Sources of UK Law

Introduction

- Primary Sources
  - Refers to the law itself – the original and authoritative statements of law
  - It comes in the following forms:
    - Case law made by the courts
    - Legislation enacted by Parliament
    - European law

- Secondary Sources
  - Refers to commentaries on the law:
    - Legal Encyclopaedias
    - Parliamentary and Non Parliamentary Documents
    - Law Journals
    - Textbooks

Case Law

The decisions of the courts are reported in publications known as “Law reports” – they are fundamental, primary sources of UK law.

The successful development of the law depends upon the production of reliable law reports which carry the facts, issues and decision as well as the legal principles upon which the judgment is made.

A unique feature of English law is the doctrine of judicial precedents – where the reported decisions of the courts form a binding source of law for future decisions. A judge is bound by the decisions of superior courts but not necessarily by those of inferior courts.

What are Law Reports?

A law report:

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

History of Law Reports

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

- Before 1865

  Collections of law reports were published privately by individuals. They were referred to by the name of the individual reporter or compiler. The majority of older cases can be found in the English Reports series.

- After 1865

  In 1865 the Bar Council set up the Incorporated Council of Law Reporting and published the official Law Reports series - a single series of reports covering all major courts. There then followed many other different law report series each one published by competing publishers
Law Report Series

There are many different series:

- **The Law Reports**
  These are the most authoritative series because the judgments are read through before publication and corrected by the judges who delivered them to ensure accuracy.
  
  The term “Law Reports” refers to a number of different individual series:
  
  o Appeal Cases (AC)
  o Queen’s Bench (QB)
  o Family (Fam)
  o Chancery Division (Ch)

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

- **All England Law Reports**
  These are the most widely cited report series for recent cases. However, they are not corrected by judges and do not contain counsel’s arguments.

- **Specialist Series**
  Covers a particular subject in law, eg Criminal Appeal Reports, Commercial Law Cases, Environmental Law Reports, Family Law Reports etc.

- **English Reports**
  The English Reports series covers the majority of cases before 1865

Where to find Law Reports

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

- **Online via SOAS databases**
  Databases have access to different law report series. Use the A-Z Electronic Databases (http://www.soas.ac.uk/library/resources/a-z/) to access those listed below.
  
  The main databases containing UK cases are:
  
  o Westlaw UK
  o LexisLibrary
  o Casettrack

- **Freely available online**
  There are various websites that provide access to selected case law for free:
  
  o British and Irish Legal Information Institute (http://www.bailii.org/)
  o Supreme Court Decided Cases (http://www.supremecourt.gov.uk/decided-cases/index.html)
  o Proceedings of the Old Bailey (http://www.oldbaileyonline.org/)

See the separate guide to Understanding Case Law: UK for more detailed information.
Legislation

The UK does not have a single, written constitution - it has often been described as 'partly written and wholly uncodified'. Large parts of it are written down, much of it in the laws passed in Parliament. These laws come in the form of legislation which is applied to the whole of the UK (unless otherwise stated).

Parliament is the supreme legal authority in the UK and only Parliament has the authority to enact any law it wishes. Such legislation is superior to all other sources of law and may not be challenged in courts.

Draft legislation (Bills)

Proposals for new law or changes in existing law come in the form of Bills. There are hundreds of Bills put forward to Parliament each year and only a few of them become actual law.

Types of Legislation

Legislation splits into Primary Legislation and Delegated Legislation where:

- **Primary Legislation**
  
  Includes Acts of Parliament or Statutes (the terms are interchangeable) and enacted by Parliament. Statutes lay out Parliaments general intention in a particular field.

- **Delegated Legislation**
  
  Includes Statutory Instruments and are made by people acting under the authority of Parliament under powers conferred by Acts to fill in the detail - setting out exactly how the Acts will work.

Where to find Legislation

Legislation can be amended - including addition, deletion or alteration of text. You need to decide whether you need the text of the Act in the original form it was passed? Or do you need the revised version of the Act incorporating any changes that have been made by subsequent legislation?

- **In Print**
  
  There are two mains series – SOAS Library does not hold either. Search InforM25 (http://www.inform25.ac.uk/Link) for other library catalogues to find it in a Library nearby

  The series are:

  o **Public General Acts & Measures**
    
    This series is the "official" print version of Acts published as soon as the Act is passed. They are arranged chronologically from 1911 onwards

  o **Halsbury’s Statutes**
    
    This reprints all Acts in force in England and Wales including amendments. It contains extensive commentary giving judicial interpretation, leading case law, notes as to meaning and effect and notes of statutory instruments. It is grouped in subject volumes bringing all Acts covering the same area together.

