

**LA TROBE LAW**



**Short Guide to**

**Avoiding**

**Plagiarism**

**and**

**Inadequate Referencing**

La Trobe Law Short Guide No. 5

## ***Contents***

- 1. Introduction**
  - 2. What are Plagiarism and Inadequate Referencing?**
  - 3. When is Proper Acknowledgment of Sources Required?**
  - 4. What are the Penalties for Plagiarism and Inadequate Referencing?**
  - 5. Direct Copying or Quoting**
  - 6. Paraphrasing**
  - 7. Using Facts and Information from Another**
  - 8. Using Ideas Directly from Another**
  - 9. Collaboration and Using Another's Work**
  - 10. Acknowledging Your Actual Source**
  - 11. Advice on Note Taking**
  - 12. Detecting Plagiarism**
  - 13. Further References**
- Appendix: Summary of How to Avoid Plagiarism and Inadequate Referencing**

## 1. Introduction

This *Short Guide to Avoiding Plagiarism and Inadequate Referencing* has been written for La Trobe University law students. It lays down some general rules and gives you some practical advice on how to avoid plagiarism and inadequate referencing. This is not just to help you to avoid the penalties applicable to plagiarism and inadequate referencing, but also to help you gain a better understanding of the methods and purposes of good academic writing. A concise summary of the main points to remember is provided in the Appendix.

Students should find it useful to read this Short Guide in conjunction with the La Trobe Law *Short Guide to Citing the Law* and the La Trobe Law *Short Guide to Finding the Law*.

## 2. What are Plagiarism and Inadequate Referencing?

### ***Plagiarism***

Section 1 of La Trobe University's *Statute 16: Student Discipline and Misconduct* defines 'academic misconduct' as

cheating, plagiarism or any other conduct engaged in by a student with a view to gain for himself, herself or another an unjustified advantage in assessment whether such advantage occurs or not, and includes any conduct which constitutes a breach of a relevant Statute or Regulation, the Academic Misconduct Policy, or any other relevant University policy.<sup>1</sup>

La Trobe University's *Academic Misconduct Policy* defines 'plagiarism' as 'the reproducing of someone else's words, ideas or findings and presenting them as one's own without proper acknowledgment.'<sup>2</sup>

The Policy goes on to note various types of plagiarism, including:

- (a) direct copying of sentences, paragraphs or other extracts from someone else's published work (including on the Internet and in software) without acknowledging the source;
- (b) paraphrasing someone else's words without acknowledging the source;
- (c) using facts and information derived from a source without acknowledging it;
- (d) using ideas directly derived from an identifiable author without acknowledging the source;
- (e) producing assignments which should be the student's own, independent work in collaboration with and/or using the work of other people (e.g. a student or tutor).<sup>3</sup>

---

<sup>1</sup> La Trobe University *Statute 16: Student Discipline and Misconduct* s 1. <<http://www.latrobe.edu.au/legalservices/statutes.html>> at 16 January 2007.

<sup>2</sup> La Trobe University, *Academic Misconduct Policy*, 2 <<http://www.latrobe.edu.au/policies>> at 16 January 2007.

<sup>3</sup> Ibid.

Further, the Policy makes it clear that it is also a form of academic misconduct to *assist* another person to engage in plagiarism by doing such things as lending work to another for it to be copied.<sup>4</sup>

Clearly, there can be different degrees of egregiousness when it comes to plagiarism. Directly copying only one sentence without acknowledgment is, of course, at the lesser end of the spectrum compared with downloading an entire article from the Internet, removing the author's name and presenting it as your own work. But be aware that all degrees of plagiarism are serious, and will be treated as such.

### ***Unintentional inadequate referencing***

While Statute 16 implies that plagiarism is done deliberately or intentionally in order to gain an unjustified advantage, it is still unsatisfactory for a student *unintentionally* to do any of the things listed in paragraphs (a) to (e) above. See Appendix B of the *Academic Misconduct Policy*, which includes penalties for '[i]nsufficient or inaccurate acknowledgment of sources'.<sup>5</sup>

Such unintentional inadequate referencing is usually due either to carelessness or ignorance of the requirements concerning referencing. Neither is an excuse. (See section 7 below for some tips on how to avoid unintentional inadequate referencing.)

