

# Legal Research: An Introduction

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## Part 1: The Australian Guide to Legal Citation (AGLC)

The Faculty of Law at the University of Wollongong uses the referencing style outlined in the *Australian Guide to Legal Citation* (3rd ed, 2010) which will be referred to from now on as the [AGLC3](#).

In Part 1, you are introduced to the principles of citing according to the AGLC. Read through this module together with the AGLC full text publication.

Download the electronic version [AGLC3](#) or borrow a copy from the Library (Call number: KL/155.K1/AUS/1).

### Overview

The AGLC is a footnoting style.

Footnoting is a way of telling the reader in the main part of your assessment task that information sources and quotes have been used. Acknowledging your sources of information with footnotes is an effective way to avoid plagiarism.

### Bibliography

In addition to footnotes, you will need to provide a bibliography at the end of your written assessment tasks.

A bibliography lists all the sources of information used. Another feature of the *AGLC3* is that it requires sources to be grouped in the bibliography by source type under specific centred headings (e.g. books and journal articles as separate from cases and legislation).

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# Essentials: footnotes and bibliography

## General Rules

For guidance on citing domestic, secondary sources and international materials, refer to pages 1-35 *General Rules* in *AGLC3*.

Your **footnotes** should be:

- inserted in your writing immediately after you have referred to an information source (where you have presented somebody else's published idea/work)
- entered after a punctuation mark; for example, a full stop (.) but often a comma (,) or a semi-colon (;)
- presented at the bottom of each page, not at the end of the assessment task.

Make sure that you:

- start each footnote with a capital letter and finish it with a full stop
- type in the author's given name followed by the family name (note difference in the bibliography)
- given the 'pinpoint' reference to the relevant page or paragraph number p3-4  
General Rules [1.1.5]-[1.1.6]

For your **bibliography**, you must:

- include all of the sources used, not just those cited in the footnotes

- organise your source material under the relevant centred headings as follows:

*A Articles/Books/Reports*

*B Cases*

*C Legislation*

*D Treaties*

*E Other*

- organise the authors by family name, comma, first name (see difference in footnote)
- present the list of research alphabetically by authors' family names OR if no authors' names can be found, organise alphabetically by the name of the organisational author OR the first word of the title

## Demonstrations



[How to insert footnotes in Word \[PDF\]](#)



[How to compile a bibliography \[PDF\]](#)

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## Legal citations in footnotes and bibliography

Brogan and Spencer stress the importance of maintaining 'intellectual integrity' when writing for assessment tasks in your legal education.<sup>1</sup> While they acknowledge that academic honesty is important in any university environment,<sup>2</sup> they also insist that it is particularly crucial for law students.<sup>3</sup> After all, 'words are the only things [lawyers] have to work with',<sup>4</sup> and good writing and research are fundamental to the successful study and practice of law. Students are therefore encouraged to become familiar with their university's academic integrity guidelines,<sup>5</sup> as plagiarism could 'create difficulties for anyone seeking admission to the practice of law'.<sup>6</sup> An applicant seeking to practise law is required in most states and territories to be recognised as someone of 'good fame and character'.<sup>7</sup> The best way to avoid plagiarism, is 'to develop and maintain excellent referencing and citation practices'.<sup>8</sup>

single quotation marks

### Footnotes

<sup>1</sup> Michael Brogan and David Spencer, *Surviving Law School* (Oxford University Press, 2<sup>nd</sup> ed, 2008) 77.

<sup>2</sup> *University of Wollongong Act 1989* (NSW) s 6.

<sup>3</sup> Brogan and Spencer, above n 1, 249.

<sup>4</sup> Charles Alan Wright, 'Foreword' in Bryan A. Garner, *The Elements of Legal Style* (Oxford University Press, 2<sup>nd</sup> ed, 2002) xvi.

<sup>5</sup> See, University of Wollongong, Policy Documents at a Glance - Students, *Academic Integrity and Plagiarism* < <http://www.uow.edu.au/about/policy/UOW058648.html>>.

<sup>6</sup> *Law Society of Tasmania v Richardson* [2003] TASSC 9 (18 March 2003) [28]-[29].

<sup>7</sup> Brogan and Spencer, above n 1, 249.

<sup>8</sup> *Ibid.*

full stops at the end of every footnote

note the use of 'ibid' and 'above n' when referring to previously cited research

Note the presentation of an author's first name then last name in the footnote, but the alphabetical organisation by last name of the first author only in the bibliography

## Bibliography

### A Articles/Books/Reports

Brogan, Michael and David Spencer, *Surviving Law School* (Oxford University Press, 2<sup>nd</sup> ed, 2008)

Garner, Bryan A, *The Elements of Legal Style* (Oxford University Press, 2<sup>nd</sup> ed, 2002)

### B Cases

*Law Society of Tasmania v Richardson* [2003] TASSC 9

according to AGLC3 (unlike other referencing styles you might have come across), place of publication details are not included in citations.