- **Online via SOAS databases**

  Use the A-Z Electronic Databases (http://www.soas.ac.uk/library/resources/a-z/) to access those listed below

  The main databases containing UK legislation are **Westlaw UK** and **LexisLibrary**
Freely available online
There are various websites that provide access to selected legislation for free:
  - British and Irish Legal Information Institute (BAILII) ([http://www.bailii.org/](http://www.bailii.org/))

See the separate guide to *Understanding Legislation: UK* for more detailed information

Legal Encyclopaedias

Encyclopaedias are an excellent starting point for researching law as it gives key points, cases and legislation:

- **Halsbury’s Laws of England and Wales**
  This provides the only comprehensive narrative statement of the law of England and Wales. It contains law derived from every source and is written by or in consultation with leading lawyers. It is arranged alphabetically by subject.

Parliamentary and Non-Parliamentary publications

It is important to understand the background to why a piece of legislation came about or to understand discussions around a particular area of law. You can find this information in various publications:

- **Command Papers**
  There are two types of Command Papers:
    - **Green Papers**
      These are consultation papers which set out government proposals that are still taking shape. Comments are invited from persons or bodies within a certain consultation period.
    - **White Papers**
      These follow a Green Paper and sets out the governments’ firm policy in light of the consultation

  Command Papers are available from the TSO Official Documents ([http://www.official-documents.gov.uk/menu/browseDocuments.htm](http://www.official-documents.gov.uk/menu/browseDocuments.htm))

- **Debates of Parliament**
  The proceedings and debates which take place in the House of Commons and House of Lords are published in *Hansard* – an official collection.
  Hansard is available from Parliament UK ([http://www.parliament.uk/business/publications/](http://www.parliament.uk/business/publications/))

- **House of Commons and House of Lords Papers**
  These papers include reports, minutes and statistics of committees.
  They are available from Parliament UK ([http://www.parliament.uk/business/publications/](http://www.parliament.uk/business/publications/))

- **Non-Parliamentary Publications**
  These include reports and consultation papers from government departments and agencies such as The Department of Health, Ministry of Defence, and Ministry of Justice etc.
  Most papers are available on the website of each department or agency ([http://www.direct.gov.uk/](http://www.direct.gov.uk/))

Law Commission

The Law Commission is an independent body set up in 1965 to keep the law of England and Wales under review and recommend reform where needed. They carry out consultations with the wider public and interested parties and experts depending on the area of law. The Commission will then compile a report of their findings and submit it to the Lord Chancellor.
One of their main aims is to ensure that the law is fair, modern, simple and as cost-effective as possible. They also wish to eliminate anomalies within the law, to repeal obsolete and unnecessary enactments and reduce the number of separate statutes.

The Law Commission reports are available at:

- Law Commission website (http://www.lawcom.gov.uk/)
- BAILII (http://www.bailii.org/ew/other/EWLC/)

### Law Journals

The range of journals is extensive. Some are general while some cover a specific area of law. Some have weighty academic arguments some are newsletters aimed at providing practitioners an update on the law. Most journals contain a mix of articles and case commentary which can help understand the legal issues in detail.

#### Where to find Journals

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

- **Online via SOAS databases**
  
  Use the A-Z Electronic Journals Database (http://www.soas.ac.uk/library/resources/a-z/) to access those listed below.

  The main databases containing Legal Journals are:
  
  - Westlaw UK
  - LexisLibrary
  - HeinOnline

### Textbooks

Textbooks are one of the best starting places for researching a legal topic. They include textbooks written by academics for students e.g. Smith & Hogan’s *Criminal Law*; practitioners’ books that resemble reference books e.g. *Chitty on Contracts*; and Casebooks giving summaries of cases on particular subjects e.g. *Cases and Materials on Criminal Law* by Dine.

#### Where to find Textbooks

- **In Print**
  
  - SOAS library catalogue (http://lib.soas.ac.uk) for material available within SOAS
  - InforM25 (http://www.inform25.ac.uk/Link/) for material available in London
  - COPAC (http://copac.ac.uk/) for material available in research libraries within the UK
  - Worldcat (http://soas.worldcat.org/) for material available worldwide

- **Online via SOAS databases**
  
  There are a number of suppliers providing access to textbooks. Most ebooks can be found via the Library Catalogue, however, the main databases are:
  
  - Cambridge Books Online (250+ titles available)
  - Dawsonera (400+ titles available)
  - Ebrary (access to over 60,000 titles)
  - Brill (International Law and Human Rights & Humanitarian Law 2011 only)
  - UPSO – Oxford (Law Package only)

See Electronic Books (http://www.soas.ac.uk/library/resources/ebooks/) for more information.