

# **REFERENCING SOURCES USING THE OXFORD STANDARD FOR CITATION OF LEGAL AUTHORITIES (OSCOLA)**

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## THE IMPORTANCE OF REFERENCING

Whenever you engage in a piece of assessed work, be it a piece of coursework, an exam or a presentation, you will be expected to back up any contentions, opinions or statements of law you make with appropriate authority. This authority could take the form of a textbook, an article in a journal or newspaper, a website, a case or a section of legislation. The reasons why we reference authority are several:

1. It backs up the validity of your arguments and provides authority for any statements of law made;
2. It allows the reader to determine the validity of the statement made by locating and assessing the authority that is referenced, and;
3. Passing off other people's work as your own constitutes plagiarism. Correct referencing will avoid the commission of plagiarism.

It is therefore important that in pieces of coursework<sup>1</sup> sources used are referenced fully, clearly and accurately. Your university lecturers will inform you as to how to reference sources, but there are several different referencing methods. Most business, finance and accounting degrees will use a referencing system called Harvard APA, but the dominant referencing system in law is called OSCOLA (the Oxford Standard for Citation of Legal Authorities) and it may be the case that your lecturers have stated that you must use OSCOLA. What follows is a brief guide on how to cite sources using OSCOLA, which is now in its 4<sup>th</sup> edition (2012). Students should obtain the full OSCOLA guide for full details, which can be obtained by clicking [here](#).

## WHEN TO REFERENCE SOURCES

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<sup>1</sup> The referencing of authority in this document applies mainly to coursework and dissertations – you will not be expected to reference sources as fully in exams.

Certain situations are obvious. Many students would understand that the following sources should be referenced:

1. Statements of law: when stating the law, you should always cite the relevant case or legislation (not the textbook where you got it from).
2. Direct quotations: cite the source of the quote, be it from a statute, case, book, journal, newspaper or other source. Again, cite the original source, not a third-party source.
3. Certain factual material, such as statistics or the findings of some study or report.
4. Definitions: if something is defined, you should always cite the source of the definition. This could be a statutory provision, a case, a textbook, a journal, a dictionary etc. Always first look for authoritative definitions in statute or case law, before relying on definitions in textbooks etc.

Many good pieces of coursework will contain all of the above, but these will be interspersed with the writer's own words and thoughts (which require no reference). The situation becomes more difficult in relation to material which you have read and researched and has influenced your thinking, but you do not use specifically in your coursework. It is this situation where students exhibit uncertainty. Here are some guidelines:

1. If you have taken the thoughts or opinions of another writer, but expressed them in your own words, then you should still reference the source. However, if the same view is expressed in many texts, then you do not need to cite the source, as it is likely that such information is common knowledge
2. You do not need to cite concrete facts. For example, if a book tells you that a particular Act came into force on a certain date, then the book does not need to be cited (although the legislation that brought the section into force may be).
3. If in doubt, reference the source. It is preferable to reference too many sources than be accused of plagiarism. If the assessor informs

you that you have cited too many sources, ask them which ones can be omitted.

## FOOTNOTES

OSCOLA cites sources using footnotes (not endnotes, nor in-text referencing). This is the system used in many textbooks whereby the reference is provided at the bottom the page and is denoted in the main text by a small raised number.<sup>2</sup> Footnotes should usually be placed outside any punctuation.<sup>3</sup>

Footnotes are normally placed at the end of the sentence, although this does not have to be the case. It is perfectly permissible to place footnotes in the middle of a sentence if it aids the clarity of your referencing. When you are quoting material, the footnote should come at the end of the quote. The following examples demonstrate this.

### The placing of footnotes

Roach tells us that footnotes are normally placed at the end of the sentence.<sup>1</sup>

However, Roach<sup>2</sup> tells us that footnotes may also be placed in the middle of a sentence.

Roach tells us that footnotes 'are usually placed at the end of a sentence,'<sup>3</sup> although he then goes on to state that this is not always the case.

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<sup>1</sup> Lee Roach, *How to Cite the Law* (3<sup>rd</sup> edn, OUP 2019) 233 (note this is a fictional text).

<sup>2</sup> Lee Roach, *How to Cite the Law* (3<sup>rd</sup> edn, OUP 2019) 233 ( 'ibid' could be used here).

<sup>3</sup> Lee Roach, *How to Cite the Law* (3<sup>rd</sup> edn, OUP 2019) 233 ( 'ibid' could also be used here).

