
Neutral Citation in the Ecclesiastical Courts

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Neutral citation – the practice of giving each judgment of a court a reference number or citation – has been in use in the senior courts of England and Wales since 2001. The beginning of January 2016 saw the introduction of a new system of neutral citation for English ecclesiastical courts. The practice direction bringing this practice into force is reproduced below and is preceded by an introductory essay by the Dean of Arches and Auditor.

Keywords: ecclesiastical courts, judgment, citation, law reports

On 4 January 2016 judgment was issued in *Re Gabriel, Walsall* [2016] ECC Lic 1, the first neutrally cited judgment in the faculty jurisdiction of the Church of England (Chancellor Eyre QC in the Consistory Court of the Diocese of Lichfield).

WHAT IS NEUTRAL CITATION?

Neutral citation is a system of referencing judgments by the allocation of a specific citation (or reference number) at the point of delivery and prior to (and distinct from) any decision by editors of various printed (or electronic) law reports to report the case. Thus the neutral citation [2016] UKSC 1 refers to the first judgment delivered by the United Kingdom Supreme Court in 2016. Should a case be reported, this involves the allocation to it of a specific (as opposed to neutral) citation relating to the particular series of law reports and the page number (eg (2013) 15 Ecc LJ 191). Where there is a system of neutral citation, whenever reference is made to a judgment, the neutral citation should always precede any specific citations; and there should scarcely ever be the need to refer to a judgment as ‘unreported’. In the secular system in England and Wales, neutral citation has been universal in the senior courts since 11 January 2001, following the issue by the Lord Chief Justice of *Practice Direction (Judgments: Form and Citation)* [2001] 1 WLR 194, [2001] 1 All ER 19. This followed emerging international practice. Since that time neutral citation has been extended to various secular tribunals.

WHAT IS THE BENEFIT OF NEUTRAL CITATION?

There are three principal benefits of neutral citation. First, subject to a few exceptions, the distinction between reported and unreported judgments disappears. Since, in both the secular and ecclesiastical system, the majority of judgments are not reported at all (or, if reported, are only reported in summary form, as in this journal's 'Case notes'), this is a major change. Second, even in the case of reported judgments, with the benefit of search engines it is both simpler and cheaper to access judgments through their neutral citation (where known). Third, neutral citation is always accompanied by a requirement that judgments be comprised of numbered paragraphs, which replaces the traditional way in which judgments were cited by reference to page numbers in the law reports (or transcripts). This has the benefit that, whether reference is being made to the original judgment (with its neutral citation) or to any subsequent reporting of the case in printed law reports, the paragraph numbers should be identical. In simple terms, it is no longer matters for most purposes therefore whether researcher, advocate or judge has access to the original judgment or to a subsequent law report. Where the law report consists of a summary, of course this is not the case; and because only printed law reports have an edited head-note summarising both the facts and the *ratio* (or *rationes*) *decidendi* (the latter by reference to paragraph numbers in the judgment), the citation of reported judgments from the law reports themselves continues to be required in the senior courts (see *Practice Direction (Citation of Authorities)* [2012] 1 WLR 780; [2012] 2 All ER 255, paragraphs 6 and 7) and is good practice also in the ecclesiastical courts.

PRACTICE NOTE NO 1 OF 2015

With effect from 1 January 2016 neutral citation has been introduced into the faculty jurisdiction of the ecclesiastical courts. A verbatim copy of *Practice Note No 1 of 2015*, issued on 23 December 2015 by the Dean of the Arches and Auditor, is reproduced at the end of this note. The *Practice Note* drew on work done by a working group of the Ecclesiastical Judges Association, headed by Chancellor Petchey, and the advice of Clive Scowen, Editor of the Incorporated Council of Law Reporting.

