

Cambridge University Press  
0521619505 - *Lawyering Skills and the Legal Process*, Second Edition  
Caroline Maughan and Julian Webb  
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## Lawyering Skills and the Legal Process

*Lawyering Skills and the Legal Process* bridges the gap between academic and practical law for students undertaking skills-based and clinical legal education courses at university. It emphasises the extent to which lawyering is a dynamic process, shaped by a range of legal, business and ethical considerations, and encourages students to develop a critical and reflective approach to their own learning which is designed to help them to manage this dynamic environment.

The student's oral and written communication, group working, problem solving and conflict resolution skills are developed in a range of legal contexts: client interviewing, drafting, managing cases, legal negotiation and advocacy. The book is designed specifically to help students to:

- Practise and develop skills that will be essential in a range of occupations.
- Develop a deeper understanding of the English legal process and the lawyer's role in that process.
- Enhance their understanding of the relationship between legal skills and ethics.
- Understand how they learn and how they can make their learning more effective.

This book provides a stimulating, accessible and challenging approach to understanding the problems and uncertainties of practising law that goes beyond the standard approaches to lawyers' skills.

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## The Law in Context Series

Editors: William Twining (University College London) and  
Christopher McCrudden (Lincoln College, Oxford)

Since 1970 the Law in Context series has been in the forefront of the movement to broaden the study of law. It has been a vehicle for the publication of innovative scholarly books that treat law and legal phenomena critically in their social, political, and economic contexts from a variety of perspectives. The series particularly aims to publish scholarly legal writing that brings fresh perspectives to bear on new and existing areas of law taught in universities. A contextual approach involves treating legal subjects broadly, using materials from other social sciences, and from any other discipline that helps to explain the operation in practice of the subject under discussion. It is hoped that this orientation is at once more stimulating and more realistic than the bare exposition of legal rules. The series includes original books that have a different emphasis from traditional legal textbooks, while maintaining the same high standards of scholarship. They are written primarily for undergraduate and graduate students of law and of other disciplines, but most also appeal to a wider readership. In the past, most books in the series have focused on English law, but recent publications include books on European law, globalisation, transnational legal processes, and comparative law.

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Frontmatter  
[More information](#)

---

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# Lawyering Skills and the Legal Process

Second edition

Caroline Maughan  
*University of the West of England*

*and*

Julian Webb  
*University of Westminster*



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# Contents

<i>Preface to the second edition</i>	<i>page</i> xvii
<i>Table of Statutes</i>	xix
<i>Table of Cases</i>	xxi
Introduction	1
1 Descent into the swamp	11
<b>Objectives</b>	11
<b>Supports benchmark statements</b>	11
<b>A dinosaur snack?</b>	12
Exercise 1.1 Is legal professionalism in crisis?	13
Exercise 1.2 Redefining knowledge	19
<b>Where the action isn't</b>	20
Exercise 1.3 What's the problem?	20
<b>Where the action is</b>	21
<b>The skills of lawyering</b>	24
Knowing in action	25
Exercise 1.4 When you were a child . . .	25
<b>The art of lawyering</b>	26
<b>The values of lawyering</b>	27
Exercise 1.5 High ideals	27
Exercise 1.6 Swampy situations?	28
<b>Learning the art of lawyering</b>	29
Exercise 1.7 Crisis? What crisis?	29
Exercise 1.8 Concepts	32
Exercise 1.9 Review questions	33
Exercise 1.10 Learning points	33
<b>Further reading</b>	33
2 Learning to live in the swamp	34
<b>Objectives</b>	34
<b>Supports benchmark statements</b>	34
<b>What is reflection?</b>	35
Exercise 2.1 To smoke or not to smoke?	36