Instances of inadequate referencing will, moreover, usually appear to the reader as no different to plagiarism, and so you run the risk of an allegation of plagiarism even if your inadequate referencing was genuinely unintentional. Even if your marker is satisfied that your inadequate referencing was not intentional, you will still lose significant marks, and possibly fail the assessment in question. So take care to ensure that you are aware of the requirements concerning referencing and check your work for any instances of inadequate referencing.

### ***'Proper acknowledgement'***

It is important to stress that it is perfectly legitimate (and indeed often essential) to quote or paraphrase other writers' words or to use facts, information or ideas obtained from other sources — but only if proper acknowledgment of your sources is given. But what *is* 'proper acknowledgment' and, more importantly, how *do* you 'properly acknowledge' your sources?

In brief, 'proper acknowledgment' means that when you reproduce or paraphrase another's words, or when you use facts, information or ideas obtained from other sources, you:

- indicate that this is what you are doing, and
- provide sufficient information about your sources to allow your reader to consult those sources for him or herself.

---

<sup>4</sup> Ibid.

<sup>5</sup> Ibid 16.

This Guide will give you some practical advice on how to do these things in each of the types of activity listed in paragraphs (a) to (e) of the Academic Misconduct Policy quoted above.

### **3. When is Proper Acknowledgment of Sources Required?**

Unless the relevant lecturer varies any of the requirements discussed in this Short Guide, you should assume that proper acknowledgment of your sources is required for all forms for assessment, including examinations (both open book and closed book examinations), essays, problem-solving assignments, and so on.

Lecturers sometimes vary the *style* required for citation. The La Trobe Law School follows the Australian Guide to Legal Citation, 2<sup>nd</sup> ed,<sup>6</sup> but individual lecturers can depart from this in relation to particular pieces of assessment. For example, your lecturer may allow you to adopt an abbreviated citation style for a particular piece of work. In examinations, too, use of abbreviated citation styles is often permitted. It will always be important, however, to indicate where you repeat or paraphrase someone else's text or ideas.

If you are in any doubt as to what is required, confirm with the relevant lecturer what the specific requirements are for any particular unit or item of assessment.

### **4. What are the Penalties for Plagiarism and Inadequate Referencing?**

Plagiarism is a basic form of academic misconduct and the penalties it attracts can be severe. Applicable penalties, which of course vary according to the seriousness of the offence, include:<sup>7</sup>

- deduction of marks;
- zero marks (and hence a fail grade) for the relevant piece of assessment;
- zero marks (and hence a fail grade) for the relevant unit;
- academic counselling;
- the misconduct being recorded by the subject examiner;
- referral to the Faculty's Academic Misconduct Committee; and
- suspension from the University (which can have visa implications for overseas students).

For law students, in particular, a finding of plagiarism can have the added negative consequence of making you unfit to be admitted to practise law.<sup>8</sup>

---

<sup>6</sup> The Australian Guide to Legal Citation is available at <<http://mulr.law.unimelb.edu.au/aglcdl.asp>> at 16 January 2007.

<sup>7</sup> See Appendix B of the University's *Academic Misconduct Policy*, above n 2, 16–18.

Even where a student is not guilty of deliberate plagiarism but has provided inadequate referencing, he or she can still lose significant marks and even fail the relevant piece of assessment.

## **5. Direct Copying or Quoting**

Direct copying is where you *reproduce exactly* another person's (or other persons'<sup>9</sup>) words. It is also known as *quoting* another person.

To acknowledge properly that this is what you are doing, you must:

- indicate in your text exactly *which* words you have taken from another person, and
- provide information about the source of those quoted words.

Rule 1.5 of the Australian Guide to Legal Citation is the relevant rule here. Consult it for further examples and information.

### ***Quotation marks for short quotations***

Where the quoted words amount to only three lines or less, then the words should be kept within the current paragraph of your text and enclosed within single quotation marks.

Here is an example. (The examples in this Guide are all made-up. Imagine they are extracts from student assignments.)

#### **Example 1**

... to maintain and promote individuals' freedom. 'The desideratum of clarity represents one of the most essential ingredients of legality.'<sup>8</sup> Indeed, it is almost impossible to conceive of a legal system where such a criterion was ...

<sup>8</sup> Lon L. Fuller, *The Morality of Law* (revised ed, 1969) 63.

Note how Fuller's own words are reproduced exactly as they appear in the original source and are clearly indicated by using single quotation marks ( ' '), which set them apart from your own words. (If you have a 'quotation within a quotation', use double quotation marks ( " ") for the inner quote.)

