



Law Student

// issue 5

**// Pro bono:
For the public good**

**// Mooting – What’s it
all about?**

**// Fresher’s guide to
staying safe**

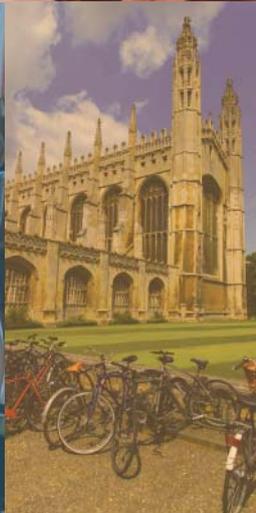
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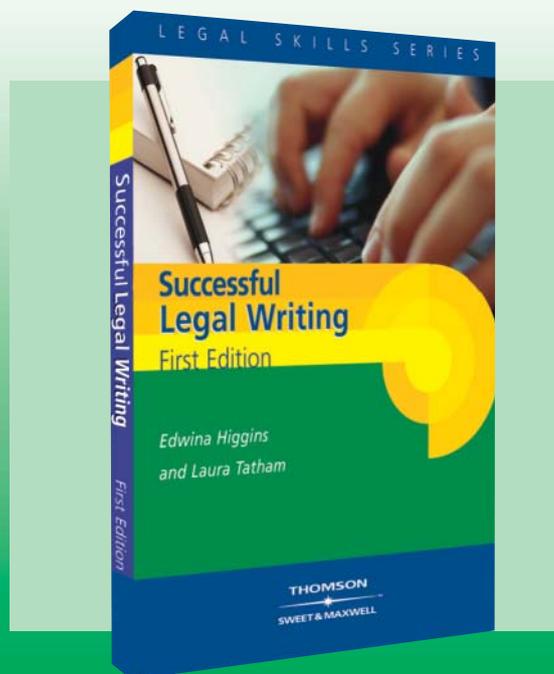
**// How to get a
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Letter from the Editor



Welcome to the fifth issue of Law Student from Sweet & Maxwell. Starting the new academic year is never easy, but starting university altogether can be quite daunting. Our fresher's guide on pages 12-13 gives good advice on staying safe. And why not join a

Pro-Bono group this year? Our article on pages 6-7 explains how you can give something back.

You could also consider joining a mooting society. Mooting is a good way to practice the skills you'll need when you eventually qualify – but in the meantime, it's fun and good for your CV. Read the article on pages 8-9 for more information.

Being able to understand Latin and law-French phrases and maxims is essential to the study and practice of law. But don't fear; turn to pages 14-15 for helpful advice. Plus, see page 11 for details of our new Westlaw UK and Lawtel Support Group on Facebook.

Have you considered taking media law as an option, or even specialising in media law on qualification? On pages 16-17 we turn the

spotlight on this area of law to find out what this fascinating subject is all about.

If you are planning on becoming a barrister, then you need to think about undertaking a mini-pupillage. Turn to pages 28-30 for some great advice. In addition, check out the article on pages 22-23 for some interesting findings on salaries – and why money isn't necessarily the most important factor.

And finally, how would you like to win a laptop courtesy of Westlaw UK? See pages 19-20 for full details. I hope you enjoy this issue as much as I do!

Samantha Siddle

Sam Siddle
Editor

Law Student

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Law Student

issue 5

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The prestigious Sweet & Maxwell Law Prize enables law schools to award their top students with the gift of books published by Sweet & Maxwell – up to the value of £200.

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John Russell and Nigel Urban, Brighton University receiving their prize from Aidan Berry, Head of Brighton Business School.



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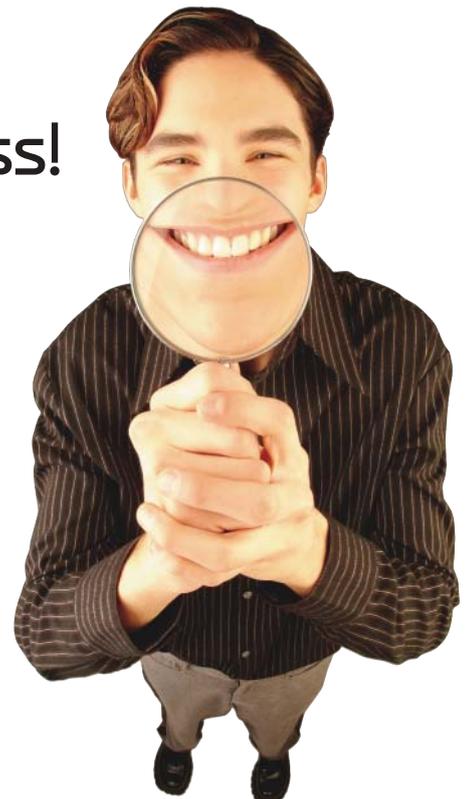
Westlaw UK, the online service from Sweet & Maxwell, has a network of Student Representatives in universities across the UK. Within their role each Student Representative is available to help students with general or specific Westlaw UK search queries. We are currently looking to expand our network of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

Westlaw[™]UK
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Did you know?

Frontager is a person owning or occupying land which abuts on a highway, river or seashore.

- Taken from the 10th edition of Osborn's Concise Law Dictionary [978 0 421 90050 9] available from all good booksellers price £9.95



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Pro bono: for the public good

It's common in the legal profession for people to undertake Pro Bono work. But what is Pro bono and why should you do it? Read on to discover that it's not only another bow to add to your CV but something which can make a real difference to peoples' lives.

Suffering: the reason to undertake Pro bono work

Lina began working in a garment factory at the age of 13. The oldest of eight children, her parents became unable to pay for her education when her brother became sick. She moved from her village to the Bangladeshi capital Dhaka to get a job and help them make ends meet. Now 22, she works in a factory that supplies three major high street retailers. She is one of the lucky ones to have learned how to operate a sewing machine, and so can command a wage of £17 per month. Compare this to the amount of money you or your parents have spent on your course fees so far. To earn this amount, she must work between 60 and 90 hours each week. Lina earns far less than even the most conservative estimate of a living wage in Bangladesh, which is £22 per month.

Her husband, whom she met in the factory and married three years ago, is now ill and unable to work. She must pay for his treatment as well as for her own living costs in Dhaka, and despite her best efforts to economise, she is unable to send money to her family, who need it to get by. She says she is happy, though, to have "done the best she could" for her family. If you are wearing a piece of clothing bought from the high street, it is quite possible that Lina sewed it. These retailers are able to sell their clothes at such an agreeable price because workers like Lina are forced to live on wages well below what they need in order to live a

decent life. Lina is one of 60 workers who were interviewed for a War on Want report, across six garment factories in Bangladesh. According to these workers, all six factories are producing "significant amounts" of garments for one high street retailer; four produce for another and three for another still. The workers' testimonies in the report demonstrate the dismal life of a garment worker selling to Britain's bargain retailers. Poor working conditions like those described in this report are systemic problems that exist across the whole clothing industry.

All three companies featured in the War on Want report have promised to safeguard workers' fundamental rights to form and join trade unions or other representative bodies of their own choosing, and to negotiate collectively with management. In practice, the situation is very different. Workers in one factory told War on Want that in 2005 a worker named Kamal was dismissed for organising trade union activities in the factory. Though officially accused of theft, the real reason for his dismissal was felt to be organising a workers' union. He was beaten and dismissed from his job. "Most of the workers are not aware of their rights, and management will not allow them to form a union in the factory," said one worker, who makes clothes for the UK stores. The climate of fear means that no one in these factories dares form a trade union. "If anybody tries to form a union he will be dismissed from his job. "We never tried to organise a union due to fear of

losing our jobs," said a worker who produces for all three retailers. "Workers are afraid of losing their jobs if the employer knows that they are involved in trade union activities," said Abdul, whose factory produces for two UK retailers.

