

# Understanding UK Case Law

## Law Reports

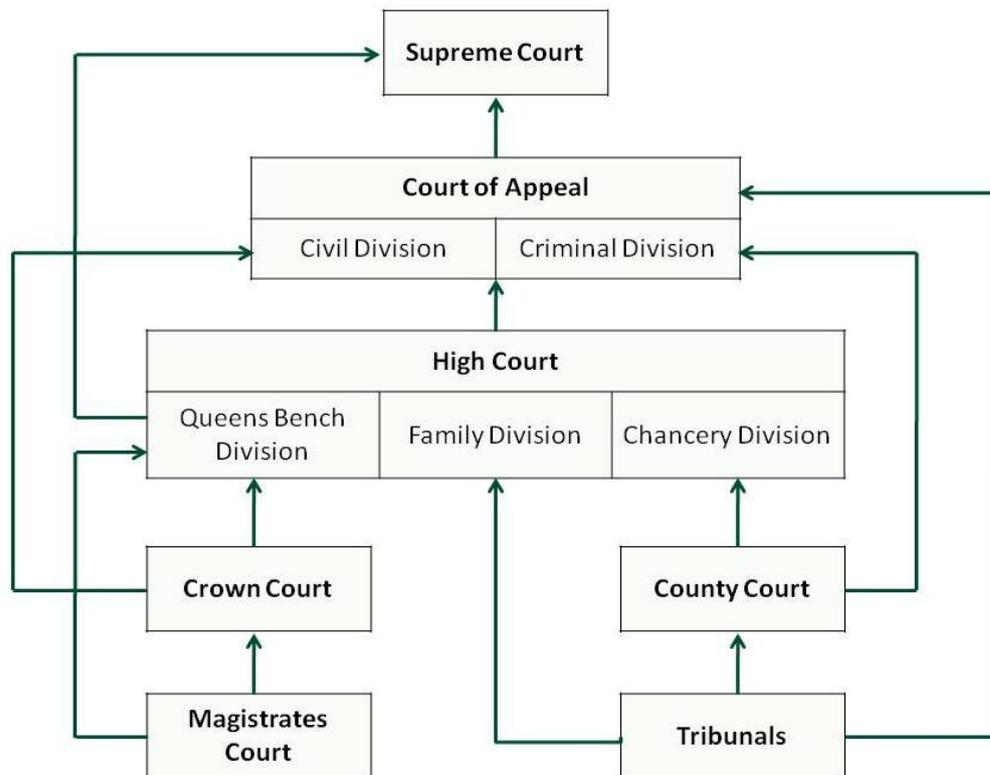
A law report:

- Reprints full text of a judgment, including statement of facts and judicial reasoning made by judges
- Carries additional material such as a summary of legal issues, lists of cases cited, legislation referred to and other key features.

## What is Reported?

In England & Wales thousands of cases are heard annually. The vast majority of these will be unreported. This means that they never find their way into a published, official, law report - generally because they do not involve any new or significant point of law

Only a small proportion of all cases heard are actually reported. This is generally based on the hierarchy of the courts:



- All Supreme Court cases are reported
- Most (but not all) Appeal Court cases are reported
- Some High Court cases are reported
- Only some specialist court cases such as tribunals are reported
- Transcripts of the newest cases will also be available

## Why is a Case Reported?

Editors of the law report series decide whether to report a case not the judge:

*“To merit reporting, a case must either introduce a new principle or a new rule of law, materially modify an existing principle of law or settle a doubtful question of law. Also included are questions of interpretation of statutes and important cases illustrating new applications of accepted principles. Thus a case which depends on its own particular facts is not reportable”*

In general, a case is reported if it raises a point of legal significance.

## History of Law Reports

Law reports have existed since the reign of Edward I - it is possible to find details of very old cases.

### Before 1865

Collections of law reports were published privately by individuals. They were referred to by the name of the individual reporter or compiler and were collectively known as the "*Nominate Reports*".

The majority of older cases can be found in the *English Reports* or the *All England Law Reports Reprints*.