	Exercise 2.2 An unexpected visit	36
	<b>Experiential learning and the learning cycle</b>	37
	<b>Discrepant reasoning</b>	40
	Exercise 2.3 The discrepant solicitor?	40
	Exercise 2.4 Write all I know about . . .	42
	Distancing and disconnectedness	43
	Summary	44
	<b>The learning diary</b>	44
	Exercise 2.5 Re-cycling	44
	Exercise 2.6 More re-cycling	47
	<b>Student/teacher roles and relationships</b>	48
	Exercise 2.7 Re-learning	49
	<b>What kind of learner am I?</b>	50
	Exercise 2.8 The learning styles questionnaire	50
	Exercise 2.9 Concepts	52
	Exercise 2.10 Review questions	52
	<b>Further reading</b>	53
3	Law talk and lay talk: lawyers as communicators	54
	<b>Objectives</b>	54
	<b>Supports benchmark statements</b>	54
	<b>Lawyers need to talk!</b>	55
	<b>Why communication skills matter</b>	56
	Exercise 3.1 What makes a good teacher?	56
	Exercise 3.2 The problems with ‘law talk’	57
	<b>How we communicate</b>	59
	Exercise 3.3 Communication models	59
	<b>Barriers and bridges to effective communication</b>	60
	Exercise 3.4 A Martian description	60
	The effect of non-verbal cues	61
	Exercise 3.5 The lights are on . . .	62
	Exercise 3.6 Body talk	62
	Environmental factors	65
	Personal factors	65
	Cultural factors	67
	<b>Inter-cultural factors</b>	71
	Exercise 3.7 Straight to the point or circumlocution?	76
	Exercise 3.8 Concepts	79
	Exercise 3.9 Jury instructions: clarity or confusion?	79
	Exercise 3.10 Testing the evidence or badgering the witness?	80
	<b>Further reading</b>	80
4	You’ll never work alone: group learning and group skills	81
	<b>Objectives</b>	81

	81
<b>Supports benchmark statements</b>	81
<b>Stone age instincts</b>	82
Exercise 4.1 Who am I?	84
<b>Learning in groups: what is it good for?</b>	85
Exercise 4.2 Groups I have known, groups I would like to know	85
<b>Group theory and research</b>	87
Higher achievement	88
More positive relationships	89
Psychological health	89
Exercise 4.3 Broken squares	90
<b>Barriers to effective group learning</b>	91
Exercise 4.4 What am I like in a group?	91
<b>Group dynamics</b>	94
Exercise 4.5 Fishbowl	94
Exercise 4.6 What are your preferred team roles?	95
Exercise 4.7 Roles in my group	95
Setting ground rules	95
How groups grow	96
Exercise 4.8 What's going wrong? Tackling problems	98
<b>The dynamics of lawyer teamwork</b>	99
Exercise 4.9 Powerful conspiracies or lost causes?	100
<b>Feedback</b>	103
Exercise 4.10 Concepts	104
Exercise 4.11 Tag wrestling	104
Exercise 4.12 Guilt by association?	105
<b>Reflective exercise: what is your current group skill level?</b>	106
<b>Further reading</b>	106
5 Interviewing: building the relationship and gaining participation	107
<b>Objectives</b>	107
<b>Supports benchmark statements</b>	107
<b>The functions of the lawyer–client interview</b>	108
Exercise 5.1 The objectives of interviewing	108
Exercise 5.2 The other side . . .	109
<b>Assumptions about the relationship</b>	111
Exercise 5.3 Who's in charge here?	111
<b>Setting the scene: preparing for the interview</b>	114
Consider your information needs	114
Exercise 5.4 You get what you ask for	114
Planning the physical environment	116
<b>Welcoming: establishing a relationship in the interview</b>	117
Exercise 5.5 Meet, greet and seat	118
Note-taking	118



