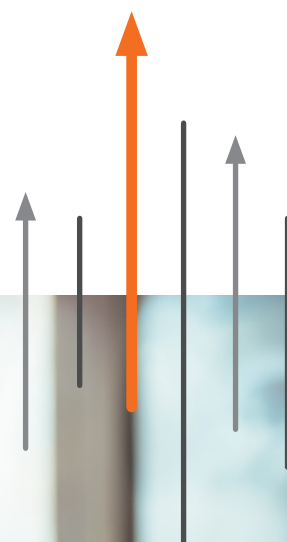


SPECIAL
REPORT

Case Confidence

How intelligent tools enable
smarter, faster research



A make-or-break challenge

Cases research is foundational to the practice of law in common law jurisdictions, particularly for litigators. Understanding how judges have interpreted and applied statute informs every legal decision, matter, and strategy.

Broadly speaking, this requires:

- in-depth comprehension of complex information including case law, legislation, and guidance;
- access to accurate, up-to-date content; and,
- the capability to find all relevant cases, analyse each to determine its importance, and see the big picture.

Your client's case—as well as your professional success and standing—depend on getting this correct, but two things stand in your way. First, the abundance of case law you must sift, sort, and assess. Second, the need for efficiency. It is essential to be thorough, but you cannot spend endless hours on research.

This is true for lawyers in law firms large and small, barristers, the judiciary, law students, professors, and in-house lawyers at companies and public-sector agencies. Regardless of their setting or role, lawyers need confidence the case research they rely on is complete, current, accurate, thoughtfully evaluated, and efficiently produced.

Perfecting this process is a make-or-break challenge. Everything you do depends on it.

91% of law firm business leaders expect to use technology to cut costs.



Source: Thomson Reuters 2019

Time, resources, and other pressures

Researching case law used to mean long nights in the library poring over stacks of law reports. Today, online legal databases deliver a massive volume of information directly to the researcher's computer screen, but it's too much information. Finding the gems in this mountain of material is a monumental challenge.

Oftentimes, this labour-intensive mining expedition unearths a long list of citations and search results that provide neither clarity nor confidence. How can you be sure the most relevant and authoritative case law is identified? Deciding what to include or omit and when to stop the research process is daunting. Missing an important argument or including one that is off-target—or given too much or too little weight—will adversely affect the analysis and the legal strategy that is ultimately settled upon. It also will adversely affect the reputation of the responsible lawyer, law firm, or legal department.

This work is arduous, time-consuming and, for law firms, often not reimbursed—which creates great pressure to be as efficient as possible. To frame it another way, essentially, legal research is a constraint that introduces cost, time, and risk. A firm may absorb the cost or cap the number of hours spent on research—and potentially impact profitability or the quality of the legal work.

At the same time, a research project's scope and scale may expand unexpectedly, creating delays and increased costs. For example, matters that are found to span multiple jurisdictions or involve conflicting laws often require more extensive investigation than anticipated. Or there may be a need to assess judges who will oversee a case to determine how they have ruled in similar cases and what arguments they have found persuasive.

In many practice groups, foundational legal research is delegated to junior colleagues, which, while valuable for training and development, necessitates oversight by senior colleagues.

Meanwhile, greater competition in the legal services market and increased client price sensitivity has increased pressure on law firms, while corporate legal departments face increased workloads and stagnant or diminished resource levels due to external forces. These include business and economic disruptions, the quest for growth and profitability, growing regulatory complexity, and the need to provide greater strategic guidance to their organisations.

In this environment, efficiency and excellence in legal research are paramount—which requires lawyers to deliver thorough, accurate, timely research in less time.

Factors affecting the cost of legal research

Access	Fee charged by legal solution providers
Labour	Time required to find relevant authorities and doctrines Time required to analyse and apply legal knowledge
Quality	The consequences of incomplete or inaccurate legal research (e.g. unfavourable outcomes; poor advice to clients; risk to clients)

Cutting-edge technology

Throughout the legal industry, digital transformation is the watchword as many firms, barrister’s chambers, and in-house legal departments seek the efficiencies and improved performance legal technology provides. Those that make the leap can achieve clear competitive advantages—outpacing their rivals, reducing costs, improving process management, and delivering better outcomes.

Why firms are adopting advanced legal technology

45%	Provide critical competitive advantage
28%	Reduce time taken to complete tasks
12%	Cut costs in the long run
10%	Reduce human error
4%	Help attract talent

Source: Thomson Reuters 2019

Legal research is ripe for further digital transformation. Cutting-edge legal research tools will never supplant lawyers, of course, but will help to:

- cast a wide net across multiple, integrated content sets;
- identify the most relevant case law;
- analyse pertinent cases;
- visualise how cases relate to each other; and,
- save time and money—and deliver optimal results.

Technology can empower junior colleagues and impact the academic institutions training the lawyers of the future. As legal research evolves in the digital age, law firms, legal departments, and other employers will need graduates entering the job market with enhanced legal research skills and the ability to deliver reliable results quickly and efficiently.

Use of AI-assisted legal technology for legal research, by organisation type

In-house legal dept	32.3%
Law firm	25.0%
Grand total	27.2%

Source: University of Oxford 2020

Best practices: From search to case analysis



Conducting the search

Producing research that elicits confidence requires a practitioner with a command of case law and access to integrated research content sets and intelligent tools that help them to sift massive volumes of information and select, review, and evaluate relevant cases. This dynamic process also can find answers through alternate routes. For example, researchers can explore secondary sources such as journal articles and commentary which lead to essential primary citations—creating the starting point for ‘top-up’ research.



Defining the issues

The fundamental step in legal research is identifying the leading case or cases governing the issue in question or, if none exists, finding relevant persuasive authority in analogous cases or more general legal principles. At this stage, well-known challenges include the identifying relevant principles or finding cases with similar facts.



Building a case history

Insights emerge when lawyers build a complete case history, review the arguments and judgments as it progressed through the courts, and see when and where it was cited. This requires a case database that allows them to see all these elements of case history quickly and easily.



Documentation and transparency

Often in law firms there is a division of labour between researching and leading the case.

The individual or team receiving the information must understand how the research was conducted and be able to trace its origins to ensure the integrity, efficacy, and transparency.



Source: University of Oxford 2020



Case analysis

In conducting case analysis, a researcher must see and clearly show the litigation team the many interrelations between relevant cases. It's also important to use a tool that allows lawyers to follow topics of law through the cases database. This enables them to quickly ascertain which of the cases that cite the leading case address the issue of interest to the litigator—and which can be excluded. This stage also may require creative analysis of the existing case law, in order to develop an argument based on first principles.

Conclusion

Intelligent tools enable smarter, faster research. They speed up the work of finding exactly what the lawyer needs and then help connect the dots with other sources of information, allowing for a fuller, more authoritative view of the matter at hand. It assures lawyers and barristers they have exhausted every possible avenue and can explore different options for problem-solving—creating confidence their research and analysis are as thorough and efficient as possible.

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