A Guide To Treatment Types

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What would you like to know about treatment types?
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An introduction to treatment types

Knowing whether a case is good or bad law is imperative for anyone studying or practising law. Understanding treatment types is a foundational skill enabling this process.

It is no secret that cases can be complex, with long judgments and complicated vernacular. Presenting a strong precedent in support of your submissions may be a matter of winning or losing the case. Judges aren’t afraid to land a few punches if they spot a flaw in your preparation. However, even with access to a full judgment, grasping exactly how a case has been treated by a judge can be a stressful task. It is often time-consuming to understand the dicta of the judges in these decisions.

Having an awareness of what treatments have been applied to a case, as well as what they mean, can ease you into this process. It also allows you to identify cases with greater ease and understand the meaning quicker.

What are treatment types?

Treatment types can be grouped into three widely used categories of positive, neutral and negative treatments. Within each of these classes fall specific treatments, which I will go on to define and explain in a later chapter. For now the overarchin categories are defined below.

Positive: Any instance in which the case has been cited with approval will be entered as a positive treatment. This will include subsequent cases that actively follow the reasoning in the instant case, and decisions of appellate courts which dismiss the appeal(s) from a first instance decision.

Neutral: The case was referred to in a subsequent case but, no explicit or implicit value was ascribed to it in resolving the issue in that case.

Negative: The case was referred to in a subsequent case but the judge declined to apply it to the instant matter as it was either not relevant or no longer good law.

Why is it important to be aware of treatment types?

An understanding of treatment types is necessary to establish what is “good law”. Essentially this means, it is the law still valid. Being aware of this, assists us in reading and understand the value of law used in cases. It also saves us the time we would otherwise have to spend reading cases for ourselves. We are provided with an overview of the current status of that case and the effect on earlier cases. Having this, you are better placed to understand and determine how the judge has reached their conclusion using the cases discussed in the judgment.

How can you determine a case’s treatment type?

A full reading of the case is the easiest way to decide how a specific case treated previous authorities, if you are not already aware of the treatment received, available on citators such as JustCite.

Examining the language used by judges when discussing cases is one of the best ways to achieve this. Their dicta can reveal a lot about the treatment an earlier case received. Pointers as to this can include negative conclusions drawn from the case being evidenced, differences being drawn between the case in hand and the authority under scrutiny, as well as judges speaking affirmatively about case law.

The Stages For Determining Treatments

Stage One: Is the case report marked up with treatment types?

Some case reports, such as the Law Report transcript of In Re Lyon [1952] Ch 129, lay out at the beginning of the document those cases that have received particularly strong positive, as in In Re Lyon, or negative treatments.
In that case, for example, *In Re Pettit* [1922] 2 Ch. 765 was applied, *In re Kingcome* [1936] Ch. 566 was approved and considered (a neutral treatment type), while the decision of the Chancery Division was affirmed. This editorial exercise is a useful foundation upon which to build an understanding of treatment types in practice.

Knowing that a case has been applied, for example, means that when it comes to finding the case in the judgment, you can understand how the judge has applied it by analysing their words. Over time this understanding will grow and treatment types can be inferred simply from the language used.

In the alternative law reports may be “marked up” by editorial teams, for inclusion on a citator. This process highlights the treatment earlier cases receive in a specific judgment, editors having read the judgments and decided which treatment applies to the cited cases.

**Stage Two: Noting down cases and judges whose dicta are cited**

If you are looking to establish the treatment type of a particular case or cases, but the report you are using does not have a list of these at the beginning, it is worthwhile noting down the case name prior to reading the judgment. When you come across it in the written judgment, you should make a note of where it is and also consider the context in which it has been placed. Doing this means you will not only have an idea of where the case is mentioned in judgment but can also build up an idea of how it is treated as authority. This is useful preparation for the next stage.

**Stage Three: Breaking down the text**

Having done the above, the next thing to consider when you come across a case is how the judge talked about it. Words can hint at the nature of a treatment, particularly where comparisons or distinctions are made between the case you are reading and the one being examined by the judge. With this in mind it is always handy to keep beside you the definition of treatment types while undertaking this task, so you can cross-reference your finding with the treatments.

This guide can also help you understand how editors reached their conclusions as to the treatment types assigned to cases, by knowing what each treatment type is and how it is applied in practice.