Note also how the relevant information about the source of the quotation is contained in the footnote (here it is the eighth footnote in your assignment). The footnote tells

---

<sup>8</sup> See the case of *Re Liveri* [2006] QCA 152 (Unreported, de Jersey CJ, McMurdo P and Williams JA, 12 May 2006).

<sup>9</sup> For the rest of this Short Guide, read the singular as including the plural in this sort of context.

the reader that the quoted words are from page 63 of the revised edition of Lon Fuller's book, *The Morality of Law*, published in 1969. The footnote style follows the Australian Guide to Legal Citation.

There can, of course, be different ways of incorporating a quotation into your own text. Here is another way (though there are many others):

### Example 2

... to maintain and promote individuals' freedom. As the American legal scholar Lon Fuller put it, '[t]he desideratum of clarity represents one of the most essential ingredients of legality.'<sup>8</sup> Indeed, it is almost impossible to ...

<sup>8</sup> Lon L. Fuller, *The Morality of Law* (revised ed, 1969) 63.

Here a few introductory words preface the actual quote. Note also that the first letter of the quoted words from Fuller has now been put into lower case and placed in square brackets. This indicates that you have altered it from upper case in order to make the quoted words fit into the grammatical structure of your own sentence.

As a law student, you will also, of course, often need to quote from cases and statutes. The method for doing so is the same as above.

Here is an example of quoting from a case:

### Example 3

... in criminal justice. This principle is perhaps most famously articulated in *R v Williscroft*, in which Adam and Crockett JJ said that 'every sentence imposed represents the sentencing judge's instinctive synthesis of all the various aspects involved in the punitive process.'<sup>8</sup> Whether this is still seen ...

<sup>8</sup> *R v Williscroft* [1975] VR 292, 300 (Adam and Crockett JJ).

Here is an example of quoting from a statute:

### Example 4

... dishonesty as an element. This is made clear in the definition of theft provided for in the *Crimes Act 1958* (Vic), which states that '[a] person steals if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.'<sup>8</sup> It is, however, left to case law ...

<sup>8</sup> *Crimes Act 1958* (Vic) s 72.

Note that the capital 'A' that is found in the statute is here made into a lower case 'a' in order to make the quotation fit grammatically into your sentence.

### ***Indented paragraphs for long quotations***

Where the words to be quoted are longer than three lines (in your text), then you should identify them by putting them in a distinct indented paragraph within your own paragraph. 'Indented' here just means the first word of each line is moved in from the left margin.

#### **Example 5**

... significant cases in Australian constitutional history, with continuing relevance today. Winterton concludes by arguing that

[t]he *Communist Party* case demonstrated that our freedom depends on impartial enforcement of the rule of law, of which courts are the ultimate guardians. Although, of course, not infallible, impartial and fearless courts determined to exercise their proper powers are our final defence against tyranny.<sup>6</sup>

No doubt, national security is one of the areas in which the rule of law is ...

---

<sup>6</sup> George Winterton, 'The Communist Party Case' in H. P. Lee and George Winterton (eds), *Australian Constitutional Landmarks* (2003) 108, 135.

Note that here the indented paragraph appears in smaller font size and no quotation marks are used. The same sort of information about the source of the quoted words appears in a footnote.

Alternatively, the quoted words could be introduced in a way that splits the quoted words into a first part which appears in quotation marks in the text and a second part which appears in an indented paragraph.

#### **Example 6**

... significant cases in Australian constitutional history, with continuing relevance today. 'The *Communist Party* case,' Winterton concludes,

demonstrated that our freedom depends on impartial enforcement of the rule of law, of which courts are the ultimate guardians. Although, of course, not infallible, impartial and fearless courts determined to exercise their proper powers are our final defence against tyranny.<sup>6</sup>

No doubt, national security is one of the areas in which the rule of law is ...

---

<sup>6</sup> George Winterton, 'The Communist Party Case' in H. P. Lee and George Winterton (eds), *Australian Constitutional Landmarks* (2003) 108, 135.

