SECONDARY SOURCES

Secondary sources are not sources of law.

They merely summarise, analyse, synthesise, discuss or express views on the law. However, you can use secondary sources to find relevant primary sources. There is no point diving into the law and starting the research from scratch if somebody else has already done much of the work (of course, you still need to check the work is accurate and still up to date).

Secondary sources come in all shapes and sizes. Take care in evaluating these publications for the appropriateness of their content—sources accessible via subscription databases are usually reputable.

Books and commentaries are often subject-specific and aimed at either practitioners or academic lawyers. Books are an excellent starting point to understand a subject, by identifying key terms and phrases, leading cases and relevant legislation. Always check the date of publication for text books, as they are not updated regularly.

Commentaries are similar to books in content, but are updated several times per year, so they are more up to date than other publications, and best reflect current law. They also allow you to search nimbly between commentary, relevant cases, and statutes. Look out for them by name in your reading lists.

Journals and the articles within are short and intense pieces providing deeper analysis of a narrow point of law. In the legal field, journals come in two forms: trade / practitioner focused, and academic / scholarly. The former usually includes pictures, and may not acknowledge the author of the piece, and are short. Academic works are more rigorous pieces of research, with authors acknowledged, and authorities cited.

Legal encyclopaedias are a particularly good starting point in subject areas with which you are unfamiliar. Good legal encyclopaedias should give you concise, reliable outlines of the law. The Laws of New Zealand and Halsbury’s Law of England are good examples, and are both available on the Lexis Advance platform, along with Halsbury’s Laws of Australia.

FIND BOOKS, COMMENTARIES AND JOURNALS

Many legal sources in hardcopy and online can be discovered using the Otago University Library search engine, Library Search / Ketu (LSK) https://www.otago.ac.nz/library/index.html

Use LSK first, when looking for any secondary sources on your topic. Resources held by the Library have been evaluated by librarians and academic staff to ensure the data meets the research and learning needs of the university community. This is particularly true for textbooks on Reserve, and your eReserve reading lists on Blackboard.

While LSK can tell you what books are in the library, and can directly link to many journal articles, a lot of legal content is also ‘hidden’ inside legal databases such as Westlaw and Lexis.

Read on to learn about finding and using books, commentaries or journal articles from these key sources:

1. Library Search | Ketu (LSK)
2. WestlawNZ
3. Lexis Advance
4. CCH
5. Legaltrac, HeinOnline, and Linxplus
6. Westlaw and Lexis
1. FIND BOOKS, COMMENTARIES AND JOURNAL ARTICLES USING LIBRARY SEARCH | KETU

Use Library Search | Ketu (LSK) to find many legal texts and journal articles. LSK is a very generic search tool. To find textbooks, use broader search terms, e.g. torts, contract, or family. To find journal articles, use narrower terms. Add 'law' and 'Zealand' to focus the search.

BOOK AND COMMENTARY SEARCH

Type in keywords. LSK will retrieve results with all terms present. ‘Search Everything’ includes books, journals, videos etc.

Use Advanced Search to search specifically by title if you know those terms are in the title.

Use filters on the left to refine the results, e.g. Law Library; Available in the Library (= hardcopy)

Sometimes the latest edition is on Reserve, and is not clustered with the previous editions.

Find the call number (KN10. CG94 2015) and get it off the shelves.

Browse the index of the textbook to find concepts and terms, and perhaps find new keywords for your search.

All current NZ commentary is online.

Look for a database link like this.

Filter your initial search by Type: database if you cannot find it immediately.
JOURNAL ARTICLE SEARCH

*Library Search | Ketu (LSK)* provides access to articles from 100s of databases.

It can find articles from within *HeinOnline, Legaltrac* and multidisciplinary database suites like *Proquest*. LSK cannot find articles within *Westlaw* or *Lexis*.

To find articles using LSK, type in keywords (from your search strategy), and use those specific phrases related to cancellation or the courts granting relief. Add “ ” around phrases. If you know the title of the article, use those words as your search terms.

Refine by content type. Filter by subject, or journal title.

Evaluate!
Is the date of the article in scope?
Is a newspaper article high quality, unbiased and authoritative?

Use the Advanced Search template if you need to perform a more targeted search, and Sign in for more functionality.

In this search, the results are narrowed to journal articles. Be prepared to do new searches using other keywords from your search strategy.

To get to the full text of the article, click on either the title, or the ‘View Details’ link.

Click on *Lexis Advance NZ*. Sometimes there is information here about the date ranges provided. Make sure this matches your requirements.

Either way, you will be redirected to a login screen. Login with your student details.

Many law journal articles will not link all the way to the article itself, so it is not uncommon to have to re-search the article.

Re-search. Note the Source is only the *New Zealand Law Journal*, so the search terms can be quite rudimentary.
Example 1 To find an article from a reference, first decode the elements of the reference:


Author  Title of article  Year of publication  (volume), journal abbreviation & start page

In Library Search | Ketu, first try searching by author and title keywords.

Use view Details link to get to the full text options

Ensure the access date range matches your article. In this case, either should work.

Contract Law
ANDREW BECK

The year has produced somewhat fewer than usual reported decisions on the law of contract. Probably the most significant development is the recognition by the New Zealand Court of Appeal of interest as a head of damages for breach of contract. The New Zealand Supreme Court has considered the law relating to unconscionability, although without shedding any great light on the principles. As well as the availability of interest as damages for breach of contract, the New Zealand Court of Appeal has addressed issues arising in offers to compromise disputes, the steps necessary to guard against undue influence, the role of permanent injunctions and judicial review as contractual remedies. The New Zealand High Court has addressed the question of the enforceability of contracts entered into by minors.
Example 2  To find an article from a reference, first decode the elements of the reference:


In Library Search | Ketu, first try searching by author and title keywords.

If that fails, it is for one of three reasons:

1. The article is available only in print
   Solution: Change tactic and look for the journal title in Library search (see below)

2. LSK does not search across the particular law database this article resides in.
   Solution: Look for the article manually in Westlaw or Lexis Advance US. (see below)

3. The Library does not subscribe to the journal.
   Solution: Interloan. Scroll down to the bottom of the LSK search results screen to link to interloan.

Solution 1: To find