x Contents

Discussing costs	119
Territory	119
<b>Listening and questioning</b>	121
Listening	121
Exercise 5.6 Is anybody there?	121
Exercise 5.7 Hyperactive?	122
Questioning	123
Exercise 5.8 Me and Mrs Jones	124
Exercise 5.9 Tell me why	127
Pulling it all together	127
Exercise 5.10 The client interview	128
<b>Advising and counselling</b>	128
Lawyers as advisers	128
Exercise 5.11 Toast	128
Lawyers as counsellors	132
Exercise 5.12 Home sweet home	134
Exercise 5.13 Car trouble	135
Exercise 5.14 Handling emotion	137
Exercise 5.15 Pressing problems	138
<b>Parting, and beginning the continuing relationship</b>	139
Ending	139
Beginning	140
Exercise 5.16 Planning your next steps	140
Participating	141
<b>Interviewing and empathic lawyering: a (re)vision of practice?</b>	143
Empathy and participation	143
Exercise 5.17 Empathic interviewing	144
Towards a (re)vision of the relationship	145
Exercise 5.18 Concepts	147
Exercise 5.19 Blowing the whistle?	148
Exercise 5.20 Review questions	150
<b>Learning points</b>	151
<b>Further reading</b>	151
6 The 'good lawyer': ethics and values in legal work	152
<b>Objectives</b>	152
<b>Supports benchmark statements</b>	152
<b>Introduction</b>	153
Exercise 6.1 Tinker, tailor . . .	155
Exercise 6.2 Does it matter?	158
<b>The regulation of professional conduct and ethics</b>	161
The nature of professional regulation	162
The codes of conduct	163

	Disciplining lawyers	164
	<b>Exploring professional conduct and ethics</b>	166
	Using the ethics case study	166
	Trouble on the High Street – Part 1	167
	Exercise 6.3 Jason arrives	167
	Exercise 6.4 Bayview Developments	170
	Exercise 6.5 The litigant in person	175
	Trouble on the High Street – Part 2	177
	Exercise 6.6 Jason and KB Construction	177
	Exercise 6.7 To lie or not to lie	179
	Exercise 6.8 In whose best interests?	188
	Exercise 6.9 Whose secret is it anyway?	190
	Trouble on the High Street – Part 3	195
	Exercise 6.10 Bayview strikes again	195
	<b>Should we rethink legal ethics?</b>	198
	Ethics and problem-solving	198
	Exercise 6.11 My station and its duties	199
	Exercise 6.12 Concepts	203
	Exercise 6.13 Review questions	203
	<b>Further reading</b>	204
7	Clarifying language: making sense of writing	205
	<b>Objectives</b>	205
	<b>Supports benchmark statements</b>	205
	<b>Why it is important to write well</b>	206
	Exercise 7.1 What, when and why?	206
	Exercise 7.2 Which is dense? The reader or the text?	207
	Exercise 7.3 Lord Lucid	211
	<b>Learning from your writing experience</b>	212
	Exercise 7.4 Do you suffer from verbal diarrhoea?	213
	<b>Know exactly what you want to say</b>	214
	Exercise 7.5 The brick exercise	214
	Differences between the spoken and the written language	214
	Planning	215
	Exercise 7.6 Plain thinking	216
	Exercise 7.7 Who is my reader?	216
	Exercise 7.8 Golden bull	219
	Summary	220
	<b>Selecting appropriate language</b>	220
	Exercise 7.9 Who speaks good English? It is I!	220
	Select an appropriate variety of English	221
	Select an appropriate register	223
	Exercise 7.10 Le mot juste	224