Here is an example of a long quotation from a case in an indented paragraph:

### Example 7

... in criminal justice. This principle is perhaps most famously articulated in *R v Williscroft*, in which Adam and Crockett JJ said that

ultimately every sentence imposed represents the sentencing judge's instinctive synthesis of all the various aspects involved in the punitive process. Moreover, in our view, it is profitless (as it was thought to be in *Kane's Case*) to attempt to allot to the various considerations their proper part in the assessment of the particular punishments presently under examination.<sup>8</sup>

Whether this is still seen as the best way to conceive of the sentencing ...

<sup>8</sup> *R v Williscroft* [1975] VR 292, 300 (Adam and Crockett JJ).

Here is an example of a long quotation from a statute in an indented paragraph:

### Example 8

... forms of fraud. Section 83A of the *Crimes Act 1958* (Vic) clarifies this. Subsection (1) provides as follows:

A person must not make a false document with the intention that he or she, or another person, shall use it to induce another person to accept it as genuine, and by reason of so accepting it to do or not to do some act to that other person's, or to another person's prejudice.<sup>8</sup>

It is, therefore, clear from the terms of the statute that prejudice to a third ...

<sup>8</sup> *Crimes Act 1958* (Vic) s 83A(1).

### ***A common error: quotations without quotation marks or an indented paragraph***

If you reproduce another person's words exactly but do not use quotation marks or an indented paragraph, then you are claiming that the words are in fact yours — and that is fundamentally misleading. Here is an example of what *not* to do.

### **Example of bad practice 1**

... to maintain and promote individuals' freedom. The desideratum of clarity represents one of the most essential ingredients of legality.<sup>8</sup> Indeed, it is almost impossible to conceive of a legal system where such a criterion was ...

---

<sup>8</sup> Lon L. Fuller, *The Morality of Law* (revised ed, 1969) 63.

In the above example, it is not possible to tell which words are yours and which are Fuller's. It is not sufficient merely to put the footnote reference after the quoted words and leave out the quotation marks or indentations, because that will not indicate that the words are not yours. By merely putting in the footnote reference to Fuller, you are effectively only indicating, at best, that you are paraphrasing Fuller's text or that Fuller's text was the source of the ideas. As Fuller's text was in fact the source of the very words themselves, you are therefore misleading the reader. This is a common error, and is a good way to lose marks.

## **6. Paraphrasing**

Paraphrasing is the rewriting of another person's words in your own and different words, while still presenting them as expressing that other person's ideas. Just how you might phrase your paraphrase will depend on a great variety of things; there is no fixed set of rules governing this art. Of course, explaining or interpreting someone else's text in your own words can sometimes be difficult. But being able to paraphrase well is a very important skill and worth working hard at.

It is often the lazy option just to repeat another's words verbatim without showing that you understand them. Good paraphrasing helps you to convey to your reader that you have not just located some relevant passage from another person's work but have also actually understood it.

It is still necessary, when paraphrasing, to indicate that this is what you are doing and to provide proper information about the source of the paraphrased text. However, indicating that you are paraphrasing cannot be done by way of quotation marks or indented paragraphs. It is a more subtle matter of using your own words to indicate that you are paraphrasing another. This can, of course, be done in many different ways.

Because paraphrasing is a much more creative art than simple quotation, it is probably best to provide several examples of how a short passage may be paraphrased. The paraphrased passage is from the Fuller text used in Example 1 above.

### **Example 9.1**

... to maintain and promote individuals' freedom. Fuller maintains that this desired clarity is a necessary element for something to count as law.<sup>8</sup> Indeed, it is almost impossible to conceive of a legal system where such a criterion ...

---

<sup>8</sup> Lon L. Fuller, *The Morality of Law* (revised ed, 1969) 63.

### **Example 9.2**

... to maintain and promote individuals' freedom. It is a requirement for any legal system, in Fuller's view, that its laws are reasonably clearly ascertainable.<sup>8</sup> Indeed, it is almost impossible to conceive of a legal system ...

---

<sup>8</sup> Lon L. Fuller, *The Morality of Law* (revised ed, 1969) 63.

In these first two examples, you are making it explicit in your text that you are paraphrasing Fuller's words, and your footnote gives the reader the source of the original text.

### **Example 9.3**

... to maintain and promote individuals' freedom. Indeed, clarity is so important that, in the view of some, laws that lacked sufficient clarity may not qualify as laws at all.<sup>8</sup> Indeed, it is almost impossible to conceive of a ...

---

<sup>8</sup> Lon L. Fuller, *The Morality of Law* (revised ed, 1969) 63.