### C Legislation

*University of Wollongong Act 1989* (NSW)

no full stops necessary at the end of bibliographic citations

### E Other

University of Wollongong, Course Rules and Policies, *Acknowledgement Practice/Plagiarism* <<http://www.uow.edu.au/handbook/courserules/plagiarism.html>>

<sup>1</sup> Michael Brogan and David Spencer, *Surviving Law School* (Oxford University Press, 2<sup>nd</sup> ed, 2008) 77.

<sup>2</sup> *University of Wollongong Act 1989* (NSW) s 6.

<sup>3</sup> Brogan and Spencer, above n 1, 249.

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## Subsequent references

You are encouraged to use 'ibid' and 'above' in your footnoting as a way to avoid repeating the full footnote citation to the same reference.

### Using ...

#### Ibid

This is an abbreviation of 'ibidem' which means 'in the same place', and directs the reader to back to the immediately preceding footnote. If it is exactly the same reference, including an identical page or pinpoint reference, then a simple 'ibid' is all that is necessary in the next footnote.

If it is the same reference but with a different page number, write 'ibid' followed by the new pinpoint reference. For example:

<sup>12</sup> Michael Brogan and David Spencer, *Surviving Law School* (Oxford University Press, 2<sup>nd</sup> ed, 2008) 240.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid 243.

#### above n

Use this when you have already listed a full reference earlier in your footnotes, but where other footnotes have been references since, so you cannot use 'ibid'. You can use 'above n' (where n refers to a previous footnote number) and a different page number:

<sup>16</sup> Bryan Garner, *The Elements of Legal Style* (Oxford University Press, 2<sup>nd</sup> ed, 2002) 40.

<sup>17</sup> Michael Brogan and David Spencer, *Surviving Law School* (Oxford University Press, 2<sup>nd</sup> ed, 2008) 240.

<sup>18</sup> Garner, above n 16, 42.

Note the exceptions: you cannot use 'above' for legislation, cases or treaties.

For more information and examples about the presentation of subsequent or preceding references in your footnotes, refer to **AGLC3** 7-12 [1.4]

## Second-hand citations

In your research, you will occasionally come across a useful reference or quote from another source that you have not read or do not have access to, but would like to use. In this situation, it is important that you make it clear that you have found the information from another source. In other words, you must make sure that you acknowledge both the original source and the place that you found it. You can simply use 'in' to indicate that you have found it somewhere else. For instance, if you have found a good quote by Charles Wright, whose book you do not have, on page 2 of Garner's *The Elements of Legal Style*, and your sentence is:

Wright pointed out that for both lawyers and academics, 'words are the only things we have to work with'.<sup>19</sup>

Your footnote would be:

19. Charles Alan Wright, 'Foreword' in Bryan A. Garner's *The Elements of Legal Style* (Oxford University Press, 2<sup>nd</sup> ed, 2002) 2.

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## Part 2: Academic writing

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Referencing is important as good citations will allow your lecturers to see the path you have followed in researching and discussing an area of the law. If you have researched well, your reader will be able to see evidence of that research in your footnotes and bibliography.

Incorporating references in your writing is most effective when it not only showcases your good research skills, but also supports your line of argument by reinforcing or supporting any points that you are making.

Remember that in most cases your assignments will require you to develop an argument or opinion about the topic under discussion, and not simply collect other peoples' ideas. In other words, don't rely on your research skills to patch together the ideas, quotes or opinions of others. You must make sure that you critically evaluate your source material and integrate it smoothly into your overall argument.

If you fail to show evidence of your research in your assignments, you will potentially lose marks. You might also be suspected of plagiarising the words and ideas of others, which is considered very seriously by the university. To avoid inadvertently plagiarising, it is important to acknowledge *all* of your research sources.

As you become more experienced in your legal studies, you will develop more advanced techniques for good acknowledgment practice inside your writing. In the links that follow this module, you will find some tips to get you started. You might also like to refer to Learning Development's interactive online guidance on good critical reading, note-taking and referencing techniques at the [Unilearning website](#).

