



# Writing for publication: inspiration and perspiration

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I was sure there was a white light. As my eyes focused it morphed into a white sleeve, into which a robotic arm retracted. ‘Welcome to New Life’, declared the woman to whom the arm was attached. Only moments before, or what had felt like only moments before, I had been sedated into unconsciousness on the understanding that I would soon die and be cryonically frozen.

This was my reanimation; my second life. I had begun my first life genetically enhanced and gestated in an artificial womb. That had been a long life. Every time a body part had failed it had been replaced with a synthetic part, until my cybernetic body had required treatment beyond what was available to medical science. I had then been informed that the best my billions could buy was the chance to be reanimated, when science could either cure my ailment or transfer my consciousness.<sup>1</sup>

These were the opening paragraphs of my last monograph, which develops a legal theory and applies it to future developments in biomedicine.

The idea of creating a fictional scenario to convey the potential of the book’s four focal technologies came to me while walking during the Covid-19 lockdown. I got out my phone and began to put my thoughts into sentences. My walking route was unfamiliar. I had been following a public footpath sign. The path divided and I continued on what I thought

was the path at the side of a field. From the other side of the hedge, a woman shouted that I was on private land. I apologised and headed back the way I had come. I was then challenged by a man in an SUV (again from the other side of the hedge) as I walked back towards the public footpath sign. He repeatedly asked what I was doing but refused to accept my responses. He threatened to call the police. I replied that he was free to do so but that I was committing no crime.

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1 Shaun D Pattinson, *Law at the Frontiers of Biomedicine* (Hart 2023) 3.

That was the day that the Dominic Cummings story broke, when the UK Prime Minister's top adviser came under fire for travelling across the country during the lockdown.<sup>2</sup> One of the news reports showed a picture of the family farm from above. I looked up my walking location on Google maps. I had been within metres of the family's house.

Few of my writing experiences are anywhere near this exciting and that was my first – and probably last – attempt at writing science fiction. What this shares with my usual process is that, when inspiration strikes, I immediately attempt to put my thoughts into written form. More often than not, I rewrite those words over and over again. As Thomas Edison is reputed to have said: 'Success is 10% inspiration and 90% perspiration.'

Below I offer five guiding thoughts on academic publishing in law. These are little more than distillations from my own experiences, but I hope they offer something for those earlier in their academic careers.

## 1 GETTING STARTED

I would like to be able to claim that my early publications were all carefully planned. That would be a nonsense nugget. My first publication was in a student journal, submitted to support a desperate editor. It remained on my CV only a little longer than it took for the printer paper to cool.

The earliest publication still on my CV was co-authored. The supervisor of my second undergraduate dissertation on moral philosophy had only one comment: 'You need to meet Deryck Beyleveld, come here next Tuesday and I'll drive you to meet him.' Upon meeting, I articulated my criticism of the application of Alan Gewirth's moral theory to animals to the principal defender of that moral theory.<sup>3</sup> His response was to blast me with a fusillade of supporting arguments well beyond my imagination. Around 18 months later, during my master's degree, we sat at his computer writing a paper.<sup>4</sup> I learned more from that process than from any course or any other source.

2 For details, see 'Dominic Cummings: what is the scandal about?', *BBC News* 26 May 2020.

3 Deryck Beyleveld, *The Dialectical Necessity of Morality: An Analysis and Defence of Alan Gewirth's Argument to the Principle of Generic Consistency* (Chicago University Press 1991).

4 Published two years later, as Deryck Beyleveld and Shaun D Pattinson, 'Precautionary reasoning as a link to moral action' in Michael Boylan (ed), *Medical Ethics* (Prentice-Hall 2000) 39.

To date, I have co-authored with only one student, Sara Gerke, who was a visiting PhD candidate in Durham for around a year.<sup>5</sup> I do, however, encourage all my research students to publish during their studies. Not only because publications are essential for an academic career in a permanent teaching and research role, but because the process of writing for publication assists the writing of the PhD and provides external guidance (from reviewers and editors) on how to improve the quality of the work.

As others have pointed out,<sup>6</sup> most research candidates lack the skills and confidence to publish in high quality journals at the start of their degree. I therefore usually recommend that they start by publishing a book review or a case note and then move on to writing an article. I have had the pleasure of supervising many outstanding legal scholars.<sup>7</sup>

**Key point:** start writing for publication early because those skills are best acquired through hands-on experience.

## 2 LEARNING FROM OTHERS

I have already given an instance where I have benefited from the assistance of others. Let me give another from much later in my career.