In this third example, you have not referred to Fuller explicitly in your text, but have more obliquely indicated that you are expounding someone else's idea. It is only in the footnote that you expressly mention Fuller. This can be perfectly acceptable.

### **Example 9.4**

... to maintain and promote individuals' freedom. It might even be argued that clarity is so important that laws that lack sufficient clarity may not qualify as laws at all.<sup>8</sup> Indeed, it is almost impossible to conceive of a legal ...

---

<sup>8</sup> Lon L. Fuller, *The Morality of Law* (revised ed, 1969) 63.

In this fourth example, the reference to Fuller is even more oblique but still quite acceptable.

### Example 9.5

... to maintain and promote individuals' freedom. Indeed, clarity is so important that laws that lack sufficient clarity may not qualify as laws at all.<sup>8</sup> Indeed, it is almost impossible to conceive of a legal system where ...

<sup>8</sup> Lon L. Fuller, *The Morality of Law* (revised ed, 1969) 63.

In this fifth example, your text itself gives no indication that you are paraphrasing another, but the provision of the footnote itself indicates this. This style is still acceptable, so long as it is clear from the context that this is what you are doing. It will usually be safer, though, to include some textual indication as well.

### ***A common weakness: overly thin paraphrases***

Because it can sometimes be hard to think of your own way of expressing someone else's text (especially when the other person says it so well already), there is a temptation to 'rewrite' the original passage by substituting only one or two words. This sort of 'thin' paraphrase is really more like a quotation than a proper paraphrase — and if you have thereby effectively quoted the original but not used quotation marks or an indented paragraph, then you will be trouble. This is because it will look like an inadequately referenced and, indeed, inaccurate quotation.

Here is a bad example of a paraphrase (using the Fuller text from Example 1 again):

### Example of bad practice 2

... to maintain and promote individuals' freedom. The desirable clarity is one of the most essential ingredients of legality.<sup>8</sup> Indeed, it is almost impossible to conceive of a legal system where such a criterion was not made central to ...

<sup>8</sup> Lon L. Fuller, *The Morality of Law* (revised ed, 1969) 63.

If you are paraphrasing, make a proper job of it and recast the whole passage being paraphrased, making your words sufficiently different from the paraphrased passage. If you really are unable to put an idea into different words, then avoid trying to mask a quotation as a paraphrase and simply quote it properly.

Of course, it can sometimes be a line ball call as to how sufficiently you have rewritten the original such that is a proper paraphrase. Moreover, what counts as 'too thin' can sometimes vary according to whether you are paraphrasing an original work by an author, a judgment or a statute. (See further below.) Again, there are no fixed rules for determining this.

When trying to avoid an overly thin paraphrase, be careful not to be too creative and make your words so different from the original text that you end up misrepresenting it. A paraphrase should still aim to present an accurate picture of the paraphrased text.

## ***Paraphrasing legal authorities***

It will sometimes be appropriate to paraphrase legal authorities such as cases and statutes. Paraphrasing such texts is usually a little more constrained than paraphrasing original works by private authors. This is because you must be even more careful not to misrepresent what the terms of the law are. This is especially so with regard to legislation, which, unlike the common law, is in fixed verbal form.

It will often be safer to quote directly the specific words of a statutory provision or a judicial decision rather than risk a misleading paraphrase by straying too far from the actual text. Sometimes, though, the demands of space or the nature of the task you are engaged in may make paraphrasing the law appropriate instead. As always, one needs to exercise good judgment in particular cases about whether it is best to paraphrase or to quote directly.

Here is an example of an acceptable paraphrase of the passage from *R v Williscroft* quoted in Example 3. (To get a sense of what makes it acceptable, you will need to know the context of the original. This point goes for virtually all paraphrasing.)

### **Example 10**

... in criminal justice. This principle is perhaps most famously articulated in *R v Williscroft*. In this case, Adam and Crockett JJ held that all sentences involve the judge intuitively bringing together the different purposes of punishment in order to settle upon a particular sentence.<sup>8</sup> Whether this is ...

<sup>8</sup> *R v Williscroft* [1975] VR 292, 300 (Adam and Crockett JJ).