Quotations ►

## Using reporting verbs to evaluate quotations

'strong' author orientation, with author names in the body

a variety of reporting verbs in this paragraph including: 'stress', 'acknowledge' and 'insist'. Each has been carefully selected to help develop a critical evaluation of Brogan and Spencer's position

Brogan and Spencer stress the importance of maintaining 'intellectual integrity' when writing for assessment tasks in your legal education.<sup>1</sup> While they acknowledge that academic honesty is important in any university environment,<sup>2</sup> they also insist that it is particularly crucial for law students.<sup>3</sup> After all, 'words are the only things [lawyers] have to work with',<sup>4</sup> and good writing and research are fundamental to the successful study and practice of law. Students are therefore encouraged to become familiar with their university's academic integrity guidelines,<sup>5</sup> as plagiarism could 'create difficulties for anyone seeking admission to the practice of law'.<sup>6</sup> An applicant seeking to practise law is required in most states and territories to be recognised as someone of 'good fame and character'.<sup>7</sup> The best way to avoid plagiarism, is 'to develop and maintain excellent referencing and citation practices'.<sup>8</sup>

'weak' author orientation, that focuses on ideas rather than author

### Footnotes

<sup>1</sup> Michael Brogan and David Spencer, *Surviving Law School* (Oxford University Press, 2<sup>nd</sup> ed, 2008) 77.

<sup>2</sup> *University of Wollongong Act 1989* (NSW) s 6.

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Garner, Bryan A, *The Elements of Legal Style* (Oxford University Press, 2<sup>nd</sup> ed, 2002)

#### B Cases

*Law Society of Tasmania v Richardson* [2003] TASSC 9

#### C Legislation

*University of Wollongong Act 1989* (NSW)

#### E Other

University of Wollongong, Course Rules and Policies, *Acknowledgement Practice/Plagiarism* <<http://www.uow.edu.au/handbook/courserules/plagiarism.html>>

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### Use of quotation marks

The *AGLC3* recommends the use of single quotation marks for all quotes incorporated in the body of your text that are shorter than 3 lines. For instance:

There is no such thing as a single 'legal style'.

Double quotation marks are then used for a quotation within a quotation.

Isaacs J pointed out that 'the oath of a Justice of the High Court is "to do right to all manner of people" according to the law'.

Longer quotations, that are more than 3 lines, should appear set apart from the rest of the paragraph by indenting it as a block quote with single spacing and without quotation marks. Single quotation marks should then be used for a citation within an indented block quote.

### Position of quotation marks

If a punctuation mark is part of the quotation, it should be kept within the quotation marks. For instance:

Brindle-Jones asks 'What is meant by ethical research practice?'

However, if your sentence includes a quotation, the full stop should be placed outside the last quotation mark. For instance:

Students soon realise that studying law, 'like any new discipline, requires an understanding of history, basic concepts, and jargon'.

## Editing or adapting quotations

As a general rule, you should not change any of the words of your selected quote. This means that you must preserve the original spelling and capitalisation. However, sometimes you might need to alter some part of the quotation by either adding or taking something away. For instance, if a name is omitted in the original but you need to include it to make sense of the quote, or if there are some superfluous words you would prefer to cut out. These most common adaptations of original quotations involve the use of interpolations (where words are changed or added) and ellipses (where words are taken out).

Square brackets are used when you need to interpolate or add to a quotation with an editorial addition or word substitution. For example:

White [the plaintiff] had no cause of action.

You will also see the use of square brackets at the beginning of a quote if the letter that was capitalised in the original has been changed to lower case. For instance:

Ralston directs students to '[m]ake no mistake, the study of law is a demanding task'.

Ellipses, or three dots, are used when you want to take something away from a quotation. Don't use ellipses at the beginning or end of a quotation, only in the middle. For example:

In conclusion, the defendant claimed that 'the report of the incident... is inconclusive'.

Do not italicise an entire quotation. However, you might choose to use italics for words or phrases within your own text to make an impact, but if you italicise words in a quote you must add a comment '(emphasis added)'. Note that you must italicise all case names and statutes, even if they are not in the original source of the quotation. It is also acceptable to italicise non-English words or phrases.

For more information and examples about quotations, refer to *AGLC3* 12-18 [1.5]

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# Using quotations strategically

You are expected to refer to other sources and authorities throughout your assignments in the Faculty of Law in order to give authority to your line of argument. There are a number of ways you can use quotations that will strategically showcase your research skills while adding an interesting variety to your writing style.

## Direct quotations

A direct quotation is one in which you copy an author's words directly from the text and use that exact wording in your essay. Try not to use too many quotes: only use them when they are focused precisely on the point you want to make and are both brief and telling, or where the substance/wording of the quote is what you wish to address.