xii Contents

Select an appropriate level of formality	224
Select gender-neutral language	225
Summary	226
<b>Say exactly what you mean to say</b>	226
Exercise 7.11 Grasping grammar	226
Getting the fundamentals right	227
Exercise 7.12 Bad grammar	227
Exercise 7.13 Some people just don't know when to stop	231
Exercise 7.14 Whose who?	234
Use correct spelling	235
Summary	236
<b>Moving towards artistry</b>	236
Vocabulary	236
New use or misuse?	238
Sentence length and complexity	241
Exercise 7.15 Sense and nonsense	243
Paragraphing	243
Exercise 7.16 Link-hunting	244
Exercise 7.17 Take out the rubbish	246
Self-edit your writing	248
Exercise 7.18 Self-editing	248
<b>Writing letters</b>	248
Writing to clients: client care	248
Writing to other people	249
Exercise 7.19 Joyless in the Maldini	249
<b>Good writing makes sense</b>	250
Exercise 7.20 Concepts	251
Exercise 7.21 More rubbish	251
Exercise 7.22 Blowing the whistle? Part II	253
Review question	253
Learning points	254
<b>Further reading</b>	254
<b>Self-editing checklist for writing</b>	254
8 Manipulating language: drafting legal documents	256
<b>Objectives</b>	256
<b>Supports benchmark statements</b>	256
<b>Legal documents are precision instruments</b>	257
Exercise 8.1 Runaway trolleys	257
<b>Legal documents and the three Cs</b>	259
Exercise 8.2 Unravelling the regs	264
<b>Legal language is powerful stuff</b>	266
<b>Legal language is not plain language</b>	274

Exercise 8.3 Plain reflection	274
Exercise 8.4 Clause analysis	279
<b>Legal language is unduly peculiar</b>	280
Lawyers, not the people, decide what words mean	280
Exercise 8.5 Shovelling excrement	282
Put yourself in her position: deriving meaning from context	283
Exercise 8.6 Natural meanings	283
Exercise 8.7 Caution! Unforeseen hazard ahead!	284
Does it matter what it looks like? Layout and punctuation	286
Isolated sentences	287
Coherence and word order	287
Interceding with the Deity: pleadings	289
Exercise 8.8 Major surgery	290
<b>The illiteracy of the well-educated</b>	292
<b>Defining your drafting principles</b>	293
Exercise 8.9 A general checklist for drafting	293
<b>Putting principles into practice</b>	297
Exercise 8.10 Have a go	297
Defining your approach	297
Aim to be a critical composer, not a complacent copier	298
Exercise 8.11 Concepts	299
Exercise 8.12 Analysis	299
Exercise 8.13 Boilerplate redrafting	299
Exercise 8.14 What is reasonable doubt?	300
Review questions	300
<b>Further reading</b>	301
9 Handling conflict: negotiation	302
<b>Objectives</b>	302
<b>Supports benchmark statements</b>	302
<b>Making decisions and resolving conflict</b>	303
Exercise 9.1 Conflicts of interest	303
<b>How do you deal with conflict?</b>	305
Exercise 9.2 The shark and the turtle	305
<b>The context of legal negotiation</b>	308
Naming, blaming, claiming . . . and negotiating	308
Exercise 9.3 Negotiate? What for?	309
The growth of Alternative Dispute Resolution	311
ADR and negotiation	312
<b>What clients want from negotiation</b>	313
<b>What lawyers want from negotiation</b>	314
<b>Mind the gap</b>	315
<b>Learning the art of lawyer negotiation</b>	317

Step 1: Identify the critical issues	318
Exercise 9.4 What is there to negotiate about?	318
Exercise 9.5 Pam and Wilf	323
Step 2: Select a negotiating strategy and style	323
Exercise 9.6 Have your cake and eat it . . .	327
Exercise 9.7 The Red–Blue exercise	329
Step 3: Sort out your ethics	331
Exercise 9.8 How low can you go?	333
Exercise 9.9 Hidden messages	334
Step 4: Work out your tactics	338
Exercise 9.10 Staying cool, calm and collected	340
Step 5: Keep your act together during the negotiation	341
Step 6: Keep a negotiation journal	343
<b>Planning the negotiation</b>	343
The critical issues and potential outcomes	343
Our strategy and tactics	344
Their strategy and tactics	344
<b>Are lawyers poor negotiators?</b>	344
<b>Negotiation and mediation advocacy</b>	346
Exercise 9.11 Concepts	348
Exercise 9.12 Yet another negotiation	348
Review questions	348
<b>Further reading</b>	349
10 Advocacy: case management and preparation	350
<b>Objectives</b>	350
<b>Supports benchmark statements</b>	350
<b>Advocacy in context</b>	351
The adversarial nature of advocacy	351
Recreating facts in the courtroom	352
Exercise 10.1 Evidential quiz	353
Exercise 10.2 The surgeon’s story	355
<b>A case study: the case of William Gardiner</b>	357
<b>Preparation</b>	361
Developing a working hypothesis	361
Exercise 10.3 Malice aforethought?	362
Exercise 10.4 The money-lender and the merchant’s daughter	366
Exercise 10.5 Gardiner: chronology and issues	367
Exercise 10.6 ‘Elementary, my dear Watson . . .’	368
Constructing your theory of the case	368
Exercise 10.7 Making inferences	372
Exercise 10.8 Moriarty’s a murderer	373
Exercise 10.9 Moriarty rides again?	374