I was the principal investigator for a three-year project using law to engage 16–17-year-old students with biomedical science, entitled ‘Human Cloning and Stem Cell Research through the Medium of Law’ and funded by the Wellcome Trust. The activities in the second year of the project (2014–2015) involved a day of preparation events, followed by a second day (around two weeks later) in which the students engaged in

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- 5 Sara Gerke and Shaun D Pattinson, ‘EU marketing authorisation of orphan medicinal products and its impact on related research’ (2017) 24(5) *European Journal of Health Law* 541.
  - 6 Irina Lokhtina et al, ‘In pursuit of sustainable co-authorship practices in doctoral supervision: addressing the challenges of writing, authorial identity and integrity’ (2002) 59(1) *Innovations in Education and Teaching International* 82 and Barbara Kamler, ‘Rethinking doctoral publication practices: writing from and beyond the thesis’ 33(3) (2008) *Studies in Higher Education* 283.
  - 7 Some examples of excellent pieces written by my research students during their studies include: Daniel Fenwick, ‘“Abortion jurisprudence” at Strasbourg: deferential, avoidant and normatively neutral?’ (2014) 34(2) *Legal Studies* 214; Clayton Ó Néill, ‘Conscientious objection in *Greater Glasgow Health Board v Doogan and Others*’ [2014] UKSC 68’ (2016) 15(4) *Medical Law International* 246; Marianna Iliadou, ‘Surrogacy and the ECtHR: reflections on *Paradiso and Campanelli v Italy*’ (2019) 27(1) *Medical Law Review* 144; Zoe L Tongue, ‘*Crowter v Secretary of State for Health and Social Care* [2021] EWHC 2536: discrimination, disability, and access to abortion’ (2022) 30(1) *Medical Law Review* 177; and Yuxin Li and Jingchen Zhang, ‘Zaozao Xu’s case: Chinese women’s appeal for the right to freeze their eggs’ (2024) 24(3) *Medical Law International* 217.

a moot on human cloning and a mock parliamentary debate on a proposed statutory instrument designed to permit mitochondrial replacement therapy. In the preparation for these activities, my understanding of the technique used to produce the first cloned mammal (Dolly the sheep) was corrected by Mary Herbert, Professor of Reproductive Biology at Newcastle University, who was advising on the science and gave a lecture to the students as part of the preparatory activities.

The method used to produce Dolly the sheep is usually referred to as 'somatic cell nuclear transfer'. I had mistakenly assumed that only part (the nucleus) of the somatic cell (derived from a sheep's mammary gland – Dolly was named after Dolly Parton) had been transferred into an egg that had its own nucleus removed (an enucleated oocyte). But Mary explained that the *Nature* paper announcing Dolly to the world states that the procedure involves 'fusion of the donor cell to the enucleated oocyte'.<sup>8</sup> In other words, the entire somatic cell was fused with a nucleus-free egg, not just the isolated nucleus from that

somatic cell. Chemical signals were then used to trigger embryonic development. Discovering my misunderstanding was humbling. I was, at that point, a full professor, and several of my publications had misdescribed the science behind the creation of Dolly the sheep.<sup>9</sup>

Accordingly, I redesigned the materials that were to be provided to the students. It transpired that I was not the only one to have made this mistake. Misdescription of the Dolly technique was everywhere, including in the learning materials provided to GCSE, AS level and A2 level biology students.<sup>10</sup> The project preparation activities sought to correct this and, as a result, the students were able to present scientifically accurate arguments in the moot. A fortunate byproduct was that our project had a data point by which we could measure the impact of our activities on the students' understanding of the science of cloning. This led to my writing an article with the co-investigator for a medical law journal.<sup>11</sup> A shorter follow-up piece published in *The Biologist* resulted in a telephone call with a memorable opening line: 'Hello, I'm the embryologist

8 Ian Wilmut et al, 'Viable offspring derived from fetal and adult mammalian cells' (1997) 385 *Nature* 810, 810.

9 See Shaun D Pattinson, *Influencing Traits Before Birth* (Ashgate 2002) ch 5; 'Reproductive cloning: can cloning harm the clone?' (2002) 10(3) *Medical Law Review* 295; and 'Some problems challenging the UK's Human Fertilisation and Embryology Authority' (2005) 24 *Medicine and Law* 391.