So what is Pro bono?

"Pro bono" is a phrase derived from Latin meaning "for the public good." The term is sometimes used to describe professional work undertaken voluntarily and without payment, as a public service. It is common in the legal profession and is increasingly seen in marketing, technology and strategy consulting firms. Unlike traditional volunteerism, pro bono service leverages the specific skills of professionals to provide services to those who are unable to afford them.

In other words – pro bono is your way to give something back

People study law for many reasons – prestige, respect, money. In becoming a lawyer, you are joining a profession of power. Through The Bar Council for barristers, or The Law Society for solicitors you have a voice that numbers in the thousands. With support from your regulating body, it is highly likely that you will be both listened to and taken seriously. VERY seriously.



Did you know?

Amotion means removal from office.

- Taken from the 10th edition of Osborn's Concise Law Dictionary [978 0 421 900 50 9] available from all good booksellers price £9.95

With great power comes great responsibility

Law school provides a superb opportunity for you as a lawyer to take your responsibility to help those in need seriously. Every time you worry about a deadline, someone somewhere is worrying about how they are going to survive until tomorrow.

Each time you feel tired from pulling an all nighter, someone somewhere has been working those hours, and longer, for 5p an hour. What would your response be if you were offered your dream training contract or pupillage at 5p an hour?

Next steps

People would often like to help those whose human rights are eroded, abused and ignored. People like Lina and Abdul. How does one help these poor forgotten souls? As a lawyer, you can speak on behalf of these people. Through human rights pro bono projects, you will be able to use your skill and knowledge to be a voice for those people who can not speak for themselves, for fear of persecution.

When you start your first (or next) term, join a pro bono initiative. As well as honing your legal skills, you will help those people who have no voice to be heard.

This article is written by John Nee, a BVC student at BPP Law School, Leeds.

For further information on the War on Want reports, visit www.cleanupfashion.co.uk



Mooting: fun, educational and good for your CV!

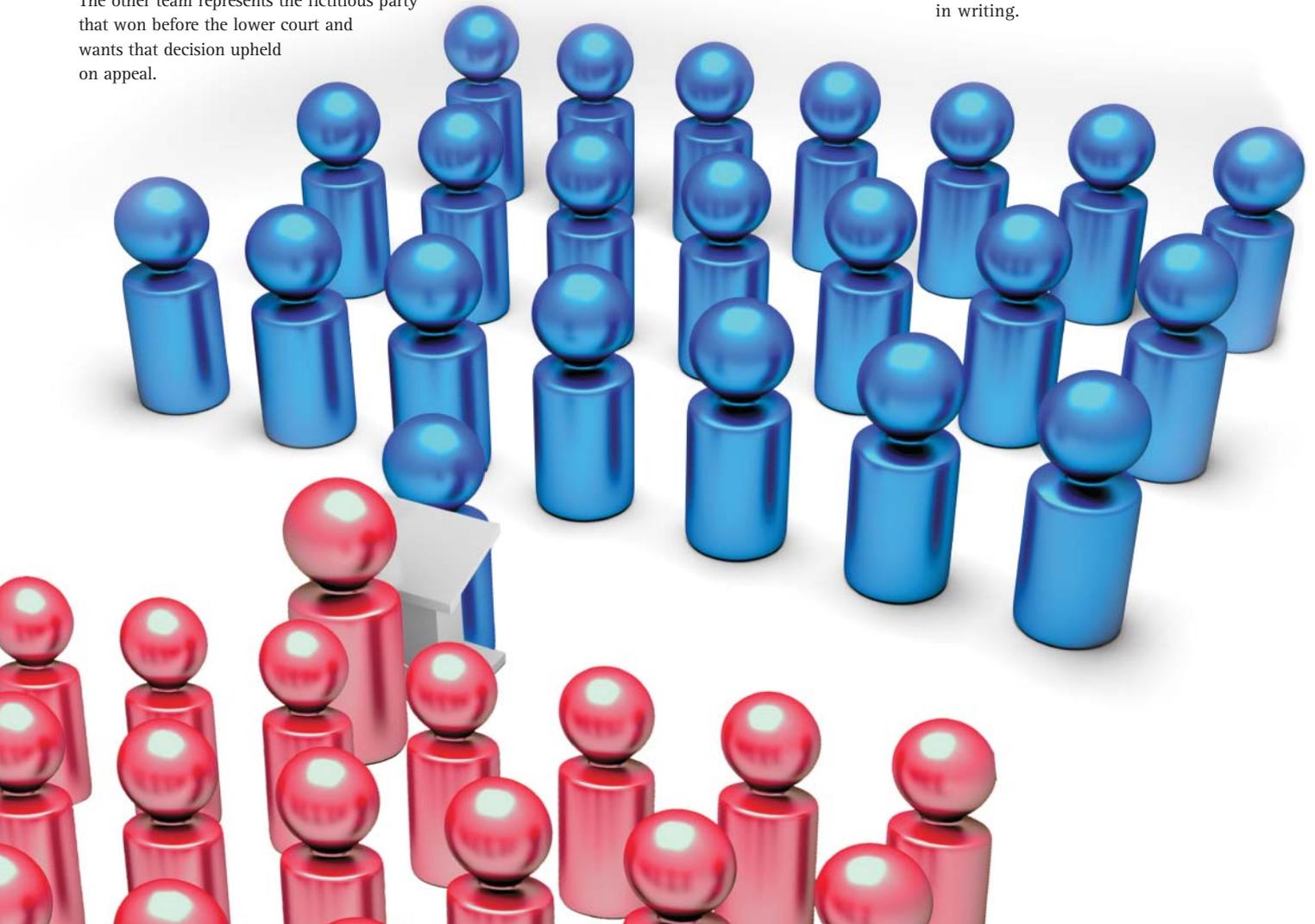
As a student of the law, you are likely to have heard of mooting. But do you know what a moot is or, for that matter, why you should moot? Barrister David Pope and solicitor Dan Hill answer these questions in an article adapted from their book, *Mooting and Advocacy Skills*, which provides practical and user-friendly advice on every aspect of mooting.

What is a moot?

A moot is a competitive mock court hearing. It takes the form of a debate about the legal merits of a fictitious civil or criminal appeal. Moots generally involve two teams of two advocates. One team represents the fictitious party that lost in the lower court and is appealing against that decision. The other team represents the fictitious party that won before the lower court and wants that decision upheld on appeal.

In advance of the moot – typically one week beforehand – the teams receive identical copies of a legal problem (the moot problem) and are told which party they represent. The moot problem usually sets out the factual background of the case, the decision of the lower court and the grounds of appeal that the teams must argue at the moot.

In the period between receiving the moot problem and the moot itself, the teams research the legal issues that the moot problem raises, formulate their arguments, prepare notes to assist them at the moot and practise delivering their speeches. Some mooting competitions also require each team to serve a short skeleton argument that summarises its submissions in writing.



Moots are generally held in classrooms large enough to accommodate the teams, a moot court clerk (whose primary function is to act as a timekeeper), the audience and the judge. Moot judges are typically law lecturers, post-graduate law students or practising lawyers.