	Organising your material	376
	Exercise 10.10 <i>Maughan v Webb</i>	378
	Preparing your client and witnesses	381
	Exercise 10.11 A crusty in court	382
	Exercise 10.12 Jane's dilemma (1)	385
	Exercise 10.13 Jane's dilemma (2)	386
	Exercise 10.14 Superwitness	390
	<b>On the day – a final checklist</b>	394
	Exercise 10.15 Concepts	395
	Exercise 10.16 Review question	396
	<b>Further reading</b>	396
11	Into court: the deepest swamp?	397
	<b>Objectives</b>	397
	<b>Supports benchmark statements</b>	397
	<b>The art of advocacy</b>	398
	Exercise 11.1 Advocacy as communication	398
	<b>Theme and method: advocacy as storytelling</b>	399
	The story model	399
	Exercise 11.2 Let me tell you a story	402
	Exercise 11.3 Making a case into a story	402
	<b>Speeches</b>	403
	Opening and closing speeches	403
	Exercise 11.4 Gardiner: opening for the prosecution	403
	Exercise 11.5 The road map	404
	Exercise 11.6 Done to death?	409
	Summary	411
	Other narrative contexts	412
	Exercise 11.7: Bailing out?	413
	<b>Examining witnesses</b>	413
	Examination in chief	413
	Exercise 11.8 Twenty questions?	414
	Exercise 11.9 <i>R v Wainwright</i>	415
	Exercise 11.10 You, the jury	416
	Exercise 11.11 The gestatory period of the African elephant	418
	Exercise 11.12 You lead and I'll follow	418
	Exercise 11.13 There are more questions than answers . . .	420
	Summary	421
	Cross-examination	421
	Exercise 11.14 The worm turns?	422
	Exercise 11.15 Anger	428
	Summary	429
	Exercise 11.16 Driven to distraction?	429

Cambridge University Press  
0521619505 - Lawyering Skills and the Legal Process, Second Edition  
Caroline Maughan and Julian Webb  
Frontmatter  
[More information](#)

---

xvi Contents

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Re-examination	429
<b>Conclusion: advocacy, ethics and adversarialism</b>	430
Exercise 11.17 Concepts	431
Exercise 11.18 Review questions	432
<b>Further reading</b>	432
<i>Index</i>	433

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## Preface to the second edition

This book provides a bridge between academic and practical law. Its purpose is to introduce you to a set of highly transferable oral and written communication, group working, problem-solving and conflict resolution skills, and to develop them in a range of lawyering contexts: client interviewing, drafting, managing cases, legal negotiation and advocacy. The aims of this exercise are not to turn you, the reader, into a ready-formed legal practitioner, but:

- to help you develop a range of skills and attributes that will be useful to you in a variety of occupational settings;
- to enable you to experience and reflect critically on the problems and uncertainties of 'real' law, from the perspective of both lawyers and their clients;
- to enhance your understanding of the interplay between legal knowledge, skills and values in the lawyering process;
- to encourage and empower you to understand your own learning processes and to reflect critically upon them.

