FLR) Industrial Reports (IR)	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.
Unreported / Medium-neutral citation	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.	See table under 'Cases' above.	Only use medium-neutral citations when the case has not been reported at all.

The AGLC provides a list of the common Australian authorised reports series (see AGLC r 2.2.3).

Law dictionaries also commonly provide a list of authorised and unauthorised report, see: *Australian Law Dictionary* (Oxford University Press, 3rd ed, 2017) OR *Concise Australian Legal Dictionary* (LexisNexis Butterworths, 6th ed, 2021). Both are available electronically through the library.

3.11.3.3 PARALLEL CITATIONS

 See AGLC, r 2.2.7

It is not uncommon to see in judgements cases cited with a series of different report citations following them. This is known as a ‘parallel citation’. If a case is cited with several parallel citations, then this is because that case is reported in several places.

 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, 69 [121], 73 [134]; *Perpetual Trustees Australia Ltd v Heperu Pty Ltd* [2009] NSWCA 84; 76 NSWLR 195, 221-222 [127]-[128], 229 [161]; and *Heperu Pty Ltd v Belle* [2009] NSWCA 252; 76 NSWLR 230, 264-265 [145]-[151], 269 [179], 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, 2.2.5

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
- the ratio of a case.

Rule 1.1.6 of the AGLC requires that pinpoint references must be done as follows:

Case type	Rule	Examples
Reported but without paragraph numbering (Older cases)	A comma follows the case citation and the page number must be provided.	<i>Heperu Pty Ltd v Belle</i> (2009) 76 NSWLR 230, 269.
	A series of sequential pages can be shown by a dash in between the first page of the sequence and the last.	<i>Heperu Pty Ltd v Belle</i> (2009) 76 NSWLR 230, 269-270.
	Using a comma in between references shows a reference to multiple pages, not necessarily in sequential order.	<i>Heperu Pty Ltd v Belle</i> (2009) 76 NSWLR 230, 269-270, 289.
Reported with paragraph numbering (Modern cases)	A comma follows the case citation and the page number must be provided.	<i>Heperu Pty Ltd v Belle</i> (2009) 76 NSWLR 230, 269.
	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.	<i>Heperu Pty Ltd v Belle</i> (2009) 76 NSWLR 230, 269 [179]. <i>Heperu Pty Ltd v Belle</i> (2009) 76 NSWLR 230, 264-265 [145]- [151], 270 [180].
Unreported cases with a medium neutral citation	A comma follows the case citation and the paragraph number must be provided in square brackets.	<i>Heperu Pty Ltd v Belle</i> [2009] NSWCA 252, [179].
	A series of sequential paragraphs can be shown by a dash in between the first page of the sequence and the last.	<i>Heperu Pty Ltd v Belle</i> [2009] NSWCA 252, [145]-[151].
	Using a comma in between references shows a reference to multiple paragraphs, not necessarily in sequential order.	<i>Heperu Pty Ltd v Belle</i> [2009] NSWCA 252, [145]-[151], [179].

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

Examples

R v Wilhelm (2010) 77 NSWLR 1, 5 [24] (Howie J).

PT Garuda Indonesia Ltd and Another v Australian Competition and Consumer Commission (2011) 192 FCR 393, 398 [11] (Lander and Greenwood JJ).

3.11.4 DECISIONS OF TRIBUNALS AND OTHER ‘COURT-LIKE’ BODIES

📖 See AGLC, r 2.6

As with court judgments, decisions of tribunals and decision-making bodies 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.

! 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

📖 See AGLC, r 3

Statutes are a very important source of law, so it is imperative that you know how to cite them properly. Delegated legislation is also 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.

Statutes				
Element	Statute title	Year enacted	Jurisdiction	Pinpoint reference
Examples	<i>Corporations Act</i>	2001	(Cth)	s 100
	<i>Competition and Consumer Act</i>	2010	(Cth)	pt 2
	<i>Restraints of Trade Act</i>	1976	(NSW)	s 4(3)
	<i>Acts Interpretation Act</i>	1954	(Qld)	ss 20(2)(a)–(e)
AGLC ref	Rule 3.1.1	Rule 3.1.2	Rule 3.1.3	Rule 3.1.4 – 3.1.5

Delegated Legislation				
Element	Delegate legislation title	Year enacted	Jurisdiction	Pinpoint reference
Examples	<i>National Gallery Regulations</i>	1982	(Cth)	reg 3
	<i>Federal Court Rules</i>	1979	(Cth)	ord 3
	<i>Uniform Civil Procedure Rules</i>	2005	(NSW)	r 3.4
AGLC ref	Rule 3.4			

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 indicate 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.