**What are the 14 treatment types?**

Treatment types are not all of the same shade. Like a colour chart each treatment within the positive, neutral and negative group scan be conceived of as shades that reflect the strength with which they fit within one of the three groupings. By virtue of this, treatment types allow you to distinguish between cases based on how they have been treated legally.

A case that has been applied, for instance, would be a forest green while one that has simply been relied on by the judge in his judgment would be more akin to a pale lime. In practical terms this imaginary shading effects how cases are ranked, according to their reliability and how “good a law” they are. That is to say, in search results, “better law” would feature at the top of the list, while negatively treated case law will be concentrated toward the bottom.

**Positive**

**Applied**

A previous case, dicta or judgment that is applied to circumstances before the Justices in a subsequent case.

In *Gail Marie Duce (Claimant/Appellant) v Worcestershire Acute Hospitals NHS Trust (Defendant/Respondent)* [2014] EWCA Civ 249, Lord Justice Richards, in a unanimous judgment, applied the principles established in *Bolitho v City and Hackney Health Authority* [1998] AC 232. These foundational principles of medical negligence extended the previous test of Bolam.

Adding a dimension of causation to the mix, *Bolitho* extended the standard of care required by medical professionals. The decision of the junior doctor
not to intubate the two-year-old patient who was suffering respiratory difficulties, would have not amounted to negligence only if it was in conformity with a sound body of expert opinion. The crux of the Bolitho principle is that a doctor following a practice supported by a body of expert or professional opinion, would not be liable for negligence if the reasoning withstands logical analysis. Their actions could then be found to be reasonable in the circumstances.

At paragraph 1 Lord Justice Richards said:

“… at its lowest the report concludes that there was a duty to warn the claimant of the risk of post-operative pain, and it does so on a basis consistent with the undisputed principles laid down in cases such as Bolitho v City & Hackney Health Authority [1998] AC 232…”

Affirmed

When the decision of an inferior court is confirmed by the appellate court.

Lord Reed handed down a unanimous judgment in the case of A (Respondent) v British Broadcasting Corporation (Appellant) (Scotland) [2014] 2 WLR 1243, before the United Kingdom Supreme Court (UKSC), affirming the decision of the Inner House of the Scottish Court of Session ([2013] CSIH 43).

The Inner House refused the reclaiming motion, or appeal, of “A” against a decision of the Outer House granting the BBC leave to appeal after they had failed in their application for the Order permitting A’s anonymity in his judicial review application to be recalled.

On the principle of open justice and the departure from it, Lord Reed decided that:

“It is appropriate both in the interests of justice, and in order to protect A’s safety, that his identity should continue to be withheld in connection with these proceedings, and that the order should therefore remain in place.”

Approved

A previous case in an inferior court is approved as correct. Perhaps one of the most famous equity and trusts law cases on the construction of a will, In re Lyons (Barclays Bank Ltd v Lyons) [1952] Ch 129 approved the dicta of Bennet J. in In re Kingcome (Hickley v Kingcome) [1936] 1 Ch. 566. In In re Lyons the testator, in his will, directed his trustees to pay £10 free of income tax to his son each week for life, on protective trusts, and from or after his son’s death on trust to pay £8 each week to his son's wife during her lifetime.

All children of his son, once they attained 21 years of age, would be entitled to his residuary estate. His son, the annuitant, claimed and obtained income tax relief under section 34 of the Income Tax 1918 while receiving annuity out of the income of the testator’s estate. Evershed M.R. was concerned that if the argument of Mr Stamp, the annuitant, was wrong it would follow that he was the trustee of whatever he had, separate from anything he recovered.

It would therefore follow that he ought to exercise the alternatives, i.e. to get what would otherwise be repaid carried forward under section 33 of the Finance Act 1926 or to claim repayment under section 34. Accordingly:

“…we are assuming that In re Kingcome was rightly decided. No doubt has ever been raised in subsequent cases as to the correctness of the decision, and we see no reason to doubt it.”

Approving In re Kingcome led to the conclusion that the annuitant was a trustee of his rights in line with the opinion of Romer J. at first instance.