It is this dual emphasis on understanding lawyers' skills 'in context' – whereby our understanding is shaped by the contributions of socio-legal research into what lawyers do – and on reflection and critique which we believe distinguishes our 'academic' approach from the more functional emphasis of the vocational courses. At the same time we share with the vocational courses (and any undergraduate skills-based course for that matter) a belief that learning has to be grounded in *doing*. Skills are not acquired passively, but actively by experimentation and practice. Please do not skip the Introduction which follows, where we talk extensively about the learning approach we take and our expectations of you, the reader.

The materials in this book are based on well over a decade of teaching skills to law undergraduates at a number of universities. We have written the book primarily for students in England and Wales on law degree programmes possessing stand-alone skills and clinical modules. We were delighted that the first edition was also used outside this jurisdiction, and on some professional courses where students have been encouraged to think beyond the technical aspects of skills acquisition.

Much has changed in the nine years since we wrote our first Preface. Skill-based learning is far more established in our law schools today than it was in 1995, and the 'employability' of graduates has moved up the political and educational agendas. In terms of scholarship too, the volume of research into the legal profession and practice in the UK has grown significantly. Accordingly, every chapter has



been updated to take account of both new research on lawyers and lawyering, and (where necessary) the extensive changes to both civil and criminal practice since the first edition. In addition to the inevitable updating and polishing, we have made other substantial changes. This edition contains an entirely new chapter (Chapter 4) on working and studying in groups – skills that are increasingly recognised to be of both pedagogic and practical importance. Chapter 6, on the ethical dimension, has been substantially re-written around a single case study, and revised to take account of the development since the mid-1990s of a whole new domestic literature on lawyers' ethics. Chapters 8 (drafting) and 9 (negotiation) have both been revised to take account of changes following the Woolf reforms, and the chapter on advocacy has been expanded into two. The first of these (Chapter 10) is now exclusively on case preparation and management in an adversarial context, and incorporates much of the material on legal problem-solving that appeared in chapter three of the first edition, while the other (Chapter 11) focuses on the courtroom skills of the advocate. Teachers in particular might also like to note that, in addition to our statement of learning objectives, each chapter now commences with a brief statement of the QAA Benchmark Skills that are supported by the materials and exercises in that chapter. We hope you find these helpful in terms of your curriculum design and development. This edition is also supported by a website which contains additional materials that we believe will be useful to both teachers and students – again we say more about this in the Introduction which follows.

Inevitably we have accrued numerous debts and obligations in the process of writing and revising this text. Our greatest debt is to Mike Maughan, who has made an incalculable contribution to our own learning and development over the years. We are particularly grateful to Professor William Twining for his advice and support, and his commitment to bringing the second edition 'home' to the *Law in Context* series. Our thanks are also due to Ron Tocknell for his excellent illustrations, and Moira Bailey for sharing her insights into values-based training, and for being both a 'guinea pig' and friendly critic for much of the new material in Chapters 6, 9 and 11. Thanks, too, to Sue Heenan, Caroline's current teaching partner at UWE. More generally, we would like to acknowledge numerous friends, colleagues and students at UWE, Westminster and elsewhere, who, knowingly or otherwise, have contributed to this book in its various manifestations. Last, but by no means least, we owe a special 'thank you' to Mike and Moira respectively for their love and support during the very protracted gestation of this edition.

Finally, to anyone reading this book: we welcome your feedback and evaluation. Whether teacher, student or practitioner, we would be pleased to hear about your experiences in using this book, and any suggestions you have for ways in which we could improve it.