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<sup>2</sup> This is a footnote.

<sup>3</sup> The footnote number appears outside after the full stop.

## USING 'IBID'

A page may have a significant number of footnotes. In order to avoid repeating a source, if you are referencing from the same source as the immediately preceding footnote, then instead of stating the full source again, you can simply state 'ibid.' Ibid is short for 'ibidem' which means 'in the very same place.' You can continue to use ibid until such time as a new source is cited. This is especially useful if a number of consecutive footnotes are referencing from the same source (for example, an Act of Parliament). The following provides an example of the correct use of ibid.

### The use of ibid

The company can remove a director from office by passing an ordinary resolution.<sup>1</sup> The resolution must be passed at a meeting and so the written resolution procedure cannot be used.<sup>2</sup> Special notice of the resolution must be provided<sup>3</sup> (i.e. 28 clear days).<sup>4</sup> However, the ability to remove a director may be impeded if the company's articles contain a weighted voting rights clause.<sup>5</sup> It should also be remembered that removing a director under s 168 does not deprive him of any compensation payable as a result of his removal.<sup>6</sup>

<sup>1</sup> Companies Act 2006, s 168(1).

<sup>2</sup> *ibid* s 288(2)(a).

<sup>3</sup> *ibid* s 168(2).

<sup>4</sup> *ibid* s 312(1).

<sup>5</sup> *Bushell v Faith* [1970] AC 1099 (HL).

<sup>6</sup> Companies Act 2006, s 168(5).

Note that the word 'ibid' should not be italicized and a lower case 'i' should be used.

## QUOTATIONS

Quotations should be faithful to the original. Quotes of 3 lines or less should be within the text and quoted with single quotation marks. Quotes within those quotes should use double quotation marks. Quotations longer than 3 lines in length should be placed on a new line and indented with no quotation marks. The following example demonstrates these rules.

### Quotations

Roach states that 'quotations less than three lines in length should be in the paragraph with single quotation marks.'<sup>1</sup> He also states that:

Quotations of more than three lines in length should be placed on a new line and indented. Quotation marks should not be used, except for quotes within the quote. The footnote should be placed at the end of the quote and the source should be cited fully. Do not italicise the quote, unless it is italicised.<sup>2</sup>

<sup>1</sup> Lee Roach, *How to Cite the Law* (3<sup>rd</sup> edn, OUP 2019) 233 (note this is a fictional text).

<sup>2</sup> Lee Roach, *How to Cite the Law* (3<sup>rd</sup> edn, OUP 2019) 233 (note this is a fictional text).

Quotations should not be italicised, except where the quote itself is italicised. For some reason, students feel that quotes need to be italicized, but it is incorrect to do so.

## LEGISLATION

Acts should be cited using their short title with the year at the end. Students often omit the year – you should never do this. The following provides examples of the incorrect usage of legislation.

#### Incorrect usage of legislation

Registered companies are regulated by the Companies Act.

In 1998, the Human Rights Act was passed.

In both cases, the student has neglected to state the year. You state the year, even if you previously refer to when the Act was passed (as in the second example).

If you find yourself referring to a piece of legislation repeatedly, it is permissible to abbreviate it in order to save time and words. The abbreviation should consist of the first letter of each main word followed by the year. The first time you mention the legislation, you should state it in full and then inform the reader of the abbreviation. The following example demonstrates this.

#### Abbreviating legislation

Section 168(1) of the Companies Act 2006 (CA 2006) allows a company to remove a director by passing an ordinary resolution. Note, however, that removing a director under s 168 does not deprive that director of any compensation he would be entitled to as a result of his removal.<sup>1</sup>

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<sup>1</sup> CA 2006, s 168(5).

When discussing legislation in the main body of the text, you can either state the section number first (which is usually preferable), or after the name of the Act. The following examples demonstrate both approaches.

#### Stating section numbers

The offence of fraudulent trading can be found in s 993 of the Companies Act 2006.

The offence of fraudulent trading can be found in the Companies Act 2006, s 993.

When citing legislation, there is no need to cite anything in a footnote if the main text contains all the relevant information. If, however, information is missing (e.g. section numbers) from the main text, these should be mentioned in the footnote. See the following example.