Once the mooters have completed their speeches, the judge gives judgment, often after retiring to another room for a few minutes to deliberate. The judgment consists of two elements: a decision on the legal points at issue; and a verdict on which team has won the moot.

The winner of the moot is the team that demonstrates the better advocacy skills and the more comprehensive knowledge of the substantive legal issues. It is accordingly entirely possible – and, indeed, very common – for the winner of the moot to lose on the law.

Why should you moot?

Mooting is hard work. If taken remotely seriously, it involves many hours of leafing through case reports and textbooks, forces the participants to think deeply about the legal issues that the moot problem raises and can induce in anyone lacking nerves of steel stress levels on a par with major examinations. So why moot? Why put yourself through the hard work and the stress? In truth, there are many reasons. Here are a few:

■ Mooting makes you act like a lawyer

In preparing for and appearing at a moot, the participants must do the very things that most practising lawyers do on a daily basis (except charge exorbitant amounts of money for their time): they must absorb a set of facts; work out which of those facts are critical and which superfluous; apply the relevant legal principles to the facts; and present a reasoned argument in support of their case. Mooting is therefore the best possible training for professional practice.

■ Mooting makes you more employable

Students wishing to become advocates must show their potential employers or members of chambers that they are genuinely interested in and committed to advocacy. There is no better way to communicate that message than to moot. But mooting is invaluable even for those law students who are not destined for life as advocates. After all, being able to present and defend a reasoned argument is a skill that all good lawyers must acquire.

Did you know?

Words of art are words which have acquired an established legal meaning.

- Taken from the 10th edition of Osborn's Concise Law Dictionary [978 0 421 900 50 9] available from all good booksellers price £9.95

■ Mooting is a great way to learn the law

In order to present persuasive arguments, mooters must obtain a deep understanding of the areas of law with which their moot problem is concerned. They must consequently hone their research skills beyond the level otherwise required by the legal syllabus. It is not enough to read a few passages from a textbook or scan the headnotes of a couple of leading cases. Moreover, since moot problems tend to raise "sexy" issues in core subjects such as the law of contract and negligence, there is very often an overlap with exam questions. Students who have mooted often comment that they remembered the law covered in moots so well that they could revise it very quickly for their year-end exams.

■ Mooting gives you confidence

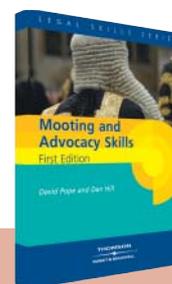
Most students come to mooting with little experience of the law. Understandably, they often wonder if they have what it takes to join the ranks of the legal profession. The sheer similarity of mooting to professional practice gives those who moot an enormous amount of confidence in their abilities as lawyers. And why not? If you are able to stand in front of seasoned law tutors or practitioners and persuade them of the merits of your legal arguments, you know that you can cut the mustard.

■ Mooting is fun

Believe it or not, the vast majority of students really enjoy mooting. Like most public speaking, it is genuinely exhilarating. A polished performance, whether on the winning or losing side, gives a sense of achievement and a "buzz" that few other legal (in the broadest sense of the word) activities can match. But mooting is not just about personal highs. It is also

a social activity, providing an opportunity to get to know your mooting partner, other students and members of staff at your faculty or college.

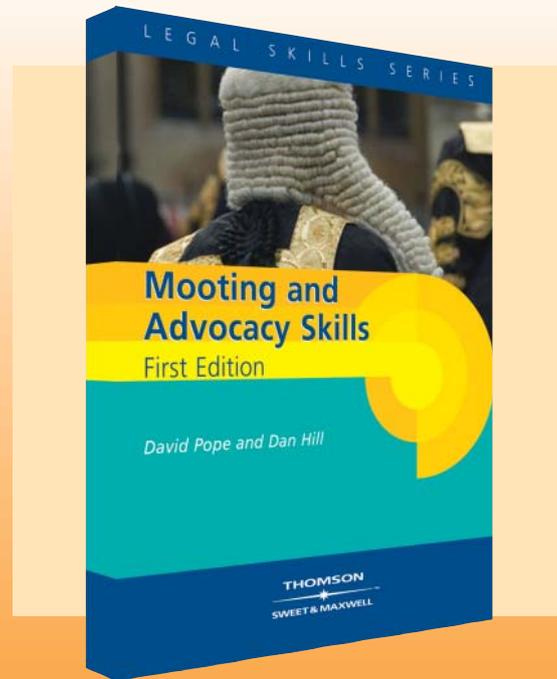
These reasons, and doubtless many others, have persuaded increasing numbers of law students to participate in mooting. So, if you have the chance to moot during your studies, don't pass it up.



This article is adapted from the 1st edition of *Mooting and Advocacy Skills*, which is available from Amazon and all good booksellers priced £18 [978 0 421 92470 3]



YOUR ESSENTIAL GUIDE TO MOOTING



- Presents practical guidance on mooting both for those participating in and those organising moots
- Covers all aspects of mooting from legal research and drafting skeleton arguments to moot court advocacy and organising mooting competitions
- Describes the key skills of mooting step-by-step, using worked examples and an illustrative moot problem
- Contains material, including a number of precedents and templates, that will assist not only mooters, but also newly-qualified solicitors and barristers who are starting to appear in court
- Answers many of the questions that mooters typically ask
- Highlights common pitfalls and explains how to avoid them

Mooting and Advocacy Skills
Legal Skills Series
June 2007, ISBN 978 0 421 92470 3

£18

Available from www.amazon.co.uk and all good bookshops

Westlaw UK and Lawtel Support Group on Facebook

Westlaw UK and Lawtel are pleased to announce that there is now a support group for students on Facebook. The 'Westlaw UK and Lawtel Support Group' can be retrieved by using the general search box on www.facebook.com and is monitored and moderated by our network of Student Representatives based in universities across the UK.

You can use this group to help you with the following queries:

- General training and support on Westlaw UK and Lawtel
- Guidance for research projects and subject areas

- Help finding a case, legislation, journals, current awareness and international materials
- Discussions with like-minded law students across the UK
- Advice from our dedicated student representatives who, like you, are currently undertaking their studies
- Amusing and unbelievable judgments and cases from the Westlaw UK and Lawtel archives to lighten up your research time.

To gain access to the support pages and discussion boards on this group, simply search for the group, select the link and click the Request to Join Group link.

PLUS Win a 2GB iPod Nano, just for posting or replying to a thread!

To celebrate the launch of this new facebook group, we are offering a new 2GB iPod Nano to the best post or reply on our group discussion board between the months of September and December, as chosen by Jessica Brown, our Academic Programme Manager.

To enter, simply join the Westlaw UK and Lawtel Support Group and post a question, answer or amusing case. The lucky winner will be notified by Jessica at the end of December.



Fresher's guide to staying safe

Being a Fresher can be a fairly daunting experience. Suddenly you are in a totally new environment, probably in a city you don't know very well, maybe even in a new country. Large cities may seem like scary places, but they are usually remarkably safe and by taking some basic precautions you should have no reason to worry. The following guide is prepared by The Suzy Lamplugh Trust, the UK's leading authority on personal safety.

Staying safe in halls

When you leave your room lock the door and shut the window, even if you are only planning to be away for a few minutes.

Never let anyone into your block by holding a door open unless you know them or have checked their ID. Following someone in through a door is a thief's favourite way of gaining access, as they will not have to force entry/draw attention to themselves.