Diocesan abbreviations in Schedule 1

It was simple to start the neutral citation with the year and a reference to England ('E'), and to follow this with a reference to consistory (or commissary) court ('CC'), leading to the prefix 'ECC'. This compares to 'EWHC' (England and Wales High Court) used in the secular system). It was more difficult to decide on appropriate diocesan abbreviations. Normally the first three letters of the diocese have been used (as in 'Bir' for Birmingham). But since both Chester and

Chelmsford (for example) start with the same three letters, this practice could not be universally followed. In addition, where dioceses incorporate two place names (as in Bath and Wells, Ripon and Leeds, Southwell and Nottingham, and St Edmundsbury and Ipswich), it was considered desirable to respect both parts. In the case of the new Diocese of Leeds, which most often refers to itself as the Diocese of West Yorkshire and the Dales, an abbreviation which reflects the latter was considered appropriate.

Appellate abbreviations in Schedule 2

For the Arches Court of Canterbury and for the Chancery Court of York, the respective abbreviations ‘EACC’ and ‘ECCY’ compare to ‘EWCA’ (England and Wales Court of Appeal) in the secular system. It will be for the Court of Ecclesiastical Causes Reserved, which has not sat for the past 30 years, to decide on its own abbreviation when it next gives judgment.

Exclusion of one-page judgments

The vast majority of petitions are unopposed and granted without further proceedings (see now Faculty Jurisdiction Rules 2015, rule 10(6)). As stated in Newsom and Newsom’s *Faculty Jurisdiction of the Church of England*, ‘Conventionally [the chancellor] endorses the petition “Fiat” or the like, marks on it the period for compliance and adds his initials and the date.’¹

In such cases there is no requirement for a written judgment, save in the limited circumstances set out in rule 7(3)(1), where the reasons must be recorded ‘in summary form’. Neutral citation will not be applied to such endorsements, or to judgments which do not exceed one page. In the rare cases where a judgment of less than one page merits allocation of a neutral citation reference, chancellors will be free so to allocate.

Treatment of interlocutory (interim) judgments

While neutral citation is required in the case of all final judgments of more than one page in length, the *Practice Note* leaves it to individual chancellors and appellate courts to decide whether interlocutory (interim) judgments warrant neutral citation. Usually such judgments are likely to be fact-specific and unlikely to require such treatment. However, both the first instance and Court of Arches’ interim judgments in *Spitalfields Open Space Limited and others v The Governing Body of Christ Church Primary School and others* (15 December 2014 and 24 July 2015 respectively) would clearly have merited neutral citation, and most decisions of the appellate courts refusing leave to appeal are likely so to warrant (but not normally those where leave to appeal is granted).

1 G Newsom and G Newsom, *Faculty Jurisdiction of the Church of England*, second edition (London, 1993), p 79.

Exclusion of the Diocese of Sodor and Man and the Diocese of Europe

Neither of these dioceses, though part of the Church of England, lies within England, and thus a neutral citation abbreviation prefixed by 'E' would be inappropriate. For the time being neutral citation will not apply to these two dioceses.

Other ecclesiastical judgments

The *Practice Direction* only applies to the faculty jurisdiction. Thus neutral citation will not be required for the time being for judgments (for example) of Bishop's Disciplinary Tribunals (and of the appellate disciplinary courts).

THE FUTURE

Those who use the admirable (and freely accessible) Ecclesiastical Law Association case law website can now access faculty judgments simply by entering the neutral citation. In due course it is hoped that these judgments may be available on websites such as bailii.org, but this is still subject to negotiation. Neutral citation should increase the availability and accessibility to lawyers and clergy (and the public more generally) of the constantly evolving faculty jurisprudence, much of which is (in the author's opinion) of very high quality.

CHURCH OF ENGLAND FACULTY JURISDICTION PRACTICE NOTE

No 1 of 2015

This Practice Note follows consultation with the Ecclesiastical Judges Association and the Editor of the ICLR.

FORM OF JUDGMENTS

With effect from 1 January 2016 all final judgments and decisions in diocesan consistory courts (including the Commissary Court of the Diocese of Canterbury, but excluding the Consistory Court of the Diocese of Sodor and Man) and in the Arches Court of Canterbury (also known as the Court of Arches) and the Chancery Court of York (sitting in exercise of the faculty jurisdiction) should be issued with single spacing and paragraph numbering (with optional page numbers, which will not be used in neutral citation). Indented paragraphs will not be given a number. Judgments or decisions consisting of only one page are exempt from this requirement.