#### Stating section numbers

The offence of fraudulent trading can be found in s 993 of the Companies Act 2006. This should not be confused with the civil wrong of fraudulent trading found in the Insolvency Act 1986.<sup>1</sup>

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<sup>1</sup> Insolvency Act 1986, s 213.

As can be seen in the example above, when citing legislation in a footnote, the legislation title always precedes the section number.

When citing portions of statutes (e.g. sections of an Act), the following abbreviations should be used, unless the word is at the beginning of a sentence when the full word should be used:



- a. 'section' should be abbreviated to 's'
- b. 'sections' (when citing more than one section) should be abbreviated to 'ss'
- c. 'paragraph' should be abbreviated to 'para'<sup>4</sup>
- d. 'Part' should be abbreviated to 'Pt'
- e. 'Parts' should be abbreviated to 'Pts'
- f. 'Schedule' should be abbreviated to 'Sch'
- g. 'regulation' should be abbreviated to 'reg'
- h. 'article' should be abbreviated to 'art' if referring to domestic legislation. When referring to International legislation (e.g. EU treaties, regulations or directives, the European Convention on Human Rights), you should use 'Art.'

### *Subordinate legislation*

Subordinate legislation is cited the same way except that the serial number of the legislation is also included in the footnote when cited for the first time. There are many different types of subordinate legislation, but the most common form is the statutory instrument.

#### *Citing statutory instruments*

Statute provides promoters of companies with a set of model articles that they can register if they do not wish to draft their own articles.<sup>1</sup>

Consumers are provided with a significant amount of protection following the passing of the Consumer Protection from Unfair Trading Regulations 2008.<sup>2</sup>

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<sup>1</sup> Companies (Model Articles) Regulations 2008, SI 2008/3229.

<sup>2</sup> SI 2008/1277.

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<sup>4</sup> This only applies to the citation of legislation. When citing paragraph numbers from other sources (e.g. cases or official reports), the paragraph number is usually denoted by being placed in square brackets.

## CASE LAW

Cases provide one of the principal sources of English law, but the sheer bulk of case law that exists can be daunting. How does a student go about finding a particular case report? To enable students, practitioners and other interested parties to locate a case, all reported cases are given a case citation, and this citation refers to a law report where the case is published (often, cases are published in multiple law reports and so may have several case citations). To make matters more complex, domestic cases, EU cases and cases of the European Court of Human Rights are all cited differently.

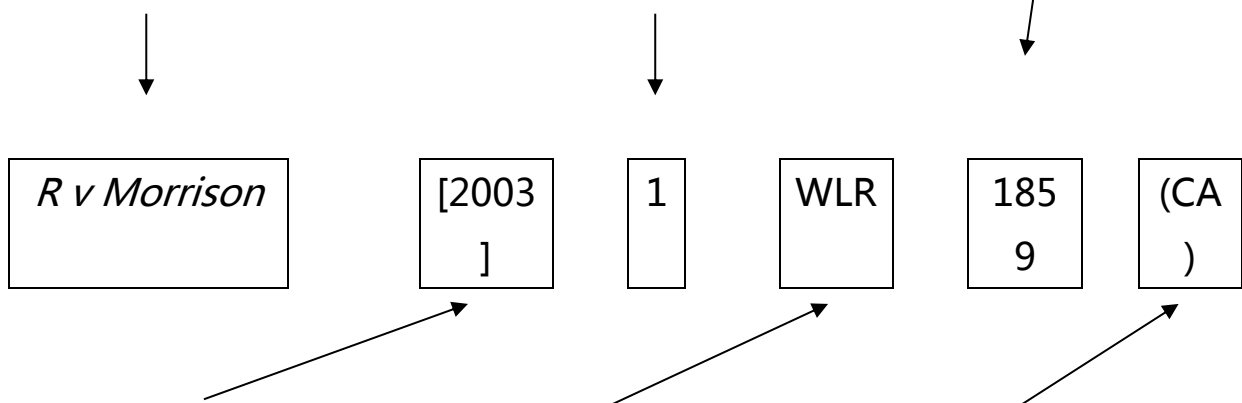
### *Domestic case law*

The following provides an example of a domestic case name and its case citation. It can be seen that the case name and its citation consist of six elements:

The case name: cases in the English legal system are named based upon the names of the parties involved with a 'v' (for

The volume number: if the number of cases reported in a single year is too large for a single volume, then the citation will also contain a volume number. If no volume number

The page number: the first page on which the case is located





The House of Lords has acknowledged that weighted voting rights can be valid.<sup>1</sup>

In the case of *Bushell v Faith*,<sup>2</sup> the House of Lords has acknowledged that weighted voting rights can be valid.