When paraphrasing legislation it is usually best to stick even more closely to the text being paraphrased than one would when paraphrasing original private authors or even legal judgments. Here is an example of an acceptable paraphrase of the statutory provision quoted in Example 8 above:

### **Example 11**

... forms of fraud. The *Crimes Act 1958* (Vic) clarifies this by making it an offence to make a false document intending that another person will accept it as genuine and do something to their or a third party's detriment.<sup>8</sup> It is, therefore, clear from the terms of the statute that prejudice to a third party ...

<sup>8</sup> *Crimes Act 1958* (Vic) s 83A(1).

## 7. Using Facts and Information From Another

When you make factual claims or present any sort of information, it is essential that you indicate the source(s) of your information. This is primarily to allow your readers to go to the original source to confirm the facts or information for themselves. In turn, this helps to bolster the credibility of your own assertion of these facts.

Here is an example:

### Example 12

... efforts at constitutional reform. There have been 44 proposals to amend the Australian Constitution, presented at a total of 19 referendums, and nine of those coincided with general elections.<sup>8</sup> Australians have mostly been ...

<sup>8</sup> Guy Aitken and Robert Orr, *Sawyer's The Australian Constitution* (3<sup>rd</sup> ed, 2002) 155–6.

Here is part of the original passage from Aitken and Orr from which the above information was taken, to allow you to see how it was presented there:

### Original

[From Guy Aitken and Robert Orr, *Sawyer's The Australian Constitution* (3<sup>rd</sup> ed, 2002) 155–6.]

... The history of constitutional reform in Australia is littered with failed attempts. Of the 44 proposals put, only the following eight proposals were carried:

- Section 13 was amended in 1907 ...
- Section 105 was amended in 1910 ...

....

The 44 proposals were put at 19 separate referendums. Referendums can be held at the same time as general elections, and on nine of the 19 occasions this has occurred. ...

You will see that the presentation of this information in the example is essentially in the form of a paraphrase, and this will usually be the case with the presentation of facts or information where you are not quoting the original verbatim.

If you fail to indicate the source(s) of your information, you are effectively claiming to be the source of that information *yourself*. If this is not the case, then you are misleading the reader. Of course, it may sometimes be the case that you do indeed report the results of your own investigations, but even then you should make clear that *that* is the source of your factual claim.

Making factual claims with no reference to your sources is, then, another good way to lose marks. Of course, there will sometimes be things that are commonly known or easily confirmed and so do not usually need to be referenced, for example, the name of the current Chief Justice of Australia, or the fact that Australia is a federation. But

there may be occasions when it may be wise to provide references even for such matters as these. As always, much depends on the context and nature of your writing task.

## 8. Using Ideas Directly from Another

If you take an idea from someone else, but you are neither quoting them nor paraphrasing any particular text of theirs, you must still indicate where you got the idea from. If you do not, you will appear to be claiming that the idea is your own, and if that it not so, then you will run the risk of plagiarism. Ideas as well as words can be plagiarised.

Here is an example of citing ideas taken from another person:

### Example 13

different societies. In analysing the very notion of what constitutes a legal system it is necessary, according to Hart, to distinguish between primary and secondary rules.<sup>8</sup> Virtually all societies have an assortment of primary rules that govern conduct, but if a society is to be recognised as having a legal system as such, then it must also have secondary rules. Such rules relate to ...

---

<sup>8</sup> H. L. A. Hart, *The Concept of Law* (2<sup>nd</sup> ed, 1994) 91–99.

It can sometimes also be possible to drop the reference to the other person in your text, and simply indicate by using the footnote reference that you are taking the idea from someone else, like this:

### Example 14

... different societies. In analysing the very notion of what constitutes a legal system it is necessary to distinguish between primary and secondary rules.<sup>8</sup> Virtually all societies have an assortment of primary rules that govern conduct, but if a society is to be recognised as having a legal system as such, then it must also have secondary rules. Such rules relate to three different ways in ...

---

<sup>8</sup> H. L. A. Hart, *The Concept of Law* (2<sup>nd</sup> ed, 1994) 91–99.

In both these examples, the idea about primary and secondary rules has been taken from the English legal philosopher H. L. A. Hart, but there is no specific passage of his that is being quoted or paraphrased. Rather, the text in the examples is a summary statement of Hart's much longer and more complex discussion in his book *The Concept of Law*.

If you fail to indicate that this is so (whether explicitly in the text with accompanying footnote, or by footnote only), then you will most likely be committing plagiarism. This is because you will be presenting these ideas about primary and secondary rules as *your* ideas when they are in fact Hart's.