When using direct quotes, remember to:

- use single quote marks around any words that are not your own
- lead into the quote in your own words (don't let quotes stand alone)
- make sure that the grammar of the quote matches the grammar of your sentence
- use ellipses ... or square brackets [ ] to indicate any words that you have omitted or changed to suit your sentence
- for quotations longer than 3 lines, indent the quote as a single-space block and don't use quotation marks

## Indirect quotations

An indirect quote is where you present an author's ideas in your own words. You still need to include a citation to the original source - even though you have rewritten the sentence, it is still someone else's idea.

You can use indirect quotes by paraphrasing or summarising. [Unilearning](#) encourages you to use indirect quotations more than direct quotations in your assignments, as this will indicate to your reader not only that you have clearly understood the information, but that you are capable of smoothly integrating it into your argument.

Good writers will use a blend of summaries, paraphrases and direct quotations into their texts.

[Evaluating your source material](#) ►

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## Evaluating your source material

Remember that a good assignment is more than just a series of quotations patched together, no matter how impressive or relevant your selection of source material. You need to do something with the quotations in order to indicate your critical evaluation of the topic under discussion and the research material you have incorporated. Some of the strategies you can use include:

- a variety of weak or strong author orientation
- a thoughtful use of reporting verbs

See [Example C](#) for a model of the use of reporting verbs to evaluate quotations.

### Weak author orientation

You may choose not to include the source's name in your sentence, perhaps because it is an idea you consider relatively general, or because you want to move to a more important point. You still need to support this idea with a citation in your footnote, but the author's name is not referred to in the body of your text.

### Strong author orientation

This is generally used when we want to emphasise who said something. Generally, you use this technique when the point made is very characteristic of the author, or when you want to strongly acknowledge the particular source of an idea or judgement. For instance:

Brogan and Spencer *stress* the importance of maintaining 'intellectual integrity' when writing for

assessment tasks in your legal education.

In *Jefferys v Boosey*, Erle J *described* the subject of literary property as 'the order of words in the author's composition'.

## Introducing quotes

There are a number of reporting verbs that are commonly used in academic writing to introduce quotations. For example:

adds, affirms, agrees, argues, assumes, challenges, claims, clarifies, confirms, considers, contends, describes, disagrees, discusses, explains, highlights, observes, points out, proves, refutes, says, shows, states, stresses, suggests, supports, underlines, questions

Your choice of reporting verb can indicate your evaluation of the literature or research you are using. Consider carefully every time that you lead into a quote or discuss the idea of another writer, as your choice of verb can not only enrich your own writing, but add a crucial element of good academic writing - critical evaluation of your research.

Some reporting words imply a fairly neutral evaluation:

Brogan and Spencer *report* that university law schools are quite similar when it comes to the type of law graduates they produce.

Brogan and Spencer *point out* that university law schools are quite similar when it comes to the type of law graduates they produce.

Others imply some sort of evaluation of the literature in relation to other opinions. For example, the word 'claim' or 'suggest' sets up an expectation that you, or other sources, might support or reject that opinion:

Brogan and Spencer *claim* that university law schools are quite similar when it comes to the type of law graduates they produce.

## Verb tense

Referring or reporting verbs can be used in either the present or the past tense. It is probably best to use the present tense for recent sources or when you feel that the idea is still valid, for instance:

Ralston demonstrates the expanded research potential offered by online law databases.

The past tense suggests that the source is older, or that the ideas are perhaps out of date:

The 1999 Act dealt with four types of offences.

Walker considered the Dewey decimal system a great leap forward for library archives.

Of course, when you quote from or discuss cases, you should refer to them in the past tense. For example:

The judge decided...

The defendant argued that...

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Students sometimes are uncertain about the difference between poor referencing techniques and plagiarism. Because academic integrity is such a serious issue at university, and particularly in your legal education, it is important that you familiarise yourself with the University of Wollongong's policy, [Academic Integrity and Plagiarism](#) (opens in a new window).

There are many different practices that are considered plagiarism, which can range from: outright cheating by copying from another student; copying from other members while working in a group; or even handing in the same piece of your own work for more than one assignment task. However, the three most common ways that a text is plagiarised include:

- directly copying without quotation marks or a citation
- paraphrasing without acknowledging the author
- paraphrasing parts with a correct citation, but directly quoting small word-for-word sections without quotation marks

It is clear from this list that good researching and referencing techniques are very important to successful academic writing. Strategies that will ensure that you are not inadvertently or accidentally plagiarising include:

- being sure to take full bibliographic details when you are making notes while preparing for an assignment
- carefully integrating research, so that the quotes support your argument and you are not simply patching together other peoples' ideas
- good paraphrasing and summarising skills that showcase your understanding and careful selection of relevant research

- excellent referencing in footnotes and bibliographies, indicating your control of the research material

For more information and examples about good referencing strategies in academic writing, refer to [UniLearning](#).

This completes the Citing While Writing module.

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