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<sup>1</sup> *Bushell v Faith* [1970] AC 1099 (HL).

<sup>2</sup> [1970] AC 1099 (HL).

Using the above example, if you quoted from *Pepper v Hart* and the quote was from page 1104, the footnote would cite the source as [1970] AC 1099 (HL) 1004. If you name the judge in the text, there is no need to repeat it in the footnote. If you do not name the judge in the text, you should state the judge's name in the footnote in parentheses following the page number of the quote. Note 'per' is no longer used. The following examples demonstrate this:

#### Quoting from a judgment

In *Bushell v Faith*,<sup>1</sup> Lord Morris stated that upholding weighted voting rights would make a 'mockery of the law.'<sup>2</sup>

In *Bushell v Faith*,<sup>3</sup> it was stated that upholding weighted voting rights would make a 'mockery of the law.'<sup>4</sup>

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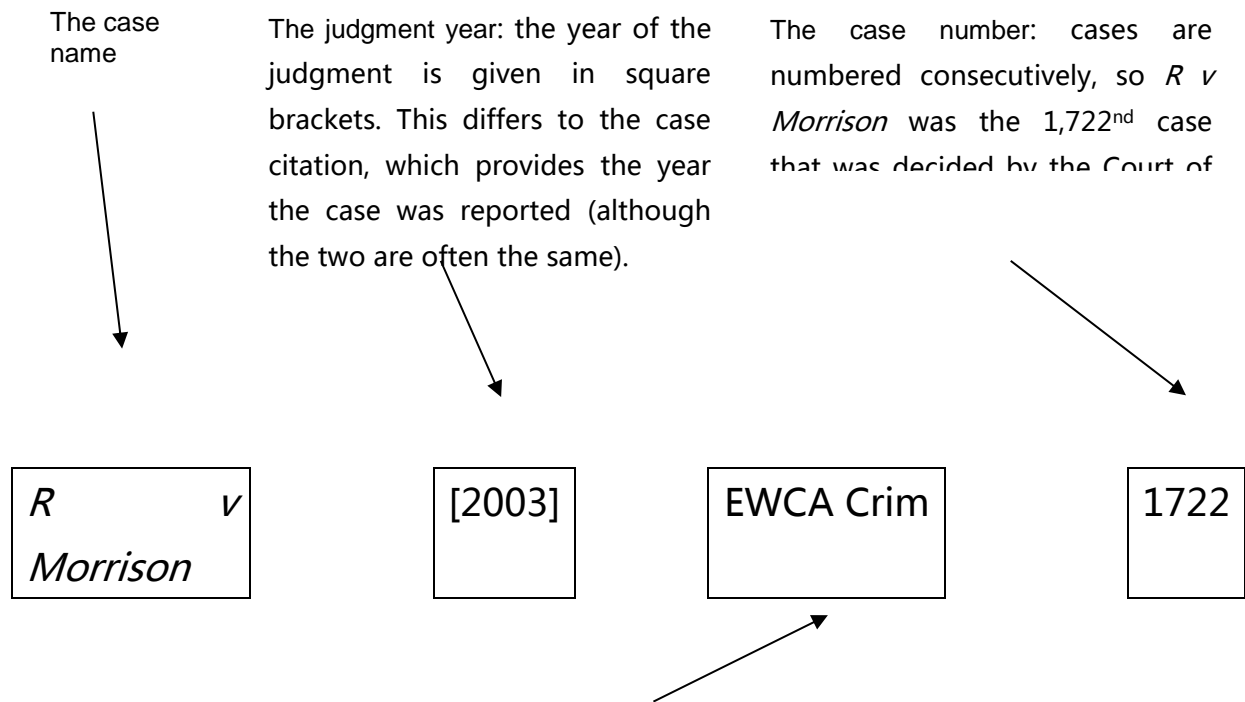
<sup>1</sup> [1970] AC 1099 (HL).

<sup>2</sup> *ibid* 1106.

<sup>3</sup> [1970] AC 1099 (HL).

<sup>4</sup> *ibid* 1106 (Lord Morris).

Since 2001, many cases, in addition to having a case citation, will also have what is called a neutral citation. The case of *R v Morrison* that we discussed above, in addition to having a case citation, also has a neutral citation, which consists of three elements.