What if you think of an idea yourself but later find that someone else, say Bloggs, has already written about it? As Bloggs is not in fact your source for the idea, then it is not appropriate to cite Bloggs as if they *were* your source. However, it can be good scholarship to make reference to Bloggs as a *further* source for the idea. But where Bloggs *is* in fact your source, do not be tempted to pretend that your thought was merely congruent with rather than derived from Bloggs. That will be plagiarism.

## **9. Collaboration and Using Another's Work**

### ***Individual submissions***

A common type of plagiarism occurs where a student who is supposed to submit independent work inappropriately collaborates with another person or inappropriately uses another person's work.<sup>10</sup>

If two (or more) students produce work that is sufficiently similar in any significant respect when it should be independent work, then this is very likely to result in allegations of academic misconduct against both students. If you are the copier or paraphraser, then it will be a clear case of plagiarism. If you merely lent your work to the other student to allow it to be copied or paraphrased, then that is still punishable as *assisting* another to plagiarise. If you wrote the work together when it should have been independently produced, then you will both be committing plagiarism.

It is often a very good idea for students to form study groups in which they discuss relevant readings and tutorial questions, or practice answering past examination questions, and so on. However, in your study groups you must be very careful that you do not collaborate in ways that risk your producing work for assessment that is significantly similar to the work of others (when that assessment is not meant to be group work). The goal of a study group ought not to be to reach a 'group consensus' on certain issues, which each member of the group then reproduces in their assessment. That is a good way to court allegations of plagiarism. In summary, study groups are a good idea, but when individual assessment is required make sure the work you submit is your own.

It can be a very risky course to borrow (or buy) another student's work 'just to see how they did it'. There will often be great temptation to copy or draw heavily from such work. If this is unacknowledged, then it is obviously plagiarism. But even to cite that other student's work is likely to amount to an admission of plagiarism (of the

---

<sup>10</sup> See paragraph (e) of the definition of 'plagiarism' in the La Trobe University, *Academic Misconduct Policy*, above n 2, 2. This is reproduced above at p 3.

kind referred to in paragraph (e) of the Academic Misconduct Policy). At best you will lose many marks for drawing upon an inappropriate source.

Needless to say, you should not arrange for another person to write or contribute to any part of your assessment for you.

### ***Group submissions***

Because the real world of legal practice often involves lawyers working in teams, it is appropriate that some of your assessment in law school involves group work. Where a unit does provide for group submissions in relation to a specific piece of assessment, then obviously joint work is appropriate. Always confirm with the relevant lecturer whether a given assessment requires or permits group submissions.

## **10. Acknowledging Your Actual Source**

So far in this Guide we have looked at particular ways in which you should acknowledge your sources when directly quoting or paraphrasing another's text, or when using facts, information and ideas from another's work. There is also a more general requirement that you acknowledge the *actual* source you have consulted.

Where you are quoting (or in some way referring to) some work or text, but you are relying on some *other* work as your source for that first work or text, then you should indicate this, using the 'X, as cited in Y' convention. If you do not do this, then you risk being accused of passing off as original research what is in fact merely derivative research.

Here is an example of the 'X, as cited in Y' convention.

### **Example 15**

to many interpretations. According to A V Dicey, an influential 19<sup>th</sup> century constitutional scholar, the rule of law 'excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government.'<sup>9</sup> But many other commentators have thought that discretion ...

<sup>9</sup> A V Dicey, *Introduction to the Study of the Law of the Constitution* (10<sup>th</sup> ed, 1959) 202, as cited in Tony Blackshield and George Williams, *Australian Constitutional Law and Theory: Commentary and Materials* (4<sup>th</sup> ed, 2006), 107.

Here you give as full a reference to the original (Dicey) as you can obtain from the secondary text (Blackshield and Williams), and then tell your reader where you got your information from.

If you included only the reference to Dicey here and left out all reference to Blackshield and Williams as your actual source, then you would be effectively

claiming that you are quoting directly from Dicey. But as that is not true, you would therefore be misleading the reader and so failing to provide proper acknowledgment of your true source.

Where you want to use material that you have found in other works, you should first try to obtain for yourself a copy of the original text to which the secondary text refers and quote directly from that. In such cases, it is not necessary to use the 'X, as cited in Y' convention, because you have now gone to the original source. It is particularly important to try to access original sources when quoting or referring to case law and statutes as legal authorities.