Report anything suspicious to the person on duty - it may seem insignificant, but let them decide.

Personal safety out and about

Students are often loaded down with books and folders. Try to keep one hand free, walk confidently and be aware of your surroundings.

If you are out at night, try to walk with a group of people. Avoid danger spots such as poorly lit areas and walk facing oncoming traffic.

Think about getting a personal safety alarm. Keep it in an easily accessible place and carry it in your hand if you feel at risk.

If you see someone else in trouble, think before going to their aid. You may help more by alerting the police or university security.

Transport

If you are using public transport, make sure you check departure times, especially of last trains, tubes and buses.

Try and have your ticket, pass or change ready in your hand so your purse or wallet stays out of sight.

Always wait for a bus, train or taxi in a well-lit place, near other people if possible.

If a bus is empty or it is after dark, stay on the lower deck and sit near the driver or conductor.

On the underground or on trains try to sit with other people and avoid empty carriages.

If you feel uneasy, don't be afraid to move to another seat or carriage or get off at the next stop if you know the area.

Carry the telephone number of a trusted, registered taxi or minicab company with you. If possible, book a taxi or minicab in advance. Ask for the driver's name, as well as the make and colour of the car.

Confirm the driver's details when they arrive - is it the taxi or minicab you ordered? Try to share a taxi or minicab with a friend and sit in the back of the car.

If you chat to the driver, be careful not to give out any personal details.

Going out at night

Freshers' week has the reputation of being an alcohol fest. If you are going to drink then know what your limit is and remember alcohol dulls your instincts and can lead to you making dangerous decisions.

When you are going out make sure someone knows where you are going, whom you are meeting and when you expect to return. Always plan how you are going to get home.

If you are going out with a group of people then watch out for each other and make sure everyone stays safe.

Watch your drinks and food to ensure that nothing is added to them. Be especially careful never to leave your drink unattended, even if you are going onto a dance floor or to the toilet.

If something tastes or looks odd, do not eat/drink any more of it. Be aware though that some date rape drugs are colourless and tasteless. If you feel ill or light-headed tell a trusted friend or a member of staff straight away and ask for a taxi to take you home. Seek medical advice as soon as possible.

If someone you do not know or trust offers to buy you a drink, either decline politely or accompany them to the bar and watch that nothing is added to your drink.

Surprisingly, the most common date rape drug is alcohol. Victims are often unaware that extra shots of alcohol have been added to their drinks making them far stronger.

For more information on staying safe when drinking send an A5 SAE to - Alcohol + Safety + You, The Suzy Lamplugh Trust, PO Box 17818, London SW14 8WW or visit www.suzylamplugh.org/tips



Get an alarm

We all want to feel as safe, confident and secure as possible and one thing that can really help with this is a personal safety alarm.

The most common misconception is that a personal alarm is used to attract the attention of passers by. Unfortunately, you cannot rely on a personal alarm to do that for you. Firstly, there may not actually be anyone within earshot. Secondly, and most importantly, hearing an alarm does not necessarily encourage people to help. Often personal safety alarms pulsate, sounding like a car alarm. How often do we ignore it thinking it's a false alarm and annoying rather than a cause for concern?

The purpose of a personal alarm is to shock and disorientate an attacker, giving you vital seconds to get away.

The best way to ensure your personal safety is to plan ahead. Your alarm is no use to you in a bag; have your alarm in your hand when you feel vulnerable or threatened. Then:

- If your exit is blocked or you feel attack is imminent, hold the alarm close to the attackers head (if you can)
- Activate alarm
- An ear-piercing shriek will be emitted
- This should temporarily put the assailant off balance - mentally and physically
- Use the shriek to spur yourself into action, putting you back in control and giving you vital seconds to get away.
- Do not waste time checking it has had the desired effect on the attacker - just go.

What else can you do if you feel attack is imminent?

Use your voice to make lots of noise. Shouting an instruction like "Call the Police!" makes it very clear to anyone within earshot that you are in danger and need assistance.

Try diversion techniques. Doing something unexpected can confuse an attacker and give you a chance to get away. Some of the suggestions we have heard that have worked are: pretending to vomit or pretending to see someone and calling out to them for help. Thinking about it in advance will help you to think more clearly in an emergency situation.

For more information on personal safety and about personal safety alarms and how to buy them, visit www.suzylamplugh.org or call 020 8876 0305.

This article is also reproduced on the NUS website. For information on other important topics such as funding, health and discrimination, visit their website at www.nusonline.co.uk

Taking the confusion out of Latin and French

Getting to grips with Latin and French phrases and maxims is essential in the study and practice of law. Here, from Glanville Williams: *Learning the Law*, A.T.H. Smith explains why that is and offers essential guidance on pronunciation.

At first the beginner may be rather lost among the many technical terms, especially those used in the older reports, and may find some difficulty with Latin and law-French phrases and maxims.

Examiners are fond of recounting “amusing” mistranslations to which such difficulty can give rise. There was the youth who innocently asked whether the phrase *en ventre sa mere* (unborn child) meant the same thing as *in loco parentis* (in place of the parent). To another candidate belongs the credit of suggesting that *fructus naturales* (perennial plants) means illegitimate children, and that *animus revertendi* (the intention to return) means the transmigration of souls.

Weak latinity may also result in ungrammatical constructions. Thus the word “*obiter*” in “*obiter dictum*” (a judge’s “saying by the way” or “passing remark”) is not a noun but an adjective – one should not write, as another examinee did, that a lawyer in reading cases needs to “hack through the *obiter* to reach the actual decisions.”

Differences of view as to the usefulness or otherwise of using Latin and law-French are hardly new. Some phrases and maxims can encapsulate in brief compass a notion or concept that is difficult to express in our native tongue. Equally, however, there is the view that their use is cultish and obscurantist and designed to confer a mystique on their users.

In 1730 Parliament passed an Act abolishing law-Latin in legal proceedings. But it was found that technical terms like *nisi prius*, *quare impedit*, *fieri facias* and *habeas corpus* were (as Blackstone put it) “not capable of an English dress with any degree of seriousness”, and so

two years later another Act was passed to allow such words to be continued “in the same language as hath been commonly used”. The lessons of that episode have not been wholly absorbed, and there is a movement (running concurrently with the reforms of civil procedure spearheaded by Lord Woolf) to eliminate much Latin from our legal language. A Lexis search for “Latin” through the recent law reports suggests that the battle is not yet won.

The distinction suggested earlier between the useful and the unnecessary use of Latin finds echo in the work of B.A. Garner who says that we should “distinguish between TERMS OF ART, for which there are no ordinary English equivalents, and those terms that are merely vestigial Latinism with simple English substitutes”. Unnecessary use of Latinisms he castigates as serving “no purpose but to give the writer a false sense of erudition. These terms convey no special legal meanings, no delicate nuances apprehended only by lawyers. They are pompous, turgid deadwood.” I concur with this view, adding only that it may sometimes be open to argument as to which category best describes any particular expression. The translations offered in the first paragraph of this article suggest that most of the expressions used there fall into the pompous category. But *obiter* is entirely blameless in this respect.

As it is, official translation of some of the new terminology associated with the Woolf reforms has led to oddities. *Ex parte*, for example, is now supposed to mean “without notice” (whereas the usual translation would be “on the part of one

side only”). But it was (and is) quite common practice to alert the other side to the fact that an *ex parte* application is to be made, in which case we have a “without notice” application being made, notice having been given.

