

# Introduction



The cover of the first edition of *Legal Skills* featured armbands on a beach; the second edition continued the swimming theme with a rubber ring on the ocean, and the third edition had a rescue buoy on a ship's rail. This fourth edition has a lifebelt being thrown to someone in distress. Why do we have this strange obsession with floatation devices? Simply because the aim of *Legal Skills* is to provide you with the same sort of life-saving resource that will keep you afloat during your legal studies. The reason that we enjoy the images dates back to a question that was asked of one of us several years ago: 'Why do you make such a fuss about skills? These students are at university. They ought to know how to study by now.' Our answer is that, yes, perhaps students *ought* to know how to write, reference, structure an argument, and do all the other things that are necessary to study the law effectively but if they don't know then it seems a bit unkind not to help them to develop the necessary skills. The swimming parallel that we make is that people *ought* to be able to swim but if they can't then it isn't really fair to push them overboard in the middle of the ocean. Why not? Because they are going to drown! As law lecturers, we are both unwilling to stand by and watch students drown in front of us simply because they have never been taught the skills that were once considered part of basic education and which are so necessary to engage in the study of the law.

The idea behind *Legal Skills* is that there should be a book that law students can consult to find out how to do the things that they need to be able to do in order to study the law, to perform effectively in assessment and to prepare them for the professional stages of legal education and a career in the legal profession. The skills that we cover in the book are important because it is not enough for students just to know the content of the law: to succeed, students must be able to find the law, explain it using appropriate language, criticize it and, most importantly, *think* about it. You should be able to find out what the law once was and speculate about how it might develop in the future. If all that was required was knowledge of the law, you would probably be assessed exclusively by multiple choice questions or encouraged to write bullet point lists in answer to essay questions. The methods of assessment used in law—predominantly essays and problem questions—are selected because they can only be completed successfully if the student both knows the law and can *use* it to serve their purpose: precisely what you will be required to do if you wish to go into practice.

The first part of *Legal Skills* covers sources of law. This section of the book will enable you to understand where the law comes from, how to find it (in print and online), how to understand it, and how to use it. This focus means that there is some overlap in terms of content with textbooks on the English Legal System. This overlap occurs because understanding matters such as hierarchy of the courts, the operation of precedent, and the way that judges interpret the

law are essential both to learning about legal systems (hence their coverage in an English Legal System textbook) and also to studying the law (which is why we cover them in *Legal Skills*). Our coverage of these issues is slanted towards a practical purpose: you need to know where the law comes from and how it is applied and interpreted in order to incorporate it into your coursework and exam answers. We have included more detail on the operation of precedent and statutory interpretation in this new edition. It is also the case that you will be expected to know these things by the time you enter into legal practice. As such, although there is this clear crossover with the academic study of how the legal system works, the ability to find and understand the law is an essential practical legal skill.

In the second part of the book, the focus shifts to academic legal skills. As you will see, the bulk of the chapters relate to improving your performance in assessment. This section of the book starts, however, with a consideration of study skills so the aim here is to help you to strengthen the way that you go about the everyday business of learning the law. Even if you are confident that you have already developed an effective approach to studying, it will be worth looking through this chapter as you may find some tips that will help you to study in an even more effective manner. This chapter also contains a section on personal development planning. The chapter on writing skills is there since the ability to use language effectively is an essential skill for a lawyer. It is therefore of the utmost importance that you take time to learn how to construct a grammatical sentence now: not only will failure to use language correctly impact adversely on the marks that you receive in assessment, it is highly unlikely that prospective employers will bother to pursue an application that contains fundamental errors in the use of written language. There is a comprehensive chapter on referencing and avoiding plagiarism which reflects the concern that surrounds these issues: fear of being accused of plagiarism as a consequence of poor referencing is something that preoccupies many students. We have introduced a new chapter on legal reasoning in this section in response to both student and lecturer feedback. This is designed to help you engage with the law in more critical depth and to lead you to understand that judicial decision making is not just about the unthinking blind application of a set of rules. The chapter on essay writing has been rewritten for this edition and contains much more advice on structuring an essay and putting together effective introductions and conclusions: these are areas which students have told us they find particularly troubling. The chapter on problem solving aims to provide a step-by-step guide to this important activity. The chapter on dissertations acknowledges that the dissertation is more than a long essay: it is a challenging combination of research and writing skills that deserves separate focus over and above essay writing. The final chapter in the academic skills session of the book focuses on revision and exams. Our experience in working with students towards exams suggests that a great many students approach revision without a clear idea of what they are trying to achieve other than simply to 'pass the exam'. We have sought to make a range of practical suggestions that will introduce variety into the revision process whilst ensuring that you will emerge at the end with a store of knowledge and a clear insight into how you might use this knowledge once you get into the exam room.

The final section of the book deals with the use of the law in three practical situations: presentations, mooting, and negotiation. The predominant means of assessment used at university is in written form but these activities are focused on your ability to present an oral argument. Presentation skills are important for everyone. It does not matter whether or not you intend to practise the sort of law that will involve appearances in court or, indeed, whether you intend to practise law at all: in most professions, the ability to deliver a clear and coherent presentation or simply to speak with confidence in front of others is highly valued. Mooting is also an important activity. Not only will it enhance your ability to research and analyze the law as well as developing your skills of oral presentation, it is also something that prospective

employers are keen to see and there is a strong expectation that students will find opportunities to moot during their undergraduate studies. Despite the importance with which mooting is viewed, not all institutions teach students how to moot so we have aimed to create a guide that will take you through each of the stages involved in preparing for a moot and delivering your submissions. Negotiation is a core legal skill due to the ever-increasing importance of alternative dispute resolution. Although we argue that we are all instinctive negotiators, there is still much that we can do to develop this natural skill so the advice in the final chapter of the book is aimed at helping you to become more proficient in seeking creative ways to reach a solution that keeps both parties to the dispute happy and out of the courtroom.

Throughout the book, we place a great deal of emphasis on practical activities. This is because we believe that people learn by doing things rather than by reading about doing things. After all, you wouldn't expect to be able to drive a car (safely) just because you had read a book that told you how to do it: you would expect to have to practise to build up the skills that you need. The same is true with your legal studies. The skills needed to find the law, extrapolate the key points, and craft them into a well-structured and focused essay or answer to a problem question are practical skills. The process of committing the law to memory, extracting it on demand, and using it to formulate a comprehensive and analytical essay under tight time constraints is practical. Most of the skills covered in this book are practical and require you to do something. For this reason, there are a range of practical activities for you to try out on the Online Resource Centre.

As a closing point, we want to emphasize that our aim in writing *Legal Skills* was to produce the sort of book that we would have wanted when we were undergraduate law students. Our aim is to create a book that answers every question that a law student could possibly want to ask about the business of studying the law and so we have tried to ensure that we have addressed as many of the points that students have asked us to explain to them over the years as we can—and to each of them, we are very grateful.

Of course, it is inevitable that we will have missed something, so if you have a question that is not answered by *Legal Skills*, think that there is something that could benefit from a bit more explanation, or something that you would really like to see (or not see) in a future edition, then get in touch and tell us. You can contact us—or just see what we're up to—through our website ([www.finchandfafinski.com](http://www.finchandfafinski.com)), or Twitter (@FinchFafinski).

Emily Finch  
Stefan Fafinski