However, it is recognised that it is not always possible or reasonably practicable to obtain original texts, and that therefore one may occasionally rely on secondary sources. In that situation, however, it is necessary to use the 'X, as cited in Y' convention. Be warned, however, that over-reliance on secondary sources is generally a sign of poor scholarship.

As a further point, it is always possible that the author of the secondary text has got the original text wrong. So it can be prudent to go to the original to check it for yourself.

## **11. Advice on Note Taking**

It is important that your study methods help you to avoid plagiarism and inadequate referencing.

One well-known trap is to make poor notes from your reading which you later use when writing up your essay or writing in an examination. For example, if you copy a text verbatim when you are studying but do not indicate this in your notes, then there is a real risk that you may later go to those notes when writing an assignment or sitting an exam and write out 'your' notes — without adequate or even any acknowledgement of the original source. That will lead to allegations of plagiarism or, at best, inadequate referencing.

So if you are making notes when studying a text (whether a legal authority, a commentary, or any other material) be sure to give yourself sufficient information to enable you to use those notes later on without fear of transgressing the rules on referencing. Whether you are copying material verbatim or paraphrasing a text or noting information gathered from some sources, always note to yourself what you are doing and take down the relevant information you will need later. At the very least, if you make the right notes at the right time, you will save yourself a lot of time and effort later on trying to find the original sources and references.

## **12. Detecting Plagiarism**

You should be aware that staff at La Trobe University have available to them various means of detecting plagiarism. Among other things, the University makes use of Turnitin, a powerful and sophisticated software system for detecting cases of plagiarism.

## **13. Further References**

This Short Guide has sought to give you a brief and concise guide to only some of the practical matters relating to plagiarism and inadequate referencing. It is not exhaustive. You are therefore strongly recommended to consult other sources to expand your understanding of what plagiarism and inadequate referencing are and how to avoid them.

Here is a short list of some relevant further sources that you may wish to consult:

- The La Trobe University Academic Misconduct Policy, available at <<http://www.latrobe.edu.au/policies/academicmisconduct.pdf>>
- The Faculty of Law and Management's Language and Academic Skills Unit's webpage on academic skills at <<http://www.latrobe.edu.au/lawman/lasu/skills.html>>
- La Trobe University's Academic Development Unit's webpage on plagiarism at <<http://www.latrobe.edu.au/adu/plagiarism.htm>>
- Brogan, Michael and Spencer, David, *Surviving Law School* (2004) ch 12 'Assignments — Referencing/Citing and Plagiarism'
- Stuhmcke, Anita, *Legal Referencing* (3rd ed, 2005), section 4.3

## **Appendix**

### **Summary of How to Avoid Plagiarism and Inadequate Referencing**

This is a very concise summary of the main points to remember.

#### **1. Direct copying or quoting**

- Make sure you indicate which words are not yours by using quotation marks or an indented paragraph.
- Provide proper citation of the source of those words.

#### **2. Paraphrasing**

- Avoid 'thin' paraphrases.
- Be accurate in expressing the paraphrased ideas.
- Provide proper citation of the source of the paraphrased material.

#### **3. Using facts and information from another**

- Indicate which facts or information have been obtained from a source.
- Provide proper citation of that source.

#### **4. Using ideas directly from another**

- Indicate which ideas have been obtained from a source.
- Provide proper citation of that source.

#### **5. Collaboration and using another's work**

- Don't do it, unless group submissions are permitted.

#### **6. Acknowledging your actual source**

- Cite the source you actually use.
- Do not pass off derivative research as original research.

*La Trobe Law Short Guide to Avoiding Plagiarism and Inadequate Referencing*

This *Short Guide to Avoiding Plagiarism and Inadequate Referencing* was written by Dr Steven Tudor, with assistance from other staff members of La Trobe University's School of Law, including Mr Jeffrey Barnes, Dr Savitri Taylor, Professor Gordon Walker, Professor Tania Sourdin, Ms Ann Wardrop, Mr Dennis Warren, and Ms Robyn Thomas.

Disclaimer: While the information in this booklet is as accurate as we could make it at the time of production (February 2007), users should confirm its accuracy for themselves, and should not rely on it as their sole source of information and advice.

© 2007 School of Law, La Trobe University.