### After 1865

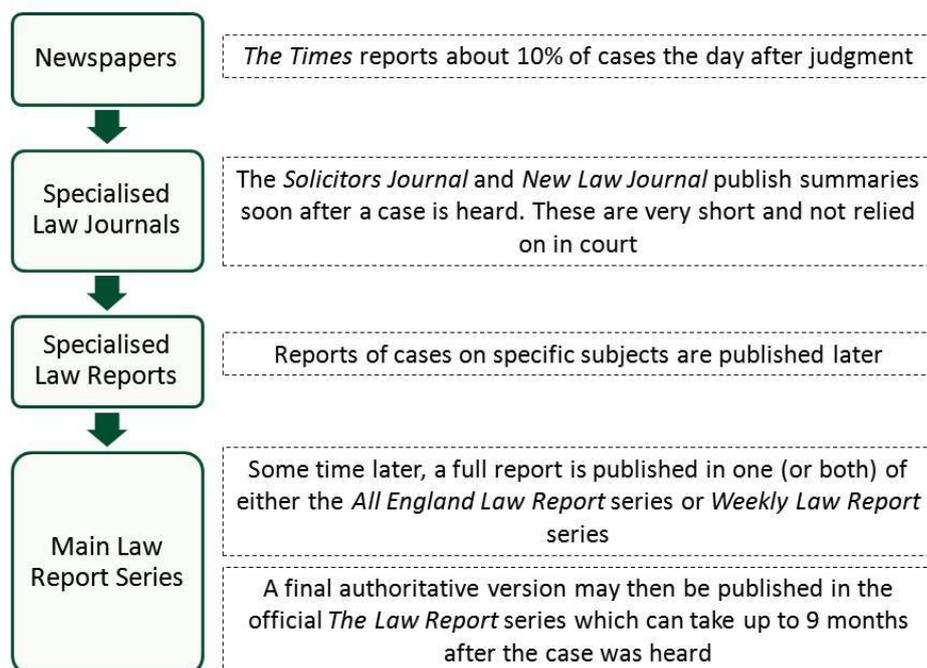
In 1865 the Bar Council set up the Incorporated Council of Law Reporting and published the *Official Law Reports* - a single series of reports covering all major courts. Judgments from this series are cited in court in preference to any other series.

There then followed many other different law report series each one published by competing publishers – the most well-known are the *All England Law Reports*, *Weekly Law Reports* and various specialist law reports covering a specific area of the law.

## Where is a Case Reported?

Most cases will have a transcript – a written record of what happened at court. Some of these cases will go on to be published in one of the series of law reports. Others will not. Those that do get reported follow the system of being reported as below.

A case may be reported in more than one series of law reports or journals. The life of a reported case is:



## Law Report Series

\*\*Use the *SOAS Library Catalogue* (<http://lib.soas.ac.uk>) to find collections in print by searching for the title only

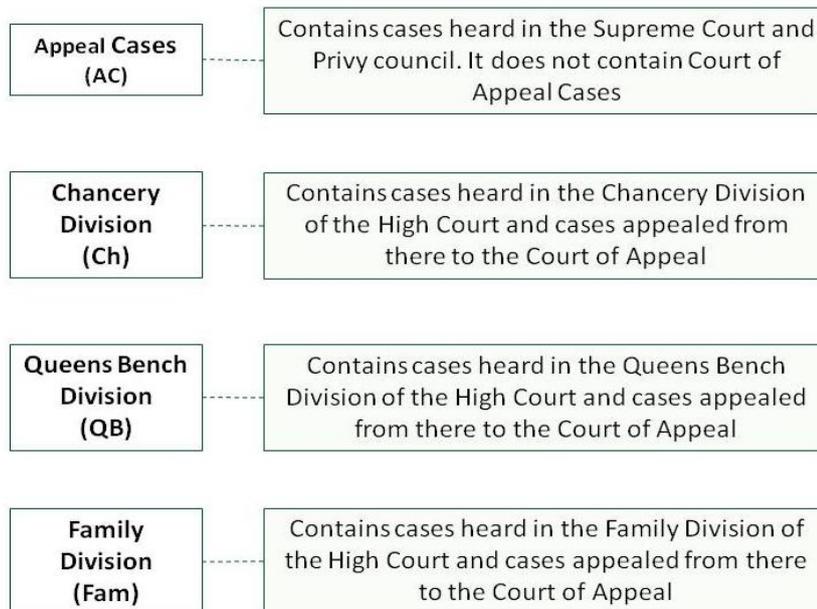
\*\*Use the *A-Z Electronic Databases* (<http://www.soas.ac.uk/library/resources/a-z/>) to access the SOAS Databases listed.

### The Law Reports

Sometimes known as the 'Incorporated Council' reports or just 'Law Reports'.

The Law Reports are the most authoritative series because the judgments are read through before publication and corrected by the judges who delivered them to ensure accuracy.

Confusingly, the name Law Reports actually refers to a number of different individual series. They commenced publication in 1865 and were first published in 11 series (each covering a different court). This has now been reduced to just 4 series:



The Law Reports can be found in the SOAS Law Library in print and online via SOAS databases – *Westlaw UK* and *LexisLibrary*

### Weekly Law Reports

The Weekly Law Reports are published to act as an advance copy of the cases that will go into the main Law Reports on revision. They also publish some cases that will never appear in the Law Reports. They are *not* corrected by judges and do *not* contain counsel's arguments.

It was published from 1954 onwards and appears in weekly parts, then three volumes a year:

- *Volume 1* contains cases of lesser importance which are not subsequently included in the Law Reports.
- *Volumes 2 and 3* contain advance reports of cases, which will eventually be published in the Law Reports.

The Weekly Law Reports can be found in the SOAS Law Library in print and online via the SOAS database – *Westlaw UK*

## All England Law Reports

The All England Law Reports are aimed at providing a general coverage of England and Wales. They are the most widely cited report series for recent cases. However, they are not corrected by judges and do not contain counsel's arguments. Where cases have also been reported in the Weekly Law Reports, the Weekly Law Reports are preferred.

It includes an All England Law Reports Annual Review which is a collection of articles evaluating significant cases in human rights, statute law, European Union law and other particular subjects.

It was published from 1936 onwards and appears in weekly parts with three or four volumes a year.

The All England Law Reports can be found in the SOAS Law Library in print and online via the SOAS database - *LexisLibrary*

## Specialist Law Report Series

Specialised Law Reports cover a particular subject in law. They include Criminal Appeal Reports, Commercial Law Cases, Environmental Law Reports and Family Law Reports etc.

Some specialised Law Reports can be found in the SOAS Law Library in print and online via SOAS databases - *Westlaw UK* and *LexisLibrary* (check their sources for more information)

## English Reports

Before 1865, most reports were compiled by individual reporters who gave their name to the series they produced known as "Nominate Reports". Most of these series are reprinted in the English Reports. The English Reports are the most comprehensive source for older material.

The English Reports can be found in the SOAS Law Library in print and online via SOAS databases - *HeinOnline* and *Westlaw UK*

## Other Law Report Series

You will find many law journals and newspapers also publish reports. These will normally be a summary of the case and is published before the other Law Report series

- Journals

Some journals can be found in the SOAS Library in print and online via SOAS databases [use the *A-Z Electronic Journals database* (<http://atoz.ebsco.com/search/soas>) to find out which database contains a particular journal.

- Newspapers

UK Newspapers can be found online via the SOAS Database - *LexisLibrary*

## Transcripts

Transcripts of most cases will be available – these are a written record of what happened at court. Some of these cases will be quite recent and will eventually be published in one of the series of law reports.

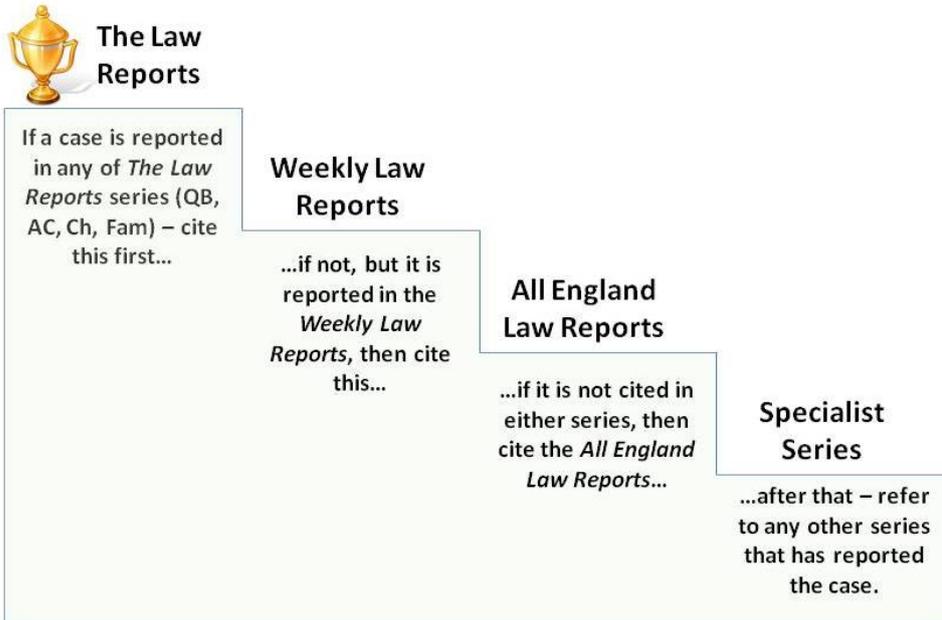
Some of these cases will never be reported and are known as "unreported cases".

Unreported judgments can be cited in court if it is felt that relevant legal issues are raised. However, use caution - there is a reason why they are not reported.

Transcripts can be found online via SOAS databases - *LexisLibrary* and *Westlaw UK* and free website *BAILII* <http://www.bailii.org/>

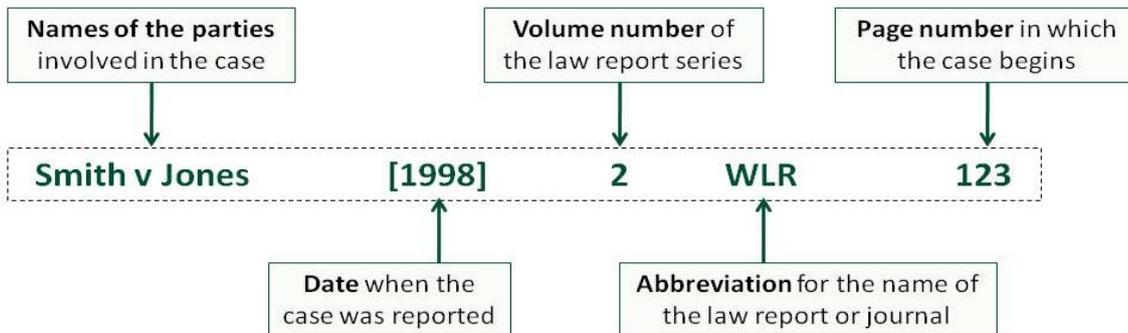
## Hierarchy of Law Reports

Some law report series have more authority over others when cited. If a case has been reported in different law report series the following hierarchy is used.



## Citations

To find a case in a law report you should look to the reference of the case (also called citation).



The case involving *Smith* and *Jones* can be found in **volume 2** of the *Weekly Law Reports* for the year **1998** at **page 123**

## Names of the Parties

- **Civil Cases** = Claimant (plaintiff) v Defendant

This is where one person brings an action against another person, e.g. Smith sues Jones.

A case can be between two individuals, two companies or a company and an individual. The parties involved in a case are either a claimant (respondent) or defendant (appellant).

The name of the person bringing the action comes first followed by the name of the defendant, e.g. *Smith v Jones*.

The small letter “v” is an abbreviation of versus. However, the term “and” is used to pronounce it, rather than “v” or “versus”, e.g. the case “*Smith v Jones*” would be pronounced “*Smith and Jones*”

- **Criminal Cases = R** (The Crown) v the Defendant

This is where a case is heard between the Crown (the Government) and an individual or an organisation or a company e.g. R v Smith where Smith is the accused.

The “R” stands for Rex (the King) or Regina (the Queen) - in some reports this is abbreviated to Reg.

A case can be pronounced in a number of ways, e.g. “R. v Smith” would be pronounced either “the Crown against Smith”, or it can be referred to as simply “Smith”

## Date

This is usually the year in which the case was heard. Occasionally you can find a report is published some time after the judgment. There are certain variations you need to be aware of:

- **Round Brackets**

This indicates the date of the judgment.

Round brackets are used if the date is not essential to find the case, but merely an aid e.g. *R v Lynch (1996) 50 Cr.App.R. 59* means the case can be found in volume 50 of the Criminal Appeal Reports, you do not need to know that volume 50 is for the year 1996

- **Square Brackets**

This indicates the volume of law reports.

The date is needed to find the volume of law reports, as there are several volumes in each year.

Square brackets are used to indicate the date is an essential part of the citation e.g. *Templeton v Jacobs [1966] 1 WLR 1433* means the case can be found in volume 1 of the Weekly Law Reports for 1966, you need to know the year to find the right volume.

## Volume

This is the volume number of the report series. However there are certain variations you need to be aware of:

- **Numbered volumes for each year**

Many reports series have several numbered volumes in each year. In this case you need to know the date to find the report”

e.g. *Templeton v Jacobs [1966] 1 WLR 1433* means the case can be found in the first volume of the Weekly Law Reports published in 1966

- **Consecutive volume numbering**

Some series are numbered consecutively from the beginning. In this case the date is not necessary.

e.g. *R v Lynch (1996) 50 Cr.App.R. 59* refers to volume 50 of the Criminal Appeal Reports which is the year 1996

## Abbreviation

This is the abbreviation of the law report. Each law report series has its own abbreviation which is a universal shorthand way of referring to it.

e.g. *Templeton v Jacobs* [1966] 1 WLR 1433 where WLR refers to the *Weekly Law Reports*

If you are unsure of what an abbreviation stands for, use Cardiff Index to Legal Abbreviations (<http://www.legalabbrevs.cardiff.ac.uk/>)

## Page Number

This is the page within the volume of report where you will find the case.

However, since 2001 some series have started using unique numbers for each case within each year.

e.g. *R v Henworth* [2001] 2 Cr.App.R. 4 refers to the fourth case of volume 2 of the Criminal Appeal Reports for the year 2001. The case is actually on page 47.

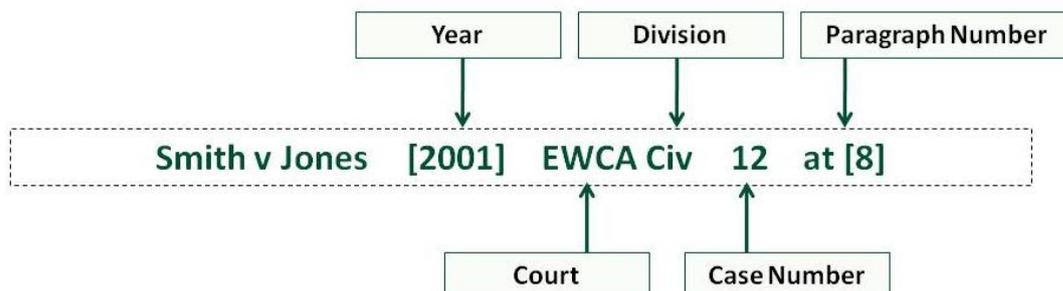
Generally there is no set rule for how each citation must be displayed. Each law report series will use a different approach. Just be aware that this happens!

## Neutral Citations

Since January 2001, all cases of the High Court, Court of Appeal and Supreme Court (previously House of Lords) have been given neutral citations - that is citations not tied to any particular law report.

The citations do not distinguish between print or online media and are independent of any of the published law reports. A Neutral Citation is NOT a reference to a Law Report Series.

Each case is given a unique number and paragraph numbers (but no page numbering) so that the precise place in the case may be cited. eg:



This was a decision handed down:

- In **2001**
- By the **Civil Division (Civ)**
- Of the **Court of Appeal of England and Wales (EWCA)**
- Which has been attributed with the **case number 12**
- Your attention has been directed to **paragraph 8**

When looking at a case, neutral citations are listed before citations from individual law report series.

## Older Case Citations

Cases published before 1865 have different citations - one for the original law report series and one for the English Report series it has now been reprinted in.

### Original Law Report Series Citations

These are like “normal” citations but the abbreviation will refer to the original law report series name which is now no longer available

e.g. *Nicol v Verelst (1775) 4 Bro PC 416* means the case can be found in volume 4 of the J.Brown’s Cases in Parliament series for the year 1775 at page 416

If you are unsure of what an abbreviation stands for, use *Cardiff Index to Legal Abbreviations* (<http://www.legalabbrevs.cardiff.ac.uk/>)

### English Report Citations

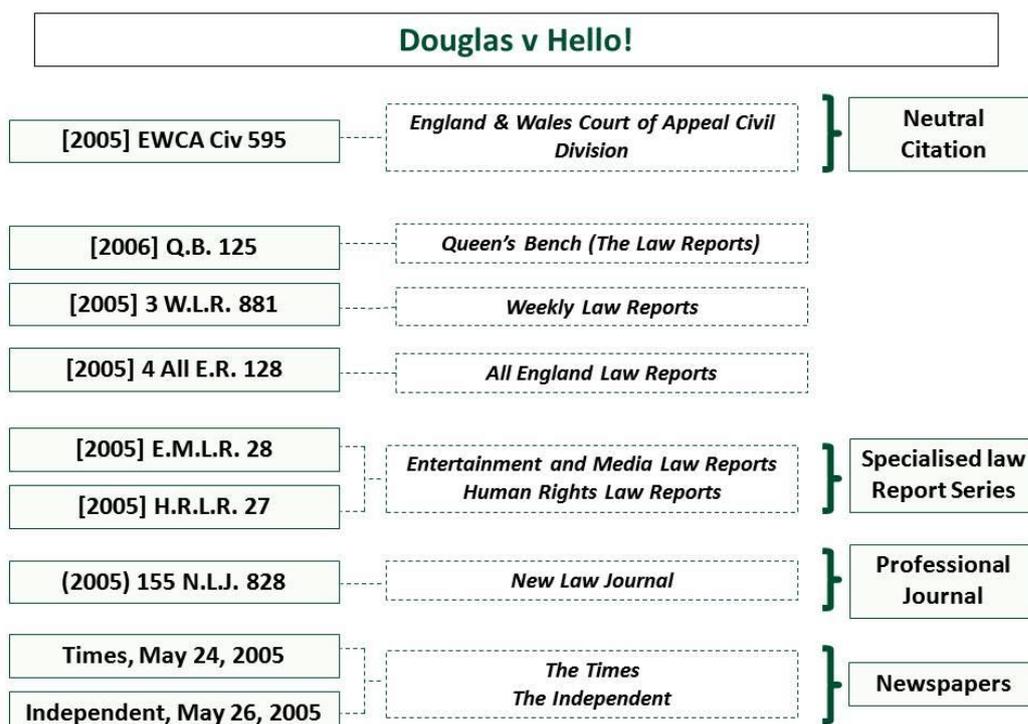
These refer simply to the English Report series.

e.g. *Nicol v Verelst (1775) 2 ER 282* means the case can be found in volume 2 of the English Reports at page 282

## Case Citations and Hierarchy of Law Reports

Each case will have many different citations and they will be listed in accordance with the hierarchy (mentioned above.).

The Neutral Citation will always be listed first as it is not tied to a law report series. The other citations refer to where you can get the full report or a summary of the case as it went through the court system. e.g. the case of *Douglas v Hello!* will display the following citations:



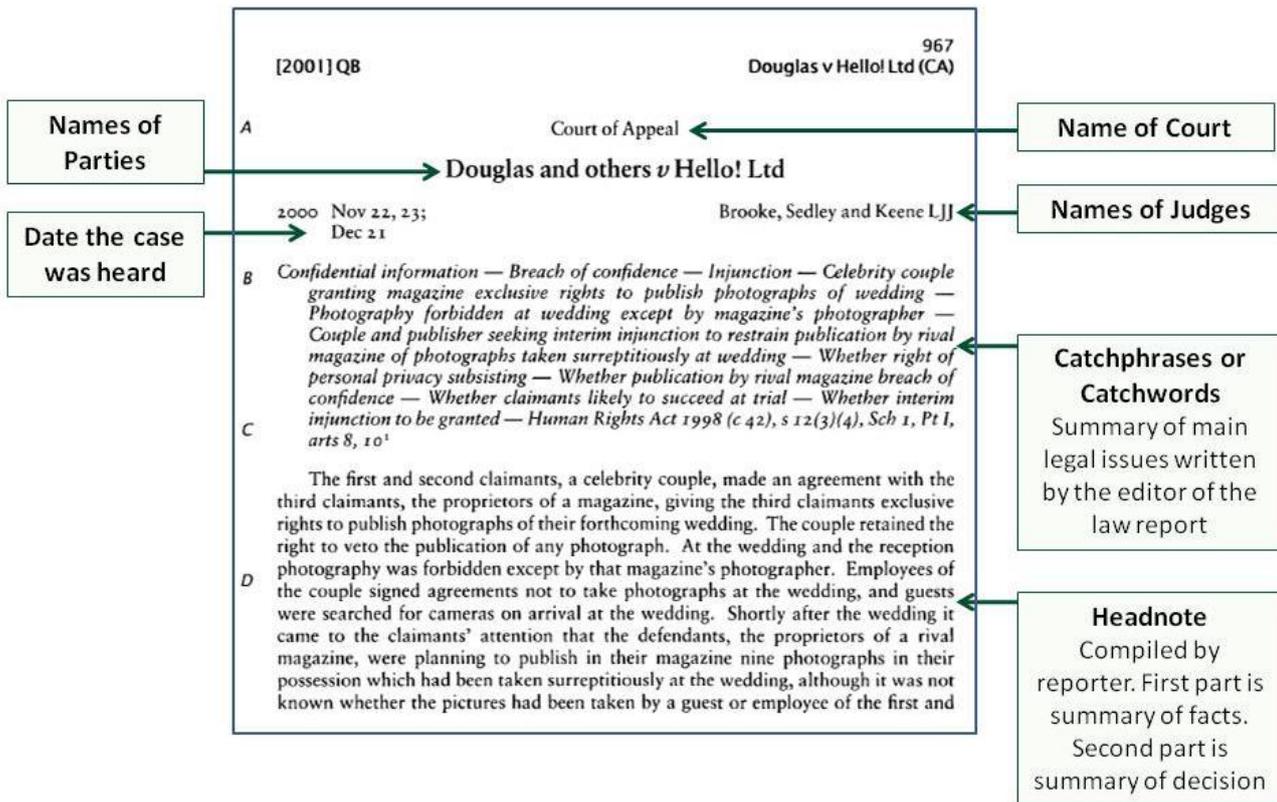
The first report for this case was made in the newspapers. The final report being made in the Law Reports (Queens Bench) which should be cited above all other series

## Looking at a Law Report

Before you can start making effective use of cases you will need to understand the layout of a reported case and the information provided.

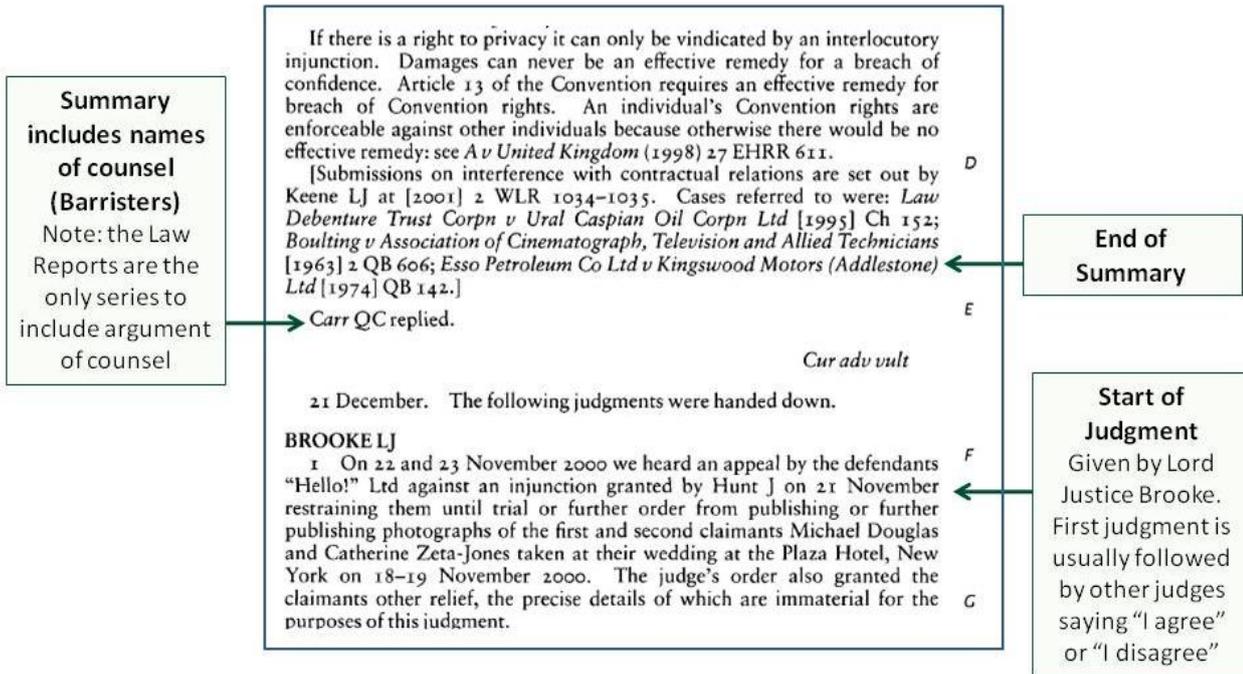
For example, we will look at the case *Douglas v Hello! [2001] 2 WLR 992*.

### Looking at a Case – the beginning:

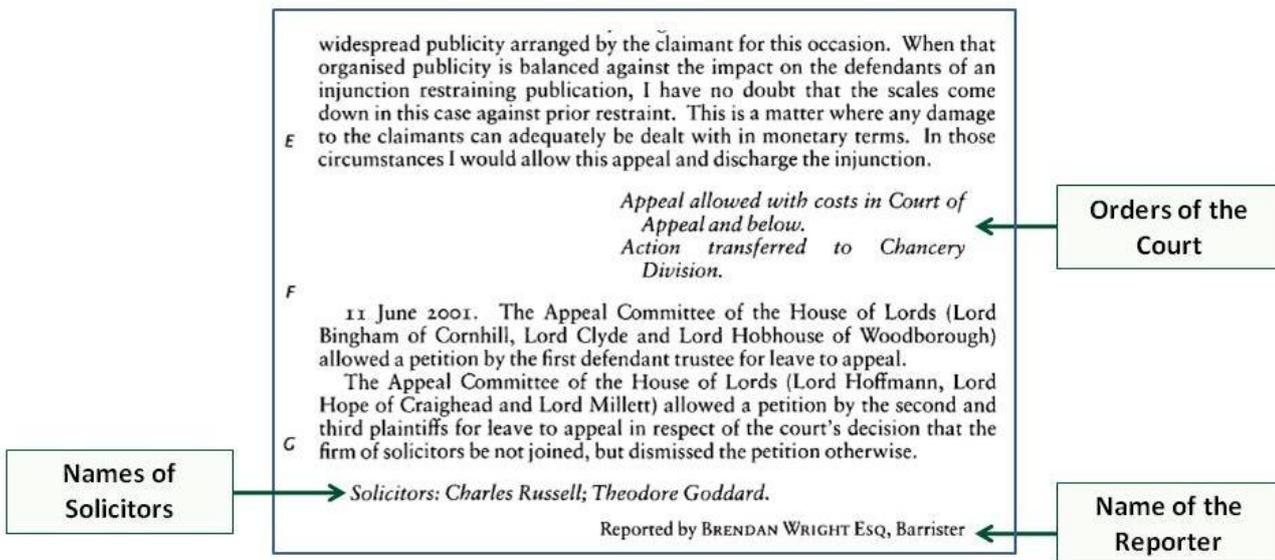


### Looking at a Case – the Middle:





**Looking at a Case – the End:**



**Where to Find Law Reports**

**In print**

To find a case in print you must have a citation. This will tell you the law report series you need and which page number the case can be found. Once you have the citation you will need to find the full title of the Law Report series – use the *Cardiff Index to Legal Abbreviations* (<http://www.legalabbrevs.cardiff.ac.uk/>)

Search the SOAS library catalogue (<http://lib.soas.ac.uk/>) for the law report title. Alternatively, search *InforM25* (<http://www.inform25.ac.uk/Link/>) for other library catalogues if SOAS does not hold the print version

## Online via SOAS databases

\*\*Use the *A-Z Electronic Databases* (<http://www.soas.ac.uk/library/resources/a-z/>) to access the SOAS Databases listed

Databases have access to different law report series. The main databases containing UK cases are:

- **Westlaw UK**
  - Contains UK case law from 1865 onwards
  - Includes The Law Reports, Weekly Law Reports, English Reports and many other specialist ones
  - Also includes Case Analysis documents providing direct and indirect history, legislation cited and relevant journal articles
- **LexisLibrary**
  - Includes UK case law from 1865 onwards
  - Includes The Law Reports, All England Law Reports and many other specialist ones
  - Also includes *CaseSearch* documents providing procedural history and annotations as well as summaries for selected cases dating back to 1502
- **Casetrack**
  - Includes judgments from the Court of Appeal from 1996 onwards, and judgments from the High Court from 1998 onwards

## Freely Available Online

There are various websites that provide access to selected case law for free:

- **British and Irish Legal Information Institute** (<http://www.bailii.org/>)
  - Contains recent decisions of the House of Lords, Supreme Court, Court of Appeal and High Courts
- **Parliament Publications: House of Lords Decisions** (<http://www.publications.parliament.uk/pa/ld/ldjudgmt.htm>)
  - Provides access to selected judgments from 14<sup>th</sup> November 1996 to 31<sup>st</sup> July 2009
- **Supreme Court Decided Cases** (<http://www.supremecourt.gov.uk/decided-cases/index.html>)
  - Provides access to selected judgments from October 2009 onwards
- **Proceedings of the Old Bailey** (<http://www.oldbaileyonline.org/>)
  - Contains texts of the criminal trials held at London's Old Bailey from 1674 to 1834

## Researching a Case

You need to research the judicial history of a case and find out whether it's still good law. It is not enough to know merely what was said in a particular case, but whether an earlier case has been used or referred to subsequently by the judges or whether it has been approved or disapproved of by a later court.

## In Print

Consult the Current Law Case Citator, then the entries in the Yearbook it refers you to. Then consult each subsequent Case Citator and Monthly Digest to the present day to make sure your research is up-to-date.

- **Current Law Case Citators**
  - Provides a quick reference guide to all case law since 1947
  - Shows if a case has ever been applied, considered, explained, approved, overruled or referred to
  - Will refer to the Yearbook for a digest of the case and cases that have subsequently considered the judgment
- **Current Law Monthly Digest**
  - Provides a comprehensive round-up of the month's developments.
  - Entries are sorted into subject areas for straightforward searching
  - Each abstract has its own 2 line summary
- **Current Law Yearbook**
  - An annual bound volume of the year's monthly digests, re-edited, restructured and updated

### Online via SOAS Databases

\*\*Use the *A-Z Electronic Databases* (<http://www.soas.ac.uk/library/resources/a-z/>) to access the SOAS Databases listed

The main databases to use for researching are:

- **Westlaw UK**
  - Provides "Case Analysis" documents that include:
    - A list of places where the case is reported
    - A summary of the decision
    - An analysis of subsequent history (what happened to the case itself and how later cases have treated it)
    - Secondary sources (e.g. journals) which have considered the case
  - Provides colour-coded Status Icons that indicate the status of a case – you can immediately see whether a case has been overturned, reversed or superseded
- **LexisLibrary**
  - Provides "CaseSearch" documents that include:
    - A list of places where the case is reported
    - A summary of the decision
    - Annotations detailing the subsequent history (what happened to the case itself and how later cases have treated it)
    - Secondary sources (e.g. journals) which have considered the case
  - Provides colour-coded signals that indicate the status of a case – you can immediately see whether a case has been overturned, reversed or superseded

### Current Awareness

There are various resources to use to keep your research up-to-date and you must be able to use both print and online resources.

\*\*Use the *SOAS Library Catalogue* (<http://lib.soas.ac.uk>) to find collections in print by searching for the title only

\*\*Use the *A-Z Electronic Databases* (<http://www.soas.ac.uk/library/resources/a-z/>) to access the SOAS Databases listed.

- **Current Law Yearbook** (*print only*)
  - Contains details of all legal developments for the year, including:
    - Progress of parliamentary bills
    - Commencement dates of statutes
    - New Statutory Instruments
    - Reported cases
    - New law books
- **Halsbury's Laws of England and Wales** (*print and online via LexisLibrary*)
  - Comprehensive legal encyclopaedia covering UK law
  - Arranged alphabetically by subject
  - Provides an authoritative statement of the law by experts
  - Use the Monthly Review to keep up-to-date; this cumulates into an annual abridgement
- **Westlaw UK** (*SOAS Database*)
  - Provides a *Current Awareness* section which contains daily updates and notices of primary and secondary materials relating to relevant legal developments.
  - It is updated three times daily at 9am, 11am and 2pm, with new information.
  - The information remains in the *Current Awareness* section for 90 days and then can be found by searching the *Current Awareness Archive*.
- **LexisLibrary** (*SOAS Database*)
  - Provides access to the Halsbury's Laws of England and Wales
  - Has a separate *Current Awareness* section.
  - This allows you to search for information on the latest legal developments within the United Kingdom.
  - It searches:
    - UK case law
    - UK legislation
    - EU materials
    - Official publications
    - Newspapers

### Terms Used to Describe a Case

**Digested** - Summaries of the main case details are available in a current law yearbook. Not all cases in Current Law have a digest

**Distinguished** - Outlines differences between a current case and an older case being referred to in a court hearing so that it cannot be used as a precedent

**Followed** - A case uses the same precedent as outlined in an earlier case quoted during the hearing

**Applied** - The same precedent set out in an older case is used again during another case

**Approved** - The original findings of an older case are 'approved', or agreed with, in a new case

**Disapproved** - In a case hearing, older cases referred to can be disapproved, i.e., the current court does not agree with the original decision but does not overrule it

**Mentioned** - Brief mention in a court case

**Overruled** - To set a new precedent, overturning a precedent set out by another court

**Not Followed** - A case does not use the same precedent as outlined in an earlier case

**Reversed** - To change a decision that has already been made by another court