The court: the court delivering the judgment is stated in abbreviated form. The abbreviations are as follows:

- UKSC – Supreme Court
- UKHL – Appellate Committee of the House of Lords
- EWCA Crim – Criminal Division of the Court of Appeal
- EWCA Civ – Civil Division of the Court of Appeal
- EWHC case number (Ch) – Chancery Division of the High Court

If a case has both a neutral citation and a case citation, cite the neutral citation first, followed by the case citation. If you are quoting or referencing

from a particular part of a judgment, then quote the paragraph number, not the page number (if a case has no neutral citation, then the page number should be referenced). We indicate that a number is a paragraph number by placing it in square brackets.

#### Quoting from a case with a neutral citation

The Court of Appeal has described ‘the manner in which the judge exercised his discretion as being perfectly appropriate.’<sup>1</sup>

In *R v Morrison*,<sup>2</sup> Lord Woolf CJ stated that he regarded ‘the manner in which the judge exercised his discretion as being perfectly appropriate.’<sup>3</sup>

<sup>1</sup> *R v Morrison* [2003] EWCA Crim 1722, [2003] 1 WLR 1859 [13] (Lord Woolf CJ).

<sup>2</sup> [2003] EWCA Crim 1722, [2003] 1 WLR 1859.

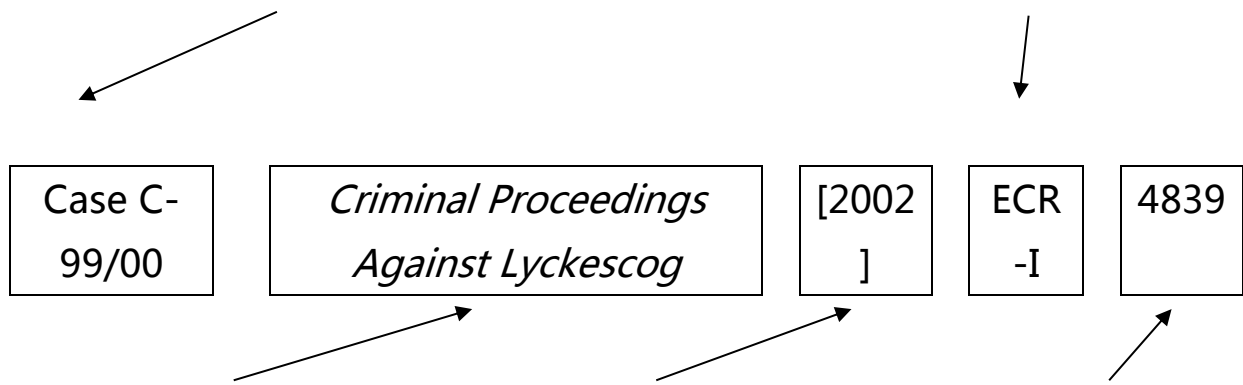
<sup>3</sup> *ibid* [13].

### *Cases of the Court of Justice of the European Union*

Cases of the Court of Justice and General Court (collectively both courts are known as the Court of the European Union) are cited differently to domestic cases. The following indicates the elements of an EU case.

The serial number: the serial number consists of a letter indicating in which court the case was heard. The letter ‘C’ indicates that the case was heard in the Court of Justice, whereas the letter ‘T’ is used for decisions of the General Court. The subsequent numbers provide the case number

The law report: decisions of the European courts are reported in the Reports of Cases Before the Court, usually referred to as the European Court Reports (ECR). Since 1990, the Reports have been split into two parts denoted by a ‘I’ or ‘II’ following the letters ‘ECR.’ Part I covers the Court of Justice and Part II covers the General Court. Although the



The case name

The report year: the figure in square brackets represents the year in which the case was reported. Whereas domestic cases are reported quickly, given that EU cases need to be translated into numerous languages, they are often reported years after they are decided. For example, this case was decided in 2000, but reported in 2002.