Followed

A past case decided by a similar or superior court is accepted/taken as an established point of law

The classic that is Eves v Eves [1975] 1 WLR 1338 was followed in the Singaporean case of Tan Thiam Loke v Woon Swee Kheng Christina [1991] 2
SLR(R) 595. In *Tan Thiam Loke*, the respondent and the appellant moved into a home together, having assured her that the house was a gift of love and that it would be their future matrimonial home. The appellant had assured her that he would divorce his wife in order to marry her, which in fact he never did. The house was therefore registered in both of their names, the appellant paying the 10% deposit and the balance secured by a mortgage serviced by the appellant through the respondent’s bank account. They lived as husband and wife until 1977. In 1982 the respondent commenced these proceedings for an order of sale for proceeds to be divided in “a manner as may be just”.

On the point of law as to whether there was a common intention as to the beneficial ownership of the property, L P Thean J recognised that *Eves* was one of “numerous decisions in England touching on similar disputes of property between married couples and unmarried couples”, within the realm of trusts law.

It is an established point of law that a party can claim beneficial ownership of a property. Express representations made by the owner of the legal estate can be evidence of an intention that the other party has acquired a stake in the property, as can a common intention inferred from the conduct of the parties. Evidence of the latter can be found in the case of *Eves*, the facts of which L P Thean J set out at paragraph 13 of the judgment in *Tan Thiam Loke*.

“*In Eves v Eves [1975] 1 WLR 1338 the dispute was between an unmarried couple. In that case, the plaintiff who at the material time was under 21 started living with the defendant. A child was born and they started looking for a house and found one which was suitable to be their joint home ... The learned judge inferred from the evidence the link between the plaintiff’s effort in carrying out the renovation work to the house and the agreement to give her an interest in the house.*”

Having explained the facts in *Eves* and other authorities on this area of law, it was held that “[t]he same principles as applied in those cases are equally applicable here”. Her interest was found to be that of a joint tenant with the appellant in equal proportions at law and in equity.

**Relied Upon**

*When a decision of a previous case is used to explain/clarify the fact in issue before the Justices in the present case.*

In *Ryan Andrew Cockbill (claimant) v David Riley (Defendant) [2013] EWHC 656 (QB)*, Mr Justice Bean relied upon the decision of the House of Lords in *Caparo Industries v Dickman [1990] 2 AC 605* when considering counsel’s arguments as to an occupier’s duty of care relating to foreseeable risk.

“It is common ground between counsel that in accordance with the decision of the House of Lords in *Caparo Industries v Dickman [1990] 2 AC 605* a duty of care only arises in circumstances where there is sufficient proximity and foreseeability of damage and it is fair, just and reasonable that a duty should be imposed.”

The defendant was the owner of a property where his daughter and friends, including Mr Cockbill, had held a party celebrating the end of their GCSE exams. A paddling pool had been brought to the house and guests were sitting and swimming in it. Unfortunately the defendant attempted a “belly flop”, in doing so fracturing his spine and inducing incomplete tetraplegia. The claimant had consumed three alcoholic drinks before the accident, and it was accepted that he knew how it was likely to affect him.

The defendant was nevertheless under a duty to keep an eye on what was going on and to intervene if necessary, without spoiling the party. Setting up, and allowing the pool to be used did not create a foreseeable risk of danger and injury, nor did consuming modest quantities of alcohol. Furthermore, his failure to intervene earlier and more forcefully when guests were running and jumping into the pool, did not create a situation with an obvious risk of injury.
It was not reasonably foreseeable that someone would attempt to dive or belly-flop into the pool and cause grave injury. The claimant could not absolve himself, where the danger of diving into a swimming pool, let alone a paddling pool, was obvious to any adult. The defendant was not under any legal duty to tell the guests not to run or jump in the pool.

Cited

The case name and reference number (or citation) are given.

In R (on the application of T and another) (Respondents) v Secretary of State for the Home Department and another (Appellants) [2014] UKSC 35 it was held that the disclosure of spent offences in Enhanced Criminal Record Checks interfered with the right to private life contained in Article 8 of the European Convention on Human Rights (ECHR). It did not, and could not, meet the three-stage test for determining the necessity of interference with the respondents’ fundamental rights.

The case of R (Bibi) v Secretary of State for the Home Department [2012] 1 AC 621, where it was held that the refusal to grant marriage visas to the respondents infringed Article 8, was crucial to constructing the reasoning behind the decision to be handed down in the case because of its direct relevance to points in the discussion.