Caroline Maughan  
Julian Webb  
August 2004

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## Table of Statutes

### Statutes

- Access to Justice Act 1999, 154, 172
- Bail Act 1976, 412
- Children Act 1989, 191
- Civil Evidence Act 1968
  - s.3(1), 419
- Consumer Protection Act 1987
  - s.21, 206, 207
- Courts Act 2003, 356
- Courts and Legal Services Act 1990, 186
  - s.4, 165
  - s.27(2A)(a), 172
  - s.27(2A)(b), 165
  - s.28(2A)(b), 165
  - s.111, 165
  - s.112, 165
- Criminal Evidence Act 1898
  - s.1, 386
  - s.1(f), 386, 427
- Criminal Justice Act 2003, 356, 412
  - s.51, 388, 395
  - s.53, 395
- Criminal Justice and Public Order Act 1994
  - s.48(1), 311
- Criminal Law Act 1967
  - s.6(1), 382
- Criminal Procedure Act 1865
  - s.3, 419
- Official Secrets Act 1911
  - s.2(1), 288
- Official Secrets Act 1989, 289
- Police and Criminal Evidence Act 1984
  - s.79, 416
  - Code of Practice C (revised), 120
- Proceeds of Crime Act 2002
  - ss. 327–333, 189

xx Index of Statutes

---

- Road Traffic Act 1991
  - s.3, 335
- Social Security Contributions and Benefits Act 1992
  - s.134, 264
- Solicitors Act 1974
  - s.37A, 164
- Terrorism Act 2000
  - ss. 18–21, 189
- Unfair Contract Terms Act 1977
  - s.2 67
- Youth and Criminal Justice Act 1999
  - s.41, 387

### Statutory Instruments

- Civil Procedure Rules 1998, 181,
  - 267, 289
  - r. 1.1, 175, 289
  - r. 1.1(1), 181
  - r. 1.1(2), 181, 182
  - r. 1.3, 181, 182
  - r. 1.4, 356
  - r. 1.4(1), 313
  - r. 1.4(2), 181, 182, 313
  - r. 16.4, 289, 290
  - r. 22, 185
  - r. 24.5, 313
  - Practice Direction 5, para. 2, 289
  - Practice Direction 16, para. 3, 289
  - Practice Direction 29, para. 3.5, 182
  - Practice Direction 52, 369
  - Practice Direction 54, 369
- Income Support (General) Regulations
  - 1987, 265
  - reg. 45, 264, 265
  - reg. 51, 264, 265
- Land Registration Rules 1925
  - r. 312, 219
  - r. 313, 219
- Litter (Northern Ireland) Order 1994, 282, 283
  - Sch. 1, 257–262
- Unfair Terms in Consumer Contracts Regulations 1999
  - reg. 6(2), 268

### Foreign Legislation

- Legal Profession Regulation 2002 (Victoria)
  - s.142A, 193
- European Convention on Human Rights
  - Art. 6, 387

---

## Table of Cases

### Cases

- A firm of solicitors, Re [1992] 1 All ER 364, 165
- B and Russell McVeagh McKenzie Bartleet & Co v Auckland District Law Society and Judd [2003] UKPC 38, 192
- Barclays Bank plc v Eustice [1995] 4 All ER 511, 193
- British American Tobacco Australia Ltd v Cowell [2002] VSCA 197, 193
- British American Tobacco Ltd v USA [2004] EWCA Civ 1064, 192
- Davy v Leeds Corporation [1964] 3 All ER 390, 301
- Donoghue v Stevenson [1932] AC 562, 402
- Dunnett v Railtrack [2002] EWCA Civ 302; [2002] 2 All ER 850, 183
- Furman v Georgia (1972) 408 US 238, 409, 410
- Giannerelli v Wraith (1988) 165 CLR 543, 184
- Griffiths v Dawson [1993] FL 315, 169
- Halsey v Milton Keynes NHS Trust and Steel v Joy & Halliday [2004] EWCA Civ 576, 183
- Langley v North West Water Authority [1991] 1 WLR 697, 183
- Loch Shipping v Richards Butler [2002] EWCA Civ 1280, 197
- Maltez v Lewis, *The Times*, 28 April 1999, 182
- McCabe v British American Tobacco Australia Ltd [2002] VSC 73, 194
- Medcalf v Weatherill [2002] UKHL 27, [2002] 3 WLR 172, 165, 183, 184
- Mitchell (George) (Chesterhall) Ltd v Finney Lock Seeds Ltd [1982] 3 WLR 1636 (CA), 211
- Morrison v Jenkins (1949) 80 CLR 626, 374
- Myers v Elman [1940] AC 282, 165, 168
- P v P [2003] EWHC (Fam) 2260, 189
- Pennzoil v Texaco, 64, 65
- Practice Direction (Criminal Proceedings: Consolidation) [2002] 1 WLR 2870, 369
- Prince Jefri Bolkiah v KPMG [1999] 2 AC 222, 197
- Prince v Samo (1838) 7 A&E 627, 430
- R v A [2001] UKHL 25, [2001] 12 AC 45, 387
- R v Bentley *The Times*, 31 July 1998, 356