The page number

### *Cases of the European Court of Human Rights*

Cases of the European Court of Human Rights (ECtHR) are cited differently from domestic cases and EU cases. Since 1998, the official law report for decisions of the ECtHR is known as the Reports of Judgments and Decisions (abbreviated to ECHR), and cases cited from the Reports of Judgments and decisions should be cited thus:



The case name

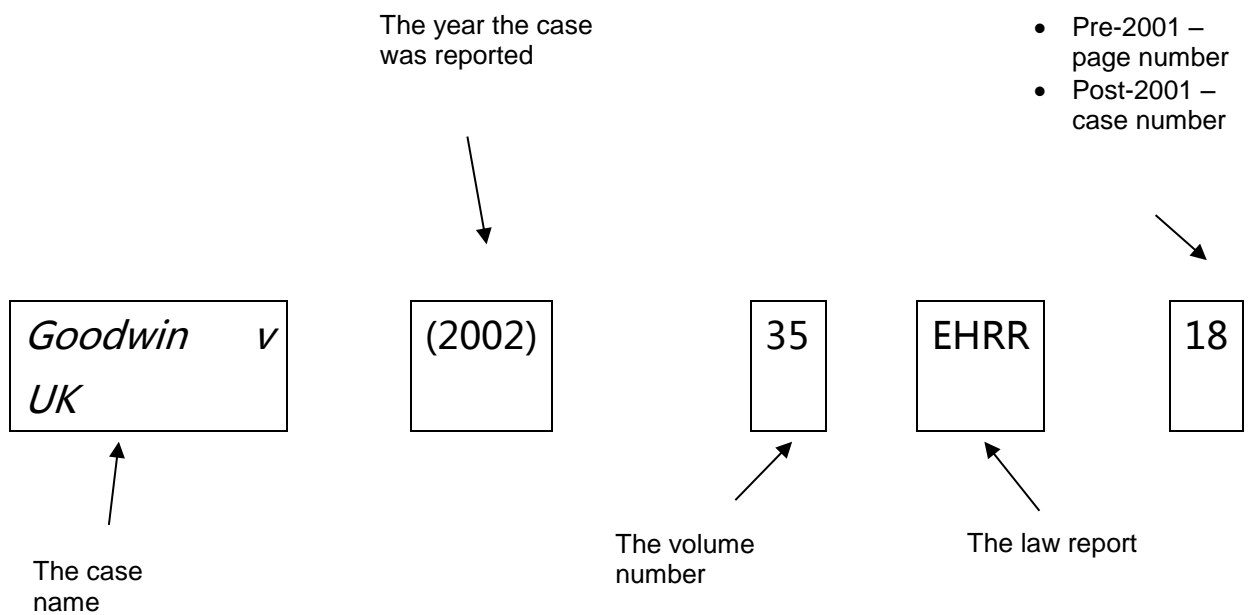
The law report

The report year and volume number

The page number

In addition to the official Reports of Judgments and Decisions, there are also commercially available law reports, the most notable of which being the

European Human Rights Reports (EHRR). Cases cited from the EHRR should be cited thus:



## BOOKS

Books should be cited using the following formula:

Author, *Title of Text* (edition, publisher, year of publication) page number.

So, for example:

Lee Roach, *Company Law Concentrate* (5<sup>th</sup> edn, OUP 2018) 35.

Note that if a text is a first edition, you need not state the edition number.

## PUBLISHED JOURNAL ARTICLES

Published journal articles should be cited using the following formula:



Author, 'Title of Article' (Year) volume of journal, journal abbreviation, first page of article, quoted page (if relevant).

The title of the journal should conform to the accepted abbreviation. So, for example:

Lee Roach, 'An Equitable Solution for Non-Executive Directors?' (2006) 17 ICCLR 117, 119.

## NEWSPAPER ARTICLES

Newspaper articles should be cited using the following formula:

Author, 'Title' *Newspaper* (place of publication, date) page number

So, for example:

Jane Croft, 'Supreme Court Warns on Quality' *Financial Times* (London, 1 July 2010) 3.

## INTERNET SOURCES

If a hard copy of the Internet source is available, it is usually easier to cite the hard copy. Therefore, if you access articles via Westlaw or LexisNexis, you should cite them as if you were citing the hard copy (page numbers are provided, so you have all the information you need.)

Otherwise, Internet sources should be cited using the following formula:

Author, 'Title,' (Type of document – e.g. lecture, conference paper (if relevant), Date of issue (if relevant)) <Web address> Date of access.

So, for example (this example is fictional):

Lee Roach, 'The UK Stewardship Code' (Paper presented at the Annual Conference of the Society of Legal Scholars 2011) <<http://www.sls.ac.uk/LeeRoach.htm>> accessed 10<sup>th</sup> January 2019.