Pronunciation

A few words may be said about pronunciation. Latin words and phrases are generally pronounced by lawyers in the same old barbaric way as they were in the Middle Ages, that is to say, as if they were English. C and g are soft where they would be in English, and the pronunciation of such syllables as *atio* in *ratio decidendi* is also anglicised (“rayshio deesidindy”). Long vowels are pronounced as in English (the sounds being those in the names of the vowels). Moreover, whether the vowel is to be pronounced long or short depends more upon English rules than upon Roman ones.

(1) In words of two syllables, the first vowel is pronounced long even though it was short in Latin. Examples are *bonus*, *onus*, *opus*, *genus* (“jeenus”), *capias* (“caypias”), *mens rea* (“mens reeah”), *modus vivendi* (“mohdus vivindy”), *nisi prius* (“nysy pryus”), *ratio decidendi* (“rayshyoh deesidindy”), *sine die* (“synee dyee”), and *vice versa* (“vysee”). This lends point to Mr Punch’s translation of *pendente lite* as “a chandelier”.

(2) In words of three or more syllables derived from the Latin, vowels are generally pronounced short before the penultimate syllable, whether or not they were short in classical Latin. This is seen in the ordinary English words *codicil*, *general* and *genera*, *ominous* and *operate*. (Strictly, we should pronounce “economic” and “devolution” in the same way with a short first vowel, but they have become lengthened by usage.) It will be seen that the preferable pronunciation of *obiter*, according to the rule, is with a short o.

Law-French words are pronounced much as they were in the Middle Ages; it is a solecism (though not a serious one) to utter them as if they were modern French. The pronunciation is, indeed, much nearer to modern English than it is to

Did you know?

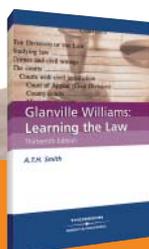
Witenagemot is the mote or meeting of the wise men. In Anglo-Saxon times it was the great council, consisting of bishops, abbots, ealdormen and other notables, which was associated with the King in the government of the country.

- Taken from the 10th edition of Osborn’s Concise Law Dictionary [978 0 421 900 50 9] available from all good booksellers price £9.95

French. Thus the town crier quite correctly said “Oy-ez”, not “Oy-ay”. The following are pronunciations of legal terms deriving from medieval French.

attorn (-er)
attorney
autrefois acquit (oterfoyz, with “acquit and convict” pronounced as usual in English)
autrefois convict
detinue (det-)
distress damage feasant (feezant)
emblems (emblemints)
formedon (“e” pronounced indeterminately, as in “added”)
feme sole (femm)
feme covert (cuvert)
feoffment (feff-)
laches (laytshiz)
lien (lee-en or leen)
mesne (meen)
misfeasance (-feez-)
nonfeasance
pur autre vie (pur oter vee)
que (in the phrase “in the que estate” and in *cestui que trust*: pronounced kee)
seisin (-eez-)
semble (anglicised as written)
venue (accent on the first syllable)
villein (villen)

The old practices whereby lawyers retained the archaic pronunciations of English words has all but disappeared. The noun “record”, for example, used to be pronounced like the verb, with the stress on the second syllable, and the term for an insured person, “assured,” had the last syllable pronounced like “red” and stressed. To pronounce them in this way in the twenty-first century would be to invite a charge of affectation. Some traces remain however. In pronouncing “recognisance”, some lawyers do not acknowledge the intrusive “g”, though we do in writing, and generally in “cognisance”, and “cognisable”. (The “g” comes through latinising the law-French word “conusance”).



This article is adapted from Glanville Williams Learning the Law which is available from Amazon and all good booksellers priced £12.50 [978 0 421 92550 2]

Spotlight on media law

Lights, Camera, Action! From advising Hollywood starlets, to ensuring TV documentary makers aren't liable, the life of a Media lawyer is extremely diverse. In the following article, Nick Armstrong, a Partner with Charles Russell LLP and co-author of *Media Law* gives a glimpse into the world of media law.

Quite often when practising media law, you find yourself in a situation which makes you think: "I never thought I'd end up doing this when I was doing all that law revision..." To take a few examples from the last year or so: strolling over the cobbles of Coronation Street and leaning on the bar of the Rovers Return... watching the sun set beyond Santa Monica beach during a three week trip to LA to take witness statements about a child abuse case... sitting with a client behind the dugout at Gelsenkirchen stadium, watching England's tortured exit from the World Cup...

From advising fornicating footballers and sozzled soap stars on the one hand to spending long evenings with journalists getting an investigative item on air without the channel being sued, you can't fault the variety that media law brings with it.

So what is "Media Law"? One answer is that it is the title of an extremely good new Sweet & Maxwell book on the subject written by colleagues and me and available at a very reasonable price from all good book shops and Amazon.

Alternatively: the term covers many areas which are non-contentious e.g. agreements between TV channels and the companies which make programmes, the myriad contracts which underpin every movie ever made, and a whole host of other contractual issues involved in media of all kinds.

However the phrase (and the book) *Media Law* tends more specifically to cover the various legal areas involved when material is published (in print or broadcast or by internet) which threatens or causes damage to individuals' rights.

The basic approach nowadays is that freedom of expression (including for the media) is guaranteed by the Human Rights Act 1998 by reference to Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, but that there are opposing rights which protect individuals, companies and other organisations. Legal redress may be available if published material e.g.:

- Unjustifiably damages their reputation (libel and slander, known together as defamation)
- Invades their privacy or the confidentiality of certain personal or commercial information
- Infringes their copyright
- Infringes the rules which seek to ensure fair criminal trials (contempt of court).

The most prominent and familiar recourse for those who suffer at the hands of the media has long been an action for libel. But that does not cover all situations. In the 1980s, when "Allo 'Allo" actor Gordon Kaye was photographed by intruding journalists in his hospital bed having been severely injured in a storm, it was clear that there was inadequate protection for individuals' privacy in this country. And indeed, the area of media law which has evolved most rapidly in recent years is that of privacy.

Following the Human Rights Act, the judges have been able to develop a law of privacy, deriving from older law relating to confidential information. From a series of high-profile cases involving Naomi Campbell, Catherine Zeta-Jones and Michael Douglas and the Prince of Wales among others, a new branch of law has in effect developed, protecting individuals when what they are doing and where they are doing it entitles them to a reasonable expectation of privacy.



Nick Armstrong
"A respected name in the field" (Legal 500)

Nick Armstrong is a Partner with Charles Russell LLP and co-author of the new edition of *Media Law*.

He has specialised for 20 years in all aspects of media litigation and dispute resolution, in particular relating to defamation, confidentiality and privacy, copyright, contempt and obscenity, securing remedies for claimants, often against the tabloid press, and defending media companies against action (including pre-broadcast/publication clearance). He regularly advises prominent political and sporting figures, business people and leading cinema, TV and music performers.

CHARLES RUSSELL



The most recent case however, brought on behalf of JK Rowling's baby son (who was photographed in the street at the age of 19 months with his parents) suggests where the limits may currently be: in *Murray v Express Newspapers* & another (7 August 2007), Mr Justice Patten struck out a claim for invasion of privacy, saying that "there remains... an area of routine activity (or "innocuous conduct") which when conducted in a public place carries no guarantee of privacy". Note however that the case is likely to go to the Court of Appeal.