xxii Table of Cases

---

- R v Collins [1973] CB 100, 402  
R v Derby Magistrates Court, ex parte B [1995] 4 All ER 526, 186  
R v Law Society, ex parte Singh & Choudry (a firm) *The Times*, 1 April 1994, 165  
R v Paris [1994] Crim LR 361, 120  
R v Prefas and Price [1988] 86 Cr App R 111, 419  
Rhesa Shipping Co SA v Edmunds [1985] 2 All ER 712, 355  
Ridehalgh v Horsefield [1994] Ch 205, 166  
Schroeder Music Publishing Co Ltd v Macaulay [1974] 3 All ER 616, 268  
SITA v Watson Wyatt; Maxwell Bentley [2002] All ER (D) 189, 183  
Skjevesland v Geveren Trading Co Ltd [2002] EWCA Civ 1567, [2003] 1 WLR 912,  
165, 182, 183  
Suisse Atlantique Société d'Armement Maritime SA v Rotterdamsche Kolen  
Centrale NV [1966] 2 All ER 61, 268  
Three Rivers District Council v Governor and Company of the Bank of England  
(No. 10) [2004] EWCA Civ 218, 191  
USA v Philip Morris Inc and British American Tobacco (Investments) Inc [2004]  
EWCA Civ 330, 193  
Vernon v Bosley (No. 2) [1997] 3 WLR 683, 191  
Voelker v Combined Insurance Co of America (1954) 73 So 2d 403, 374  
Wagon Mound, The [1961] 1 All ER 404, 402  
Woolmington v DPP [1935] 1 AC 462, 355

---

# Lawyering Skills and the Legal Process –2<sup>nd</sup> Edition:

## Statutes

Bail Act 1976  
Children Act 1989  
Social Security Contributions and Benefits Act 1992, Section 134  
Solicitors Act 1974, Section 37A

## Statutory instruments

Civil Procedure Rules 1998  
    1.1(2)  
    1.4(2)  
    16.4  
    Part 22  
    Personal Injury Protocol 8.96  
Income Support (General) Regulations 1987  
    Regulation 45  
    Regulation 51  
Law Society Guide  
    16.02  
    21.01  
    Chapter 16  
Litter (Northern Ireland) Order 1994  
PACE Code of Practice C Para 10.4  
Practice Direction  
    1.3  
    Part 29  
Practice Rule  
    15  
    16D  
Solicitors' Practice Rules 1990  
    Rule 1  
    Rule 15

## Cases

- British American Tobacco Ltd v USA* 7.182  
*Furman v Georgia* 12.71  
*Giannerelli v Wraith* 7.151  
*Griffiths v Dawson* 7.78  
*Halsey v Milton Keynes NHS Trust and Steel v Joy & Halliday* 7.140  
*McCabe v. British American Tobacco Australia Ltd* 7.199  
*Medcalf v Weatherill* 7.152  
*Mitchell (George) (Chesterhall) Ltd v Finney Lock Seeds Ltd* 8.15  
*Pennzoil v Texaco* 4.27  
*R v Collins, The Wagon Mound, Donoghue v Stevenson* 12.29  
*R v Law Society ex parte Singh and Choudry (a firm)* 7.54  
*Three Rivers District Council v The Governor and Company of the Bank of England*  
7.178  
*USA v Philip Morris Inc and British American Tobacco (Investments) Inc* 7.187