10 Shaun D Pattinson and Vanessa Kind, 'Using a moot to develop students' understanding of human cloning and statutory interpretation' 17(3) *Medical Law International* 111, 117.

11 *Ibid.*

who created Dolly.’<sup>12</sup> I almost fell off my chair. Fortunately, he confirmed my new understanding.

I received Mary’s insight on the science behind the creation of Dolly after I had asked her to read the draft student preparation materials. I frequently ask colleagues to read my draft work. Those acknowledged in the footnotes of my articles and the prefaces of my books have greatly advanced my thinking and saved me from many errors. It is difficult to understate the debt I owe others in this regard. A conference paper became the introductory chapter of my last monograph after critical comments from a colleague forced me to rethink several features of my explanation of the derivation of variant moral judgements, and I completely reworked a later chapter on what I had labelled ‘cybernetic biohacking’ to deal with the incisive comments of another colleague. I like to think that I have returned those favours.

**Key point:** writers should seek the advice of experienced researchers on their draft work.

### 3 DEALING WITH REJECTION BY A JOURNAL

Every academic’s CV of failure is much larger than their CV of success. But only the latter usually

gets presented as their CV. Looking through an established academic’s publication and grant record can therefore present a very misleading image of their activities.

Most of my oral papers have been works in progress. Indeed, my advice is to avoid giving papers that are not part of your publication plan because time is the most valuable commodity in academia. Sometimes the path from presentation to publication is smooth. But more often it is not. It is a rocky road that turns back on itself and, occasionally, stops dead.

The worst paper I’ve presented – so far – was entitled ‘Floodgates and slippery slopes in legal argumentation’. I presented it at the annual conference of what is now called the Society of Legal Scholars (SLS), then called the Society for Public Teachers of Law (SPTL). The event, in Glasgow, is burned into my memory for two reasons. First, I watched the news of planes flying into the twin towers on the television in the conference accommodation. Secondly, I presented a paper that still makes me cringe when recalled. The central idea (that floodgate arguments are feared end-point arguments conveying a dread of more immediate consequences than typically conveyed using the metaphor of the slippery slope) wasn’t the problem. The

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12 See Shaun D Pattinson and Vanessa Kind, ‘No uncertain terms’ (2018) 65(5) *The Biologist* 6 and the reply by the embryologist mentioned above: William A Ritchie, ‘The complexities of cloning’ (2018) 65(6) *The Biologist* 41.

problem was that I'd built a poor argument (about the need for courts to operate with additional procedures if they are to invoke the floodgate metaphor) without sufficiently deep thought on the underpinning legal theory. The official commentator, one of my PhD examiners, gently pointed out that it lacked the rigour of my PhD. The audience included some of the biggest names in legal philosophy, such as Neil McCormick and John Gardner, who were equally kind in their comments on what was clearly an insufficiently reasoned paper. It took a subsequent rejection of the paper by a leading journal for me to finally accept that it did not have legs. I should have put it aside for several months after the feedback from the oral presentation. Fortunately, the outcome wasn't an unmitigated disaster. A small part of the paper lives on in the section on slippery slope arguments in chapter 1 of my medical law textbook.<sup>13</sup>

Not all journal rejections should, however, be treated as decisive. Often the submitted article has publication potential.

As some readers will be aware, research undertaken within UK universities is periodically assessed on behalf of the UK's higher education funding bodies

in a process originally known as the Research Assessment Exercise (RAE) and later redesigned and re-badged as the Research Excellence Framework (REF). For most of my career, I have produced the four publications then needed for this process without having that as a specific goal.<sup>14</sup> An exception was REF2014, which required outputs to be published between January 2008 and December 2013. Due to adverse personal circumstances, I found myself some way into the publication period without any suitable publications. I was inspired to write an article by my recollection of a scandal I'd heard about many years before from a transplantation surgeon who had taught me on my master's degree. In 1998, the relatives of a deceased man who had died at the Northern General Hospital in Sheffield had agreed to organ donation on the condition that the organs went to white recipients. His liver and kidneys had been accepted and transplanted into three white people. This led to a report, published in 2000, that rejected not only racist conditions, but all conditions on the basis that 'to attach any condition to a donation is unacceptable, because it offends against the fundamental principle that organs are donated

13 Shaun D Pattinson, *Medical Law and Ethics* 1st edn (Sweet & Maxwell 2006) 15–17, retained in every subsequent edition.