“In this respect one asks first whether the objective behind the interference was sufficiently important to justify limiting the rights of T and JB under article 8; second whether the measures were rationally connected to the objective; third whether they went no further than was necessary to accomplish it; and fourth, standing back, whether they struck a fair balance between the rights of T and JB and the interests of the community (R (Aguilar Quila) v Secretary of State for the Home Department [2011] UKSC 45, [2012] 1 AC 621, para 45).”

Considered

A case/dicta/judgment in previous case considered in judgment by Court in the current case.

In Tomlinson and another v Birmingham City Council [2010] UKSC 8 the central issue was whether a duty imposed on local authorities to provide social housing gave way to a civil right engaging Article 6(1), Schedule 1 of the Human Rights Act 1998. The ECHR had addressed this in the case of Salesi v Italy (1993) 26 EHRR 187, which was considered by Lord Brown eight times in the instant case. At issue in Salesi was the entitlement to an amount of benefit that was not at the discretion of the public authority.

The principle that the right to accommodation is an individual economic right drawn from statute, in this case the Housing Act 1996, was drawn from Salesi. Lord Brown found that such a right was defined precisely in domestic law, within the realm of social security benefits. The reviewing officer’s decision brought the right to an end, therefore being a determination of the appellants’ civil rights within the meaning of Article 6(1).

As he said at paragraph 28:

“The right to accommodation was an individual economic right which flowed from specific rules laid down in a statute, according to the Strasbourg court’s reasoning in Salesi v Italy (1993) 26 EHRR 187 and Mennitto v Italy(2000) 34 EHRR 1122.”

Referred To

Where justices in the present case refer to a specific case in which the relevant issue was considered/decided.

In the recent case of R (on the application of Nicklinson and another) v Ministry of Justice; R (on the application of AM) (AP) v The Director of Public Prosecutions [2014] UKSC 38, an was appeal lodged to determine whether the present law on assisting suicide contained in Section 2(1) of the Suicide
Act 1961 is incompatible with Article 8 of the ECHR and whether the DPP’s “Policy for Prosecutors in respect of Cases of Encouraging or Assisting Suicide” (“the Policy”) published in 2010 is lawful. The precedent setting case of Airedale NHS Trust v Bland [1993] AC 789 was referred to in judgment multiple times. For example at paragraphs 17 and 199 respectively, Lord Neuberger commented:

“As Lord Browne-Wilkinson said in Airedale NHS Trust v Bland [1993] AC 789, 885, ‘the doing of a positive act with the intention of ending life is and remains murder’.”

“As Hoffmann LJ suggested in his classic judgment in the Court of Appeal in Airedale NHS Trust v Bland [1993] AC 789 at 826, a law will forfeit necessary support if it pays no attention to the ethical dimension of its decisions.”

Recognising the authority of Bland was instrumental to building the reasoning in Nicklinson and ultimately reaching a decision. While there is some difference between the facts, Bland being a young man in a persistent vegetative state following the Hillsborough Disaster with no prospect of recovery or improvement and Mr Nicklinson, who suffered a catastrophic stroke causing him to become paralysed save being able to move his eyes, both parties, whether by themselves or their families, sought to end the lives of their loved one, but were prevented from doing so by the current laws on assisted suicide. They therefore sought to clarify and change the position of the law.

Negative

Disapproved

When a case/dicta/judgment is held to be invalid/no longer recognised as good law, or is doubted.

In Woolmington v Director of Public Prosecutions [1935] 1 AC 462, Viscount Sankey L.C. swiftly decided that the “[s]tatement of the Law in Foster’s Crown Law (1762), p. 255, and summing up of Tindal C.J. in Rex v. Greenacre (1837) 8 C. & P. 35 [was] disapproved.” The foundation of the law in the case was said to be contained in Foster’s definition and in Greenacre. These sources laid focus on a presumption of malice, unless mitigating factors such as accident or necessity came into play.

Per Viscount Sankey L.C. at page 474:

“[T]he matters tending to justify, excuse, or alleviate, must appear in evidence before he can avail himself of them ... is this statement correct law?”

From the point at which this was questioned, it became obvious in the long dicta that followed, emphasising that Foster had no previous authority upon which to validate his definition, that the case of Greenacre, which adopted Foster’s definition, would be disapproved.

Distinguished

A previous case’s facts are materially different to the case at hand and are therefore not applicable.