NEUTRAL CITATION OF CASES

With effect from 1 January 2016 a form of neutral citation will be introduced in the above courts. A unique number will be given by the court itself (or in default by the relevant diocesan or provincial registrar) to all final judgments and decisions issued, and will appear at the top left hand corner of the first page of the judgment or decision, prefixed by the words 'Neutral Citation Number'. In the case of interlocutory judgments and decisions it will be within the discretion of the court whether to give a number. Judgments and decisions of consistory courts will use the abbreviation ECC (for England Consistory – or Commissary – Court) followed by a three letter abbreviation of the relevant diocese followed by the sequential number of the judgment or decision. Schedule 1 shows the relevant diocesan abbreviations to be used. Thus at the top left hand corner on the first page of the first judgment in 2016 in the Consistory Court of the Diocese of Bath and Wells will appear the following:

Neutral Citation Number: [2016] ECC B&W 1.

Judgments or decisions of the appellate courts will use the abbreviations in Schedule 2.

Judgments or decisions consisting of only one page are exempt from this requirement.

Under the new arrangements any particular paragraph of the case to be referred to will be cited in square brackets at the end of the neutral citation as follows:

In re Holy Trinity, Clergytown [2016] ECC B&W 1 at [12].

The neutral citation will be the official number attributed to the judgment or decision by the court and must always be used on at least the first occasion when the case is cited and referred to in any later judgment or decision. Should the case be reported, the neutral citation will appear in front of the citation from the law report series.

COMMUNICATION OF JUDGMENTS AND DECISIONS

There is no change in the established practice whereby judgments and decisions are communicated by the relevant diocesan or provincial registrar to the Librarian of the Middle Temple, to the Case Editor of the Ecclesiastical Law Journal and to the Editor of the Ecclesiastical Law Association's case-law website. An appropriate case should also be communicated to the Editor of the ICLR and to the Case Editor of the Church Times.

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Schedule 1**Diocesan abbreviations for use in neutral citation**

Bath and Wells	ECC B&W	Liverpool	ECC Liv
Birmingham	ECC Bir	London	ECC Lon
Blackburn	ECC Bla	Manchester	ECC Man
Bristol	ECC Bri	Newcastle	ECC New
Canterbury	ECC Can	Norwich	ECC Nor
Carlisle	ECC Car	Oxford	ECC Oxf
Chelmsford	ECC Chd	Peterborough	ECC Pet
Chester	ECC Chr	Portsmouth	ECC Por
Chichester	ECC Chi	Rochester	ECC Roc
Coventry	ECC Cov	St Albans	ECC StA
Derby	ECC Der	St Edmundsbury & Ipswich	ECC SEI
Durham	ECC Dur	Salisbury	ECC Sal
Ely	ECC Ely	Sheffield	ECC She
Exeter	ECC Exe	Southwark	ECC Swk
Gloucester	ECC Glo	Southwell & Nottingham	ECC S&N
Guildford	ECC Gui	Truro	ECC Tru
Hereford	ECC Her	West Yorkshire & the Dales	ECC WYD
Leicester	ECC Lei	Winchester	ECC Win
Lichfield	ECC Lic	Worcester	ECC Wor
Lincoln	EC Lin	York	ECC Yor

The first decision to be handed down in 2016 in the Consistory Court of the Diocese of Bath and Wells would thus be allocated the neutral citation '[2016] ECC B&W 1'.

The abbreviation WYD is in recognition that the Consistory Court of the Diocese of Leeds is known as and should be referred to as the Consistory Court of West Yorkshire and the Dales (Diocese of Leeds).

Schedule 2**Appellate court abbreviations for use in neutral citation**

Arches Court of Canterbury	EACC
Chancery Court of York	ECCY

The first decision to be handed down in 2016 by the Arches Court of Canterbury would thus be allocated the neutral citation '[2016] EACC 1'.

The Court of Ecclesiastical Causes Reserved, which rarely sits, could conveniently use the abbreviation ECECR.