14 Four of my publications were submitted by my employer university to each of following assessments procedures: RAE2001, RAE2008, REF2014 and REF2021. For REF2029, there will be no minimum or maximum number of publications submitted on behalf of an individual researcher. See further the REF 2029 [website](#).

altruistically and should go to patients in the greatest need'.<sup>15</sup> The breadth of that conclusion also ruled out donation being 'directed' to a specified individual and was applied to that effect to another family, followed by the refinement of that practice by a later policy. It seemed to me that the blanket rejection of directed donation from deceased donors was not consistent with the requirement in the Human Tissue Act 2004 that 'appropriate consent' was needed for donation, which prioritised the wishes of the potential donor over the interests of the potential recipient. I wrote an article developing a theory that could explain and justify this legislative approach, and a later case on property in sperm, and articulated and extended that theory using three hypothetical scenarios. I submitted it to a leading journal.

Several months later I made the mistake of checking my email while on holiday. My article had been rejected on the back of one review. The reviewer gave two short reasons. One of these ran as follows:

Second, there is no reason why legislation must be entirely logical. It may reflect a politically expedient and workable solution to competing claims, even though it lacks logical consistency.

The editor regarded that review as conclusive and rejected it outright. I'll leave it to you to judge the persuasiveness of the reviewer's second point. The article, after only a cosmetic reworking, was submitted to another journal and published after two supportive reviews.<sup>16</sup>

I reacted in the same way to a desk rejection of a later article. This paper examined the relationship between the doctrine of precedent and the Human Rights Act 1998. It was inspired by what I took to be unjustifiably narrow applications of a decision of the House of Lords.<sup>17</sup> The acting editor of a leading journal provided a quick and detailed response, concluding with an invitation to resubmit. The email was kindly worded and referred to that person's own leading publications on the matter, expressly stating: 'please don't read this as a requirement that you say more about my own work'. I did not, alas, take that advice at face value and took the view that my failure to engage with that person's work had led to its rejection. After only minor reworking, I submitted to another journal. The first review was positive but the second reviewer was clearly the editor of the previous journal: the points were the same and they referred to a particular footnote that

15 Department of Health, *An Investigation into Conditional Organ Donation: The Report of the Panel* (HMSO 2000) para 6.1.

16 Shaun D Pattinson, 'Directed donation and ownership of human organs' (2011) 31(3) *Legal Studies* 392.

17 *Kay v Lambeth LBC* [2006] UKHL 10.

was again misnumbered. It was many months before I accepted that the reviewer's points were profoundly insightful. I finally took them onboard and undertook a major re-write, adding a second argument to my article. It was accepted by another journal after two supportive reviews.<sup>18</sup> If I had done this in response to the desk rejection, it could have been published considerably earlier. In fact, it was accepted for publication a matter of days after the publication deadline for REF2014. The upside of this was that I entered the publication period for REF2021 with one submission in the bag.

These experiences embody three reactions to rejection by a journal: (a) junking the article, (b) submitting to another journal after minor reworking and (c) submitting to another journal after major reworking. The difficulty when dealing with rejection is to identify which of these approaches is appropriate. My advice is not to do what I did with that human rights piece, even though it worked out well for me in the end. I interpreted the insights provided by that esteemed academic in their most uncharitable light.<sup>19</sup> I advise taking these three responses in reverse order: first attempt major reworking in light of the reviewers' comments and only junk it if it truly is a stinker.

**Key point:** give full and proper consideration to negative reviews.

## 4 PLANNING PUBLICATION

I edited *Medical Law International* for six years and can only remember reviewers recommending publication without revision once. My most common response to authors was therefore 'revise and resubmit'. The author's covering letter should then provide a point-by-point response to the reviewers' comments. The author does not need to accept every comment. Sometimes they pull in different directions or amount to the conclusion that the reviewer would have written a different article. (There's a famous joke about a local responding to a tourist's request for directions: 'Well, if I were you, I wouldn't start from here.') But where both reviewers agree, there is little point resubmitting unless their shared recommendations have been followed. It might still be rejected after revisions. For this reason, it is wise to identify several journals to which you could submit and, if you have the luxury of time, start with the most competitive. Some journals take a very long time to provide a response. You therefore need to build this into your plans.