Donoghue v Stevenson [1932] SC(HL) 31 was distinguished in the case of O’Reilly v I.C.I. Ltd [1955] 1 WLR 1155. In O’Reilly the plaintiff was employed by British Road Services who had for many years transported loads for the defendants, Imperial Chemical Industries Ltd, between their various depots and in their lorries. ICI supervised his loading and unloading of their goods and also supplied the necessary equipment for him to do so.

At one of ICI’s chemical plants on 1st January 1953, he was injured when attempting to unload a drum of the chemical terylene from a lorry to a platform, as opposed to the proper unloading bay. His lorry was fitted with unloading equipment, consisting of a mechanical platform which could be lowered to assist unloading but in this case could not be raised to reach the top drums, so the plaintiff had to stand on a drum to remove the top two tiers until they reached the platform.

Claiming damages against the defendants for the personal injury suffered from their negligent method of unloading drums he alleged that between himself and the defendants there existed a relationship of employer and
employee pro hac vice ("on this occasion"). The Court held that the plaintiff had the onus of proving this relationship existed, a burden he had failed to discharge.

His claim failed. As Jenkins LJ recognized, there was no duty under which his claim could be accommodated, being outside the remits of invitor and invitee, and employer and employee. Parker LJ summed up the reasons why this case distinguished Donoghue in the following passage:

"I understand that below a reference was made to the principle in Donoghue v. Stevenson. That has not been developed in this court, and it is sufficient for me to say that I see no possibility of presenting the case on those lines. Indeed, a similar argument based on Donoghue v. Stevenson was advanced in the House of Lords in London Graving Dock Co. Ltd. v. Horton, and was specifically rejected ... I am not satisfied that he [the plaintiff] has shown the breach of any duty owed to him by these defendants."

Not Applied

The case/dicta/judgment not applied.

In Lim Foo Yong Ltd v Collector of Land Revenue [1963] 1 WLR 295 the case of British Transport Commission v Gourley [1956] AC 185 was not applied. In his judgment Lord Dilhorne LC affirmed the decision of the Court of Appeal that Ong J. calculated the awards erroneously, in relying on the principle enunciated in British Transport when estimating the annual loss of income suffered by the appellants. In fact that principle was of no application.

The principle in British Transport had laid down that when assessing damages for loss of earnings the starting point must be post-tax as opposed to pre-tax earnings.

"It was also held by the Court of Appeal that the amount awarded by Ong J. was calculated erroneously in two respects. The first was that he applied the principle in British Transport Commission v. Gourley to his estimation of the annual loss of income which would be suffered by the appellants as a result of the reduction in rent. The principle in that case, however, has no application in a case such as this where the difference in rental and so of income of the appellants is used solely for the purpose of determining the loss of capital value of the hotel land due to severance."

In Lim Foo the matter at hand concerned damages awarded at the market value of the land to the appellants following the compulsory acquisition of their smaller patch of land. The appellants argued that they had suffered damage to their other land (the larger patch) by account of severance, calculating the damages based on the difference between the rent that a prospective tenant had agreed to pay for both areas of land as one unit, and a reduced rent the tenant agreed to pay for the larger patch of land alone.

The difference in rental, and subsequently income, was solely used to determine the loss of the larger piece of land’s capital value because of the act of severance. On the facts of Lim Foo, the principle in British Transport was clearly unable to be applied.

Not Followed

When a previous case decided by a similar court is not accepted

In Halfdan Grieg & Co. A/S V. Sterling Coal & Navigation Corporation And Another [1973] 2 W.L.R. 273, before the Queen’s Bench Division Halfdan’s counsel submitted an argument that heavily relied on the dicta of Scrutton LJ in Czarnikow v. Roth, Schmidt & Co. [1922] 2 K.B. 478 regarding the importance of maintaining the special case machinery in arbitration.

Scrutton LJ outlined that the Arbitration Act 1959 enabled those untrained in law to seek guidance and, in special cases the solution, from the courts. In certain instances the court could require untrained advisors/representatives to state cases for the opinion of the court on an application for arbitration, if the court thought it proper.
The opposing counsel, Mr Staughton, insisted that this distinction “should not be put in the balance when considering whether or not to direct a special case” that weighed in favour of the case not being followed. Kerr J. agreed with the submission by Mr Staughton, noting that:

“(t)imes have changed since this judgment was delivered 50 years ago; so have the prevalence of arbitrations and the experience of persons who frequently or regularly act as arbitrators in specialist disputes … In these circumstances I cannot think that it would nowadays be right to suggest that they are more likely to go wrong in law as the result of having been addressed by counsel or solicitors.”

**Overruled**

*A decision of a previous case in an inferior court is held to be incorrect and no longer valid*

The House of Lords in *Hedley Byrne & Co. Ltd v Heller & Partners Ltd [1964] AC 465* overruled the cases of *Le Lievre v Gould [1893] 1 QB 491* and *Candler v Crane, Christmas & Co. [1951] 2 KB 164*. A long and interesting judgment, the Lords in *Hedley Byrne* decided that *Le Lievre* could no longer be considered good authority. It was “a troublesome case for the appellants, because it was rightly decided, but on the wrong basis”. There was no “principle enunciated … so deeply embedded in the law” that weighed against it being disturbed.

The decision of the Court of Appeal in *Le Lievre*, and therefore *Candler* that came afterwards, was made on the grounds that the House of Lords had laid down the law on duty of care and whether damages are recoverable for loss suffered when someone falls below this.

It was decided in the instant case that the House had not. The settled law was declared by Lord Devlin to be defective, “nonsense” and profoundly illogical, as it would leave a man without a remedy where he ought to have one, even though it is within the scope of the law. Another judge sitting, Lord Reid, voiced equal discontent toward the cases that were to be overruled, when he said that

“*I would therefore hold that the ratio in Le Lievre v. Gould was wrong and that Cann v. Wilson ought not to have been overruled.***

By virtue of the judges’ reasoning, neither *Candler* nor any other decision relying on *Le Lievre* as authority could stand. From the date of judgment, cases with similar facts would have to be “judged afresh” in light of the principles laid down in *Hedley Byrne*.

**Reversed**

*The decision of a lower court in the current case is reversed*

The decision of Judge Hallon sitting in Bromley County Court was reversed by the Court of Appeal in the case of *Oxley v Hiscock* [2005] Fam 211. Judge Hallon had held that the claimant was beneficially entitled to one half of the net proceeds of sale of the property. Subsequently, the Court of Appeal decided that she had misdirected herself in law in refusing to follow the decision of their Court in *Springette v Defoe* [1992] 2 FLR 388.

Chadwick LJ held that Mrs Oxley was entitled to 40% of the net proceeds. It would have been unfair to Mr Hiscock to declare that the parties were entitled to equal shares, as Judge Hallon had originally decreed, particularly as his direct contribution to the purchase price was significantly more than that of Mrs Oxley.

“On the basis of the judge’s finding that there was in this case ‘a classic pooling of resources’ and conduct consistent with an intention to share the burden of the property (by which she must, I think, have meant the outgoings referable to ownership and cohabitation), it would be fair to treat them as having made approximately equal contributions to the balance of the purchase price (£30,000).

Taking that into account with their direct contributions at the time of the purchase, I would hold that a fair division of the proceeds of sale of the property would be 60% to Mr Hiscock and 40% to Mrs Oxley.”
The JustCite Precedent Map

The precedent map, in its capacity as a visualisation tool, is illustrative of how treatment types work in practice and their place in the law both on their own and in relation to other cases. The image below displays how *Hedley Byrne & Co. Ltd v Heller & Partners Ltd* [1964] AC 465 has been treated, as well as the treatments the judges gave previous cases in that judgment.

On the right-hand side of the diagram are the cases which came after *Hedley Byrne* and cite the case in their judgments. To the left are the cases that were mentioned in the *Hedley* judgment. The colours of the lines that attach the central node of *Hedley Byrne* to other cases represent the type of treatment the cases or *Hedley Byrne* itself received. Hovering over the arrowhead will display the specific treatment type. In addition, the size of the node indicates how authoritative the case is at the time of searching. This is influenced by the treatment(s) it has received and the number of times it has been treated by other cases. This is a useful visual cue when deciding whether a case is important and relevant to the area of law and cases you are looking at, as well as the authority which the case has received.
So how did we do?

If you have any suggestions to improve this guide, then please contact us via email, Google+, Twitter, LinkedIn or Facebook by clicking one of the icons below: