

# Is my case reportable?

How does ICLR decide which judgments to report?

**Brendan Wright** reveals the time-honoured case selection process



Every year the higher courts and tribunals of England and Wales give thousands of judgments. Every year ICLR selects between 700 and 800 of those judgments for reporting. How do we decide which cases to report?

The criteria that we apply to each decision are the time-honoured “Lindley principles”, laid down by Nathaniel Lindley (later to become Master of the Rolls and a Law Lord) in his Paper on Legal Reports of 1863. According to these principles, cases should be reported if they: (1) introduce, or appear to introduce, a new principle or a new rule; (2) materially modify an existing principle or rule; (3) settle, or materially tend to settle, a question upon which the law is doubtful; or (4) for any other reason are “peculiarly instructive”.

Equally important is Lindley’s description of what should not be reported: cases which pass without discussion or consideration, and are valueless as precedents; or which are substantially repetitions of what is reported already.

The “peculiarly instructive” category is potentially a broad one. We include within it cases which illustrate the application of

established rules or principles to particular factual situations in such a way as to be of practical value to practitioners; cases which articulate principles to guide the exercise of judicial discretion (whether conferred by statute, rules of court or the inherent jurisdiction); and cases which summarise established rules or principles in a particular area of law. A good example of a case in the last of those categories is *Volpi v Volpi* [2022] 4 WLR 48, which doesn’t say anything new but is frequently cited because of the useful guidance in para 2.

Cases which fall within the remit of one of our specialist series are reported in that series: employment cases in the Industrial Cases Reports (ICR); company, commercial and IP cases in the Business Law Reports (Bus LR); and cases which are of interest to public service providers, charities and social enterprises in the Public and Third Sector Law Reports (PTSR).

Cases which don’t fall within one of the specialist remits, or are of wider interest, are reported in the Weekly Law Reports (WLR). That series has a wide remit, from crime to costs, immigration to

injunctions, tax to trusts. Since the WLR’s inception in 1953 the most important cases have appeared in volumes 2 and 3, to be republished (with a note of argument) in the Law Reports (AC, KB, Ch and Fam) while other cases have appeared in volume 1. Since 2016 we have deepened our coverage by the introduction of a volume 4, which contains cases that are “peculiarly instructive”.

Who makes the decisions about what to report? In the first instance, the reporter responsible for the case decides if it is “reportable”. We have some 25 reporters (all barristers or solicitors) divided into 8 teams, each of which covers a different court. Since our reporters have on average more than 15 years’ experience of reporting and read hundreds of judgments a year, they are skilled at sorting the wheat from the chaff. The reporter’s decision is then reviewed by the team manager, who is also an editor. In cases of uncertainty, the case may be referred to the editor of the relevant series for a final decision.

We cover a wide range of courts and tribunals, from the Employment Appeal Tribunal, Upper Tribunal and Competition Appeal Tribunal to the Court of Protection, Family Court, High Court, Court of Appeal, Supreme Court and Privy Council, not to mention the Court of Justice of the European Union in areas that are still relevant to England and Wales post-Brexit.

All our reports are available at [www.iclr.co.uk](http://www.iclr.co.uk), where you can also find transcripts of unreported cases—approximately 150,000 of them, with the majority from the past 25 years. And if you have a case that you think we should report, just fill in the form on our homepage and we’ll consider it.

“A multiplicity of law reports is a great evil.” So wrote Nathaniel Lindley himself (then Lindley LJ) in 1885. Whether you agree with him or not, it is undoubtedly invaluable to have a trustworthy indication of which are the cases that matter. That is what we aim to do at ICLR by selecting only the most important cases for reporting.

## About the author

**Brendan Wright** is a barrister and the Editor of The Law Reports and the Weekly Law Reports published by the Incorporated Council of Law Reporting for England and Wales.



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