There have in parallel been developments relating to the extent to which individuals can control and exploit the use of their images, in cases such as those involving Eddie Irvine, the former Formula 1 driver (whose image was used in an advert), and the Zeta-Jones / Douglas wedding photographs.

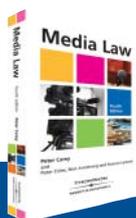
Nor does media law only protect celebrities. There have been procedural changes over the last few years which (in theory at least) enable the less well-off to pursue clear cases where their rights have been infringed, since lawyers

are now permitted to undertake cases on a “conditional fee” basis – akin to the “no win – no fee” arrangement which has applied in the USA for a long while.

Media lawyers also have to be aware of the regulatory bodies which govern the media – the Press Complaints Commission in relation to the print media, and Ofcom in relation to broadcast media. These bodies may provide alternative & cheaper remedies for complainants – and certainly when acting for media companies, a prime concern is to see that these codes are adhered to. The Ofcom Code in particular is an extremely detailed system of guidelines for programme makers, and ensuring compliance with the Code is sometimes even more complicated than ensuring that the item complies with the law.

One of the endless fascinations of media law is the process of balancing the various opposing rights in the light of the particular facts of each case, and evaluating whose rights should prevail.

Against this constantly-developing background, the subject matter of cases is as varied as the contents of your newspaper or the programmes on your TV. You literally never know what you will be dealing with next. It is not all Coronation Street and Hollywood, of course – ask my colleagues who dealt with a libel action concerning old people’s homes in Birmingham. But thanks to the nature of the law itself, the facts involved and the people one deals with, there can be few more interesting areas of legal practice.



Inspired you to learn more? Check out Media Law by Peter Carey, Peter Coles, Nick Armstrong & Duncan Lamont priced £26.95 [ISBN: 978 1 847 03016 0] and available to buy from Amazon and all good booksellers.

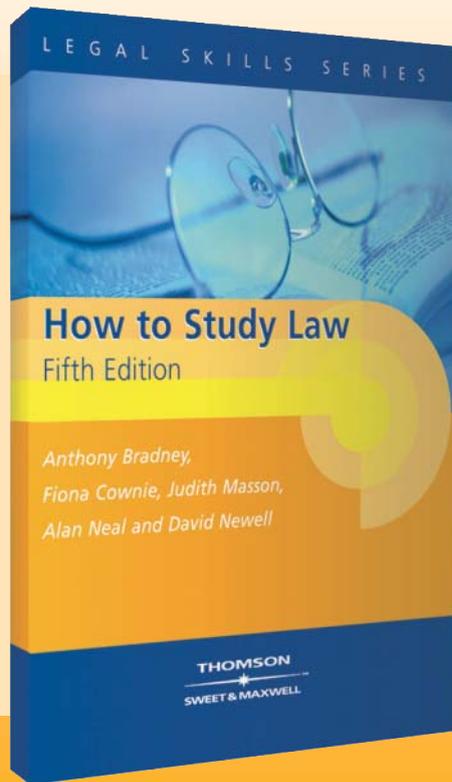
Did you know?

Simony is the selling of such things as are spiritual, by giving something of a temporal nature for the purchase thereof (Stephen).

- Taken from the 10th edition of Osborn’s Concise Law Dictionary [978 0 421 900 50 9] available from all good booksellers price £9.95



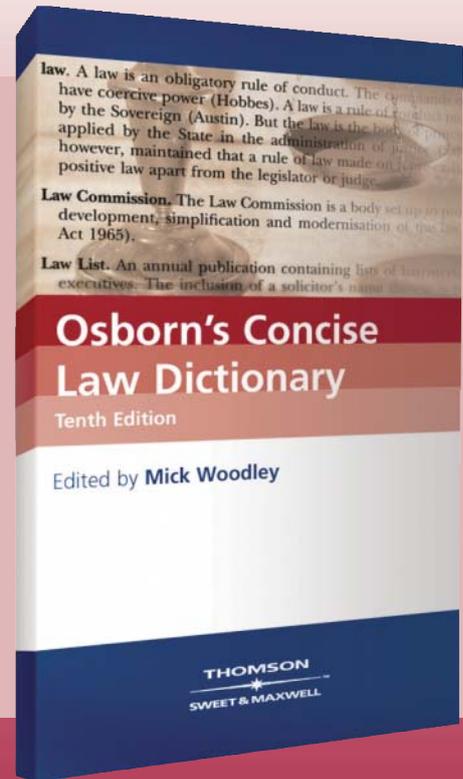
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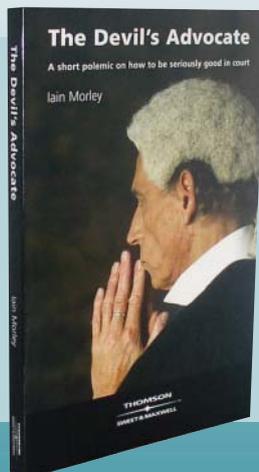
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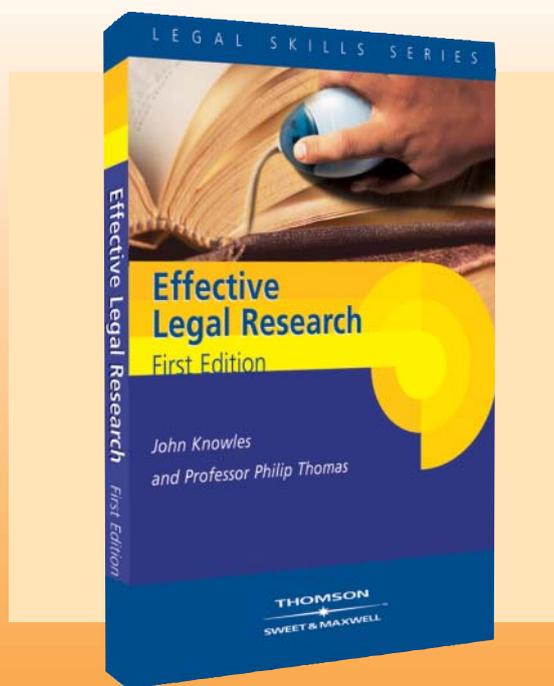
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The war for talent

The war for the very best talent amongst UK law firms has become that little bit hotter with US law firms in London hiking newly qualified salaries up as much as 20 per cent in June 2007. But is salary necessarily the key weapon in the recruitment war for the best talent? Carl Lygo Director, BPP Holdings Plc investigates.

In June 2007, Weil Gotshal announced a 20 per cent increase in its newly qualified starting salaries to £90,000 with further pay increases coming every six months thereafter. Weil Gotshal is not untypical with other US law firms based in London paying even more as the table below indicates.

Latham & Watkins	£96,000
Cleary Gottlieb Steen & Hamilton	£92,000
Weil Gotshal & Manges	£90,000

UK law firms have been left typically paying 25–30 per cent less than their US based equivalents as a result of this move. Beyond headline grabbing salary levels law firms know that there is more to recruiting and retaining the best talent than just salary. Law firms have long since recognised the modern business maxim that “employees are our most important assets”. Like any other business, law firms are seeking to gain the competitive edge, to make their firm’s service more distinctive than their competitors.

As a director of a publicly listed company I know that law firms are not the only source of advice on legal matters and often the preference of a Finance Director will be to seek advice from the big four accountancy firms. Law firms face major competitive threats from outside the legal profession. In this battle many believe that people are the only source of long-term competitive advantage for the Law firm. Indeed firms that fail to invest in employees jeopardise their own success and even survival. Training has never been more important to the modern law firm in helping to develop that competitive advantage and increasingly an early return on investment is demanded.

Law firms demand more of their employees. It is no longer good enough to be a good solicitor in the sense of being a legal expert. The technical expertise of a solicitor is no longer a distinguishing factor. Solicitors need to be great business minded people who understand their clients needs and can add value to their objectives. “Putting the client at the centre of everything we do” is how one managing partner recently

described this to me. Solicitors have to be great net-workers, business developers and become the client’s entrusted adviser in the sense used by David Maister. Training and continual professional development programmes in law firms are reflecting these requirements. Law firms are increasingly sending their associates on MBA programmes, designing bespoke client centred training programmes and feedback suggests associates enjoy understanding more about the wider business world within which their clients operate.

At the trainee level, over the last six years law firms have been involved in designing the pre-qualification stage of training. The Legal Practice Course (LPC) has undergone at least three radical rewrites since 2001, making the LPC more client focused and commercially relevant to the modern practice. The demand continues for trainees to “hit the ground running” and to give the firm an immediate return on investment. This is something that the modern student is familiar with because they are increasingly asked what it is about them that stands out from the rest. We now live in a world where three A levels and a good degree is not enough. Pupils now regularly take six A levels and undertake an exhausting list of extra curricular activities to stand out from the rest. The pressure to do even more is always there.

The Solicitors Regulation Authority is introducing a new approach towards the compulsory pre-qualification stage of training. The move seems to be predominantly aimed at promoting diversity of access to the profession by concentrating on outcomes rather than process. Some say that this will lead to an erosion of standards. What it does provide is a liberating opportunity for training providers to tailor programmes of study to the requirements of the individual firm. The timing of delivery, content of the programme and the duration of study could now all be more tailored to the individual requirements of a firm. The culture, ethos and values of the firm can be inculcated from day one of the training programme. Training is undoubtedly a powerful enabler and is a clear demonstration to an employee of the value the firm places on them.

Maslow’s hierarchy of needs remains just as relevant today as when it was first published in 1954. It is just as important today for the law firm as employer to provide a workplace environment that encourages and enables employees to fulfil their own unique potential. At the peak of the hierarchy are personal growth and fulfilment (self-actualisation). This is borne out by a recent survey of 1,060 UK employees where the top 8 work place happiness factors were identified as:

- ✓ Friendly, supportive colleagues
- ✓ Enjoyable work
- ✓ Good boss or line manager
- ✓ Good work-life balance
- ✓ Varied work
- ✓ Belief that we are doing something worthwhile
- ✓ Feeling that what we do makes a difference
- ✓ Being part of a successful team.

Whilst the top 8 unhappiness factors were identified as:

- ✗ Lack of communication from the top
- ✗ Uncompetitive salary
- ✗ No recognition for achievements
- ✗ Poor boss/line manager
- ✗ Little personal development
- ✗ Ideas being ignored
- ✗ Lack of opportunity for good performers
- ✗ Lack of benefits,

So money is not everything but then we all knew that! An employee gained through salary is invariably one who is also lost because of it. The modern employee still needs to develop that strong psychological contract with the employer. My experience of the modern student is that they are as much interested in the firm’s approach to corporate social responsibility, as they are to the headline salary.



This article is taken from *Top Legal Employers 2007/8* a new guide that profiles the UK's top law firms against seven key criteria.

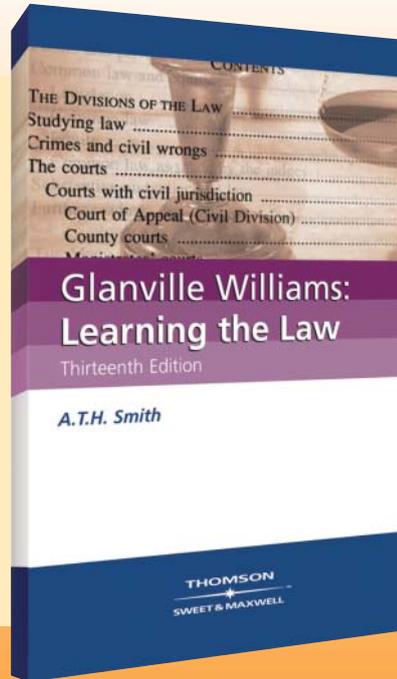
Although these include Pay and Benefits, Promotion and Development and Innovation, the guide goes further to give law students insight into the culture of the organisations.

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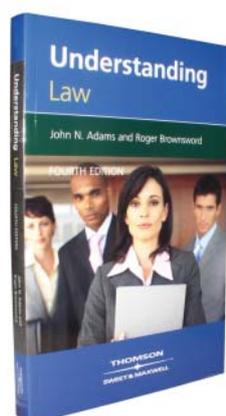
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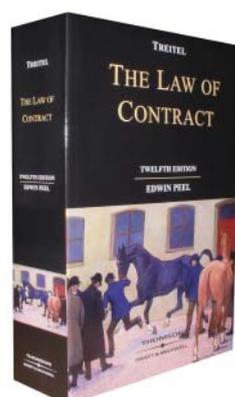


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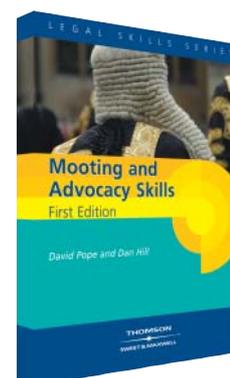


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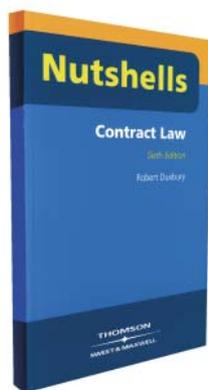


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Mini-pupillages: the essential facts

If you want to become a barrister, or even if you are curious about what a barrister's job entails, mini-pupillages are a must. Here, adapted from their book: *The Path to Pupillage: A Guide for the Aspiring Barrister*, Georgina Wolfe and Alexander Robson explain why.

What is a mini-pupillage?

A mini-pupillage or "mini" is a short period of work experience in a barristers' chambers and is the closest you can get to experiencing life as a barrister without standing in court wearing a wig and gown yourself.

Most mini-pupils will find themselves reading cases and discussing them with a barrister (a mini-pupil supervisor), sitting in on a client conference or two, going to court and perhaps being taken out to lunch to meet some members of chambers.

Mini-Tip:

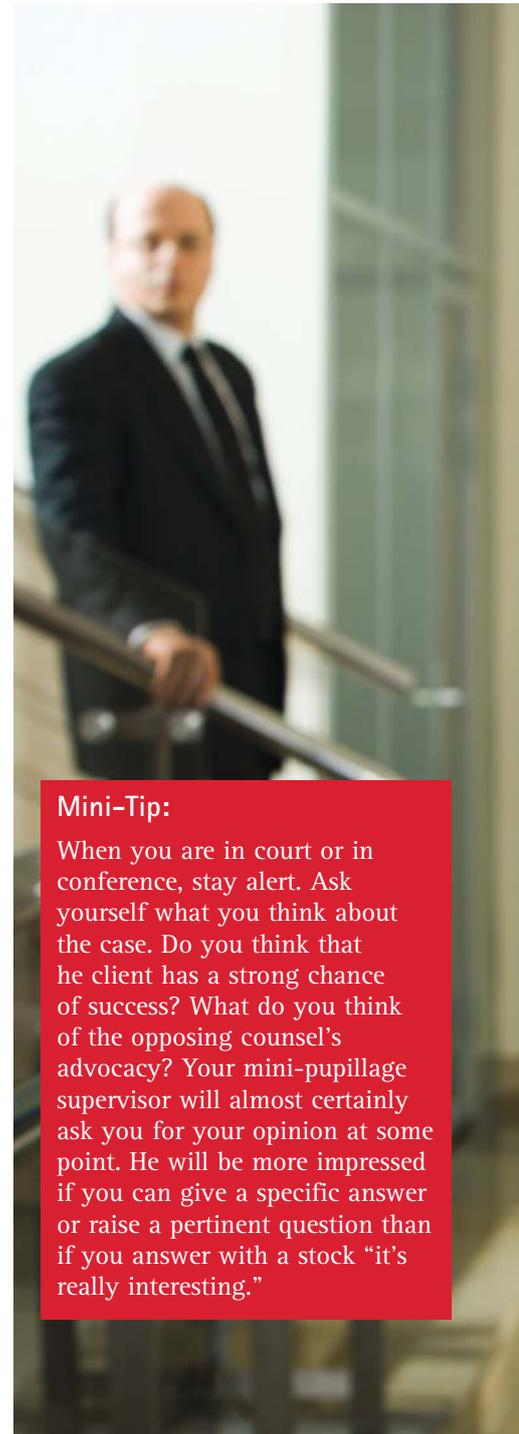
Being a mini-pupillage supervisor can be a time-consuming and sometimes thankless role. A thank you letter at the end of your mini never goes amiss.

At the extremes your experience can be glamorous and exciting – discussing cross-examination strategy with a QC in a high-profile case and then watching as it is put into devastating effect – or mundane and uninspiring – sitting at the back of a hot court room day after day watching a boring case and having no interaction with anybody. You will probably find your mini falls somewhere in the middle.

How can you ensure that your experience is a productive one? How can you impress barristers so that they remember you when you apply for pupillage? Are there any unwritten rules of which you should be aware?

Making successful applications

Most chambers require students to fill out an application form or send in their CV with a covering letter. There are two crucial questions that your mini-pupillage application (whether it is a form or a letter) to chambers needs to



Mini-Tip:

When you are in court or in conference, stay alert. Ask yourself what you think about the case. Do you think that he client has a strong chance of success? What do you think of the opposing counsel's advocacy? Your mini-pupillage supervisor will almost certainly ask you for your opinion at some point. He will be more impressed if you can give a specific answer or raise a pertinent question than if you answer with a stock "it's really interesting."

Mini-Pupillage Etiquette

There are unwritten rules of mini-pupillages which you may only discover by inadvertently breaking. Beware!

- Dress correctly: wear a dark suit. If you are inappropriately dressed, chambers will not be able to send you to court or to attend anything where clients are present.
- Turn your phone off from the moment you arrive at chambers to the moment you leave at the end of the day. There are few things more embarrassing than your mobile ringing in court.
- Arrive on time. Often you will be asked to arrive before court starts so that the barrister can brief you on

the case. If you are late you risk missing this opportunity, and, worse, irritating the barrister.

- Be cautious about offering a handshake when meeting barristers. Historically barristers did not shake hands with each other and some barristers maintain this tradition.
- Do not speak in court or in conferences with clients. Not even if you think that you have the knockout argument that will win the case or if you have a witty anecdote. As with every rule there is one exception: speak when spoken to.

Don't fall asleep in court. Obvious but not unheard of...



address: why you have applied to them and why they should choose you.

First, why this chambers? It could be the wide range of civil work that they do, the arguments of one of their barristers in a case you recently read or the excellent reputation they have for human rights. Whatever your reason, make sure that you have done your research thoroughly. They will not be impressed if you focus on their family expertise when they only have a small practice in this area and their true speciality is in crime. Be sure that the reason you offer is specific to that set: a generic cut-and-paste application will not impress.

When you have addressed the first question, you need explain why you are the best candidate for the mini-pupillage. As modestly as possible, sing your own praises! Tell chambers about the moot that you entered, the play you directed or the scholarship you won. Tell them why you like their areas of law and why your skills and experience mean you are well suited to the Bar.

Finally, if writing a covering letter, don't forget to say when you are available.

Mini-Tip:

Some minis are formally assessed and you may be asked to write a piece of research. If you do have to write anything, use paragraph numbers. This is what barristers do when they draft documents; by doing so you make your work look professional.

How to impress once you've secured your mini-pupillage

If your application was successful, you now need to ensure you get as much from your mini as possible – and make a positive impression on the barristers you meet.

Barristers enjoy talking about their work and look for enthusiasm and intelligent questions from mini-pupils. However, they also have to do their job. While the case you are watching might be interesting for you, for the client it may decide whether he loses his home, gets sent to prison, or gets the compensation required to

finance long-term medical care after a serious accident. The client has paid for the barrister's undivided attention. Respect this fact and save your questions for when the client is not present.

Mini-pupillages are all about the experience. Keep your eyes and ears open. Minis will give you a valuable insight into life as a barrister and may be your first step towards pupillage itself. Make a note of your experiences and save it to assist you later when completing the pupillage application forms.

This article is adapted from *The Path to Pupillage: A Guide for the Aspiring Barrister* which will be available from Amazon and all good booksellers in February 2008 priced £16.95 [978 1 847 03401 4]

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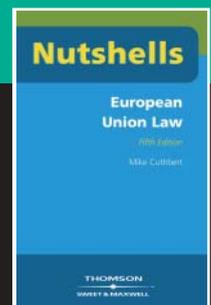
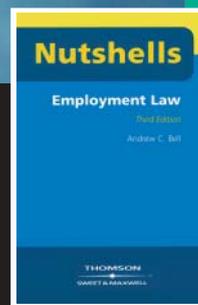
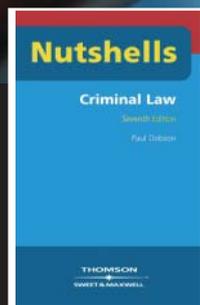
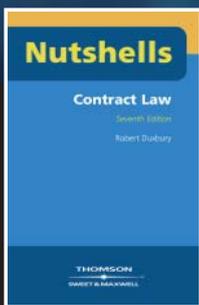
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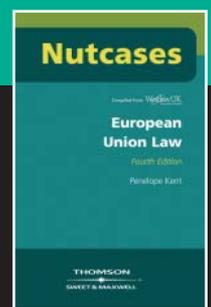
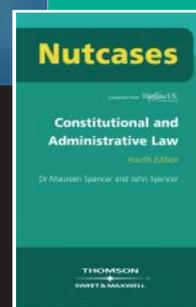
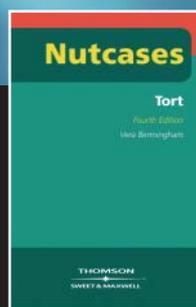
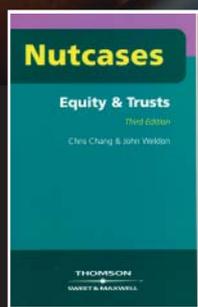
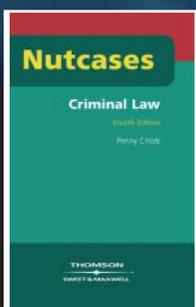
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