18 Shaun D Pattinson, 'The Human Rights Act and the doctrine of precedent' (2015) 35(1) *Legal Studies* 142.

19 I regret not acknowledging that person's assistance in the published article. I have expressed my gratitude by email but omit a name here to save my further blushes.



Submitting a book contract is a very different experience. I now have several books under my belt: three monographs, an edited collection and a textbook for which I am currently completing the seventh edition. My first was my PhD thesis, updated and with a chapter removed on the recommendation of a reviewer. The first publisher I approached sought guidance from my PhD examiners, which led to rejection when one honestly asserted that its approach was 'too rarified' to sell. To my relief, the second publisher concluded otherwise. It sold no more than a few hundred copies, so the judgement of my PhD examiner was not unfair.

The process for getting a book contract differs in several ways from the process for getting an article accepted by a journal. Four differences spring to mind. *First*, the reviewer is told the identity of the author and is usually provided with a copy of their CV. I therefore generally recommend that early career researchers publish a couple of articles before seeking their first book contract. *Secondly*, the publisher is principally interested in how your book will fit into their portfolio and how it will sell. Your proposal should therefore briefly explain why your research monograph is likely to sell to and beyond university libraries. Consider, for example, whether you can make the plausible case that your book will sell outside the UK or will be relevant to

existing undergraduate and/or postgraduate courses. *Thirdly*, the author is expected to identify the principal competing works. Authors should anticipate that the publisher will seek reviews, usually three, from a pool of reviewers that includes their previous authors and the persons mentioned in the proposal as the authors of competing books. Indeed, the reviewers who later revealed their identity to me have fallen into these two categories. *Fourthly*, publishers generally require submission of two chapters from early career researchers, whereas experienced authors can usually get away with submission of a proposal without sample chapters.

Selection of a book publisher is similar to selection of a journal for an article. In my experience, it is important to fully research what they have previously published and carefully follow the guidance they provide on submissions.

**Key point:** submission of work should be tailored to the publisher.

## 5 IDENTIFY AND ADDRESS YOUR LIMITATIONS

There are many hurdles to writing a strong publication. In my experience, many early career researchers overwrite. They spend too many words outlining the literature and legal context of the piece, rather than setting out the minimal information needed

to articulate their argument and explain how it advances knowledge in the area. Part of the problem is that, in law, journal articles are typically 10–12,000 words and some colleagues (in my view misguidedly) take length (and the journal itself) as measures of quality. I hope it's not controversial for me to assert that reading and assessing against the REF criteria – originality, rigour and significance – is a much better measure of quality than any proxy measure.

Whatever your limitations, you need to develop workarounds. I'm really bad at proofreading my own work. That will be no surprise to those who have received emails or text messages from me, where I frequently use the wrong word (eg 'your' becomes 'you') or use sentences for which good grammar is a distant observer. In recent years, my workaround for this is to use the dictation software on Microsoft Word for mobile to read the piece to me on my daily walk. I can hear my mistakes more easily than I can read them. You may have noticed that I have twice referred to working while walking. That's because I find it helpful to avoid staring at my screen searching for inspiration when words have ceased to flow. Also, the goal of walking 10,000 steps a day remedies my inclination towards indolence.

The biggest hurdle to writing is every other part of work and life. Teaching has immediate deadlines, administration is

an ever-demanding master and television series end with cliffhangers, enticing passive consumption of the next streamed instalment. My workaround to competing demands on my time is to write a little often. A paragraph or two whenever I get a moment, even if that is while walking. Occasionally, I do something more dramatic. I have recently benefited from an academic writing retreat where attendees are required to switch off social media, silence notifications and write in scheduled chunks in a shared room. My first experience was so productive – I restructured an article that ripples with potential, despite being rejected after a revise and resubmit – that I have booked another two. You should be able to see whether that works out for me on the basis of whether my outputs in 2025 include a new edition of my textbook and an article on heritable genome editing.

**Key point:** identify your limitations and find ways to work around, rather than be hindered or even paralysed by them.

## CONCLUSION

Academic writing is an activity of both creativity and labour. I have outlined five insights learned from a combination of failure and success. Even the most casual reader will see that I generally eschew many popular recommendations about writing style, for instance:

be formal, avoid the personal pronoun, write in an impersonal style, avoid contractions and avoid colloquialisms. Writing is about communication, so I follow those recommendations only where they assist with communication.

One parting thought: when you are next asked to review an article or a book proposal, please remember that the recipient is someone like you or me. Reviewer two should not be you!