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

! NOTE:

- Please refer to AGLC, 3.1.5 for a more comprehensive list of multiple pinpoint referencing. Although the above examples deal with citing a statute, the same principles apply to citing delegated legislation.

3.11.5.2 QUASI-LEGISLATIVE MATERIALS

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

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


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 drafting a research essay. The most common secondary resources 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.

Element	Author	Title	Publication details	Pinpoint reference
Examples	Janice Gray, Neil Foster, Shaunnagh Dorsett and Heather Roberts,	<i>Property Law in New South Wales</i>	(LexisNexis Butterworths, 4 th ed, 2018)	[8.31]
	Pam Stewart and Anita Stuhmcke,	<i>Australian Principles of Tort Law</i>	(The Federation Press, 5 th ed, 2022)	[9.5.2]
	Michelle Sanson and Thalia Anthony,	<i>Connecting with Law</i>	(Oxford University Press, 2022)	724
AGLC ref	Rule 6.1	Rule 6.2	Rule 6.3	Rule 6.4

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

- Ramona Vijeyarasa, *The Woman President: Leadership, Law and Legacy for Women Based on Experiences from South and Southeast Asia* (Oxford University Press, 2022) 111 – 113.
- Pam Stewart and Anita Stuhmcke, *Australian Principles of Tort Law* (Federation Press, 5th ed, 2021) 268 [10.6.5].

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.

 Example

- Brian Opeskin, ‘Dismantling the Diversity Deficit: Towards a More Inclusive Australian Judiciary’ in Gabrielle Appleby and Andrew Lynch (eds), *The Judge, the Judiciary and the Court: Individual, Collegial and Institutional Judicial Dynamics in Australia* (Cambridge University Press, 2021) 83.

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.

Element	Author	Title	Year	Volume and issue no	Journal name	First page	Pinpoint ref
Examples	David J Carter, Anthea Vogl, Elyse Methven and Lisa Billington,	'Electronic Audio Feedback in Legal Education'	(2022)	32 (1)	<i>Legal Education Review</i>	161	, 165.
	Christopher Croese,	'Defamation and Personal Injury under the <i>Civil Liability Act 2002 (NSW)</i> '	(2022)	28(1)	<i>Torts Law Journal</i>	22	, 35
	Roberto Buonamano,	'Religious Freedom in a Secular Human Rights Order'	(2020)	21(1)	<i>Politics, Religion & Ideology</i>	68	, 69-71.
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.

 Example

- Harry Hobbs, 'The New Right and Aboriginal Rights in the High Court of Australia' (2023) 51(1) *Federal Law Review*, 129, 130.

3.11.10 INTERNET RESOURCES

 See AGLC, r 7.15

A source should only be cited according to this rule if it does not exist in a published form and no other rule within this guide applies to it.

The internet is a source of secondary materials. However, you must carefully evaluate the credibility, reliability and authorship of any material you use. For example, a blog on a law firm's website does not carry the same persuasive impact as a referred journal, even if both are written by the same author.

Peer-reviewed journal articles are generally reliable, and your tutor 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. The same degree of care must be taken with bibliographies as with citations.

4. LEGAL STYLE

4.1 REVIEWING AND EDITING

Your first draft will rarely 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 detect structural errors you have missed or comment on the clarity of your expression, and argument. Their role must not be to advise on the content or accuracy of your work as this could be academic misconduct.
- 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 and/or under the specified word limit; other subjects will strictly apply the word limit. This information is usually clearly set out in the Subject Outline or the instructions for each assessment item. If you are unsure, then 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 will apply. The set word length will help you to remain focused on the relevant issues. Clients expect concise and relevant advice. It is essential in professional practice to address the crucial issues in a clear, succinct manner, and in some areas of work, you will be required to adhere to a word limit.

Footnotes, bibliographies and endnotes are not usually included in the word count. However, you should check the Subject Outline for 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).

Tools, such as Grammarly, can assist your adherence to the rules of written work. You should always check your work regardless of the tools you use. They are not perfect.

4.3.2 USE OF THE PASSIVE VOICE

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 use 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 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.

One way to write in the active voice is by writing in the first person (‘I’/‘We’). However, it is not always appropriate to use the first person. It is usually acceptable for tasks that ask you to reflect on what you have learned. But more formal advice or research tasks may require you to write only in the third person. For more guidance on this, see the next section.

Passive voice	Active voice
The bank was robbed at 2:30 on Friday afternoon.	Neddy White robbed the bank at 2:30 on Friday afternoon.
The accused was fined \$1 000 by the judge.	The judge fined the accused \$1 000.
It may be argued that Brown should have known of the extenuating circumstances.	I will argue that Brown should have known of the extenuating circumstances.

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 reasons 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 punctuation practices in academic writing.

4.4.1 FULL STOPS

Use full stops only at the end of sentences. Do not use full stops to indicate an abbreviation.

Examples

Correct	Incorrect
<i>Crimes Act 1900 (NSW) s 5</i>	<i>Crimes Act 1900 (NSW), s. 5</i>
<i>Barnes v Addy (1874) LR 9 CH App 244</i>	<i>Barnes v. Addy (1874) LR 9 CH App 244</i>
Mr Smith	Mr. Smith

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.

Example

'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.

Example


'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.

 Example

‘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.

 Example

‘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.

 Examples

Example	Meaning
Harry’s gun.	The gun belonging to Harry.
The defendant’s cross-claim.	The cross-claim made by the defendant.

 Examples


Example	Meaning
Chris’ red car.	The red car belonging to Chris.
Mr Jenkins’s house.	The house belonging to Mr Jenkins.

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

 Examples

Example	Meaning
The girls’ study space.	The study space for girls.
The dogs’ owner.	The dogs belonging to the owner.

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

 Examples

Example	Meaning
The women’s collective.	The collective for women.
The men’s group.	The group for men.

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.

Example	Meaning
shall not	shan’t
they are	they’re

Example	Meaning
of the clock	o’clock
it is	it’s

! 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 that you do not know the law. It also suggests that you have not thoroughly prepared your work or given it the level of attention that it deserves. It looks unprofessional. No client will want to pay for advice that is full of easily avoided spelling errors. Therefore, 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 SPELL CHECKING AND OTHER PROOFREADING FUNCTIONS

Proofreading software is reasonably sophisticated and usually identifies problems with spelling, grammar, punctuation and even clarity and conciseness of expression.

However, it is not (yet) perfect. Sometimes, it will not identify the use of a *wrong word*. For example:

- analysis v analyses
- their v there
- you're v your

Ultimately, you should carefully proofread your work – after using spellcheck and other proofreading software – to be certain that everything is correct.

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

4.5.4 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.

4.6. 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. 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 proofread 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 proofreading, 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.

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 2021

Not:

1/1/1901

25th January 2021

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

Figure	Currency
AUD1,500 A\$1,500	Either form denotes Australian dollars where elsewhere in your writing you refer to other types of currency.
USD1,500 US\$1,500	Either form denotes American dollars.
£1,500 GBP1,500	Either form denotes British pounds sterling.
€1 500 EUR1 500	Either form denotes the Eurozone's euro.

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. 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 pt, Arial 12 pt or Times Roman 12 pt).
- Headings may be underlined, in bold or upper case, however, be consistent throughout the document.
- 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. Use page numbering.
- Put your name and student number on the assignment.

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

Higher marks are 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 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 core 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?

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:

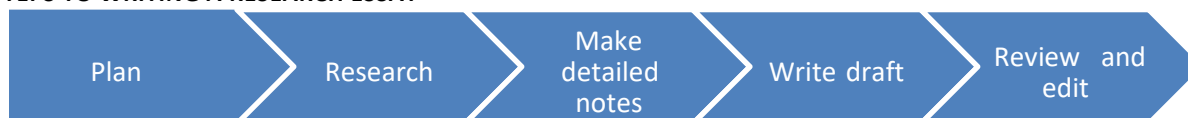
- synthesise ideas from different sources; and
- identify where writers agree and disagree in their arguments and approaches to problems.

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’s view on the subject matter lead to a different conclusion?
- Exploring all 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 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 relevant? 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.
- 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. Journal articles will most likely lead to you other sources to consider.
- Do not forget the Library! Considerable information is now available on the internet and via electronic databases. Books are also valuable resources. They often contain significant, detailed information that is unable to be addressed in shorter pieces such as journal articles or other commentary. 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 LEGISLATION

Record:

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

6.2.6 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.

6.2.6.1 ORGANISING NOTES

Once you have taken notes, or while you are completing this process, give some thought to the organisation of those notes (whether hand-written or digital), to make your writing task easier.

★ TIPS ★

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

6.2.7 WRITE THE FIRST DRAFT

Refer 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'; and
- '3.6.5 Conclusion'.

6.2.7.1 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 return 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

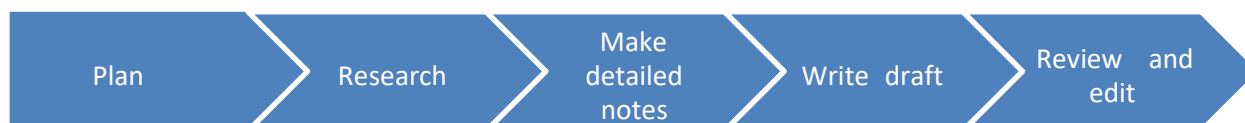
6.3.1 THINK LIKE A LAWYER

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 and socio-legal 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, issues, options and solutions. This means that you must objectively and rationally assess the facts and apply the law to those facts 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 relevant?

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, you should then be able to direct your reading. Remember that your task as a legally professional is to identify the relevant 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 about. 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.

6.3.5 WRITE THE FIRST DRAFT

Refer 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.

6.3.5.1 WHERE TO START

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

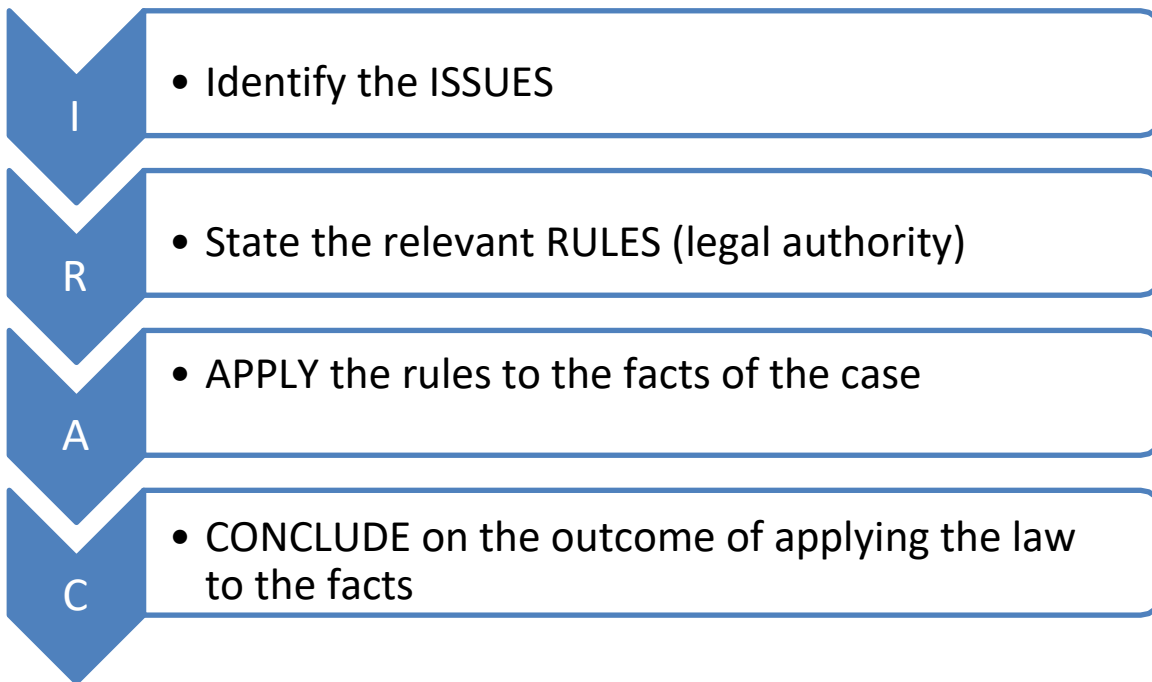
The order will be dictated by the relationships between the issues and the number of parties. A question of the appropriate remedy, for example, can only be considered after the issue of liability has been determined.

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.

6.3.6 ISSUES, RULES, APPLICATION AND CONCLUSION

IRAC provides a structure to answering legal problem questions. In short, IRAC stands for:



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.

Assume that 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 require applying the legal doctrines of misrepresentation, privity of contract and unconscionable conduct. Therefore, you already know that IRAC will be applied at least 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 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. The elements that need to be proven are:

- A representation...
- Made to the representee...
- Intended to induce...
- That in fact induces...

[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...

[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...

[RULES] In *X v Y* (2001) 123 CLR 456, it was held that...

[APPLICATION] In the context of these facts, it is therefore possible that the Bank may argue that...

[CONCLUSION] Whilst the Bank may argue ... it is submitted that this does not make substantial rescission an impossibility, therefore...

Conclusion

There is a clear case of misrepresentation here. Susan therefore has the right to... She should be made aware that the Bank might argue ... however....

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 properly citing primary authority.

You should consider 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.

See also: 3.11 Citation.

! 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*

A: Apply the rules to the facts of the case

After identifying and explaining the rules that you intend to apply, you must then actually apply them. 'Applying the law to the facts' means engaging with the facts of the question and explaining how you reach your conclusion(s) on the legal issue(s) posed by the question. In other words, it is not sufficient to state the law in the abstract, and then just conclude that A or B must win, assuming that the reader will join the dots between the rules that you have stated and how you reached your conclusion that A or B must win. What facts support that conclusion? How do they support that conclusion? Articulate your reasoning process to the reader (or judge!), thus persuading them that your conclusion is correct. Simply reciting 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.

Thus, 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.

C: 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 is uncertain 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.

6.3.7 REVIEW AND EDIT YOUR WORK

See 4.1 Reviewing and Editing.

6.4 CASE NOTES

6.4.1 WHAT IS A CASE NOTE?

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.

A case note is NOT just a summary of the case. 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:

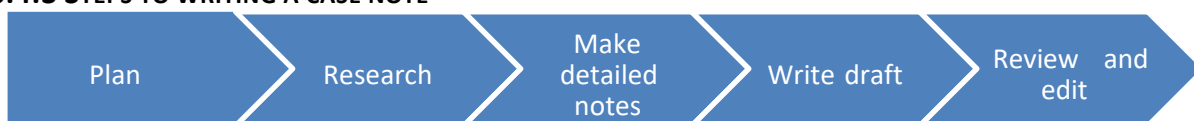
- isolate the relevant facts which give rise to the legal issue/s;
- explain the reasoning which has led to the decision; and
- establish the context of the decision.

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

Element	Action
Introduction	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.
Procedural history	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.
Facts	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.
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



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 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 to build on your knowledge and understanding of the topic area covered by the case.
- 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.

6.4.5.1 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, 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 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 lawyer. 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 someone who is not legally trained, then remember that there may be some legal terms which you will need to explain. Always write in Plain English, whether writing for a client or judge.

6.6 REFLECTIVE WRITING

Being able to think critically about your learning, behaviour and responsibilities is a valuable element in developing communication skills to interact successfully with clients and colleagues. Reflective thinking is the first step in developing critical self-awareness as an emerging lawyer or professional. Reflective writing, in part, contributes towards developing a professional identity.

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 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.

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... 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 HELPS website at the following address: [Reflective tasks | University of Technology Sydney \(uts.edu.au\)](https://www.uts.edu.au/helps/reflective).

6.7 EXAMS

6.7.1 OPEN BOOK EXAMS

To prepare for an open book online exam, you need to be familiar with all the material you are permitted to access.

You will save precious time by having a system in place that allows you to navigate your notes and readings efficiently.

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

Do not fall into the trap of thinking that in an open book exam, even over a number of hours, 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.
- Apportion time by the number of marks available for each question 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.
- 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 three parts to it:

- discussing what positivism is;
- discussing what natural law theory is; and
- 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.

6.8 EMAIL COMMUNICATION

When writing you must always bear in mind who your audience is and the context for your writing. Email and other communication in a professional context are different to communication in a social or familial context. 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. The essential principles below provide an important resource for email and other communications and conduct in a professional setting, including the university environment.

- **Scope:** These principles also apply to all communications, whether by email, discussion board, or online chat (e.g., in Zoom classes).
- **Respect:** All communications with professional and academic staff should be based on a principle of mutual respect, which should be reflected in the content, tone, and timing of your communications. The same principle applies to your communications with other students.
- **Using university email:** Email from staff to a student will only be sent to the student's UTS email address, and email from a student to staff must only be sent from the student's UTS email address. For currently enrolled students, staff will not respond to email from any other email accounts.
- **Be resourceful.** There is a large amount of information about a subject in the Subject Outline and in the hundreds of pages that comprise the modules, assessment regime, etc on the Canvas site. You are expected to be resourceful and to familiarise yourself with the information at hand. Staff will not respond to requests for information that is already available to you through other channels.
- **Choose the right forum:** For a timely response, you should communicate in the right place and to the right person. The preferred way to ask subject-related questions is to ask your seminar leader during class. If your question cannot wait until class, then choose between email, the Canvas messaging system, or discussion board, as circumstances warrant. For example, an email to staff will be appropriate for personal matters that do not affect other students (e.g., illness or misadventure). A discussion board will be appropriate for general matters of relevance to your whole class or the entire student cohort. Most subjects have a dedicated email address for all administrative inquiries relating to this subject: check the Subject Outline.
- **Formality:** Use your communications with staff to develop your professional identity as a lawyer. This will differ from the way you communicate with family or friends. This necessitates a degree of formality, unless invited by staff to do otherwise. Avoid communicating in a manner that is too casual or too familiar. See the following points.
- **Correct form of address:** In emails, use the correct form of address for the person you are writing to: 'Mr...', 'Ms ...', 'Dr...' 'Prof...' or another honorific. If the recipient has indicated it is acceptable to do

so, you may use their first name. 'Hey' or 'Hi' does not establish a sufficiently professional tone and may affect the type of response you will receive.

- **Signing off:** Sign off your correspondence appropriately, with 'Regards,' or 'Thanks,' and always include your full name and student number to allow efficient follow-up.
- **Business hours:** Staff will generally correspond with students during standard business hours (Mon-Fri, 9:00-17:00). Exceptions may be made for genuine emergencies, but students should remember that staff are not 'on-call' at other times. This means you must not leave matters until crisis point or your concerns may go unaddressed.
- **Patience:** Do not expect an immediate response to your communication. You may need to wait a day or two. This may be because the person to whom you have written is busy, needs to get further information to answer you, or works on a part-time or casual basis. Be patient and follow up only after an appropriate interval has elapsed.

6.9 STUDY AND WELLBEING

This is a guide to written communication. It is not intended to cover mental health. However, we acknowledge that the pressures of study, combined with other professional or personal factors, can result in mental ill-health and distress. This guide provides an opportunity to remind you of the services available in the university and the faculty to assist and support you with study management. These include:

- University counselling
- Accessibility services
- Faculty director of students. The director is an academic in the law faculty who can assist you with your study management and refer you to experts and resources. As this role changes, please email law.studentreception@uts.edu.au to request the details of the current director.

7. FURTHER READING ON WRITING FOR LAW AND ACADEMIC WRITING GENERALLY

Books

Paula Baron and Lillian Corbin, *Legal Writing: Academic and Professional Communication* (Oxford University Press, 2016). This book is in the UTS Library.

Nichola Corbett-Jarvis and Brendan Grigg, *Effective Legal Writing: A Practical Guide* (LexisNexis Butterworths, 2nd ed, 2017). This book is in the UTS Library.

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Terry Hutchinson, *Researching and Writing in Law* (Thomson Reuters, 4th ed, 2018). This book is in the UTS Library, in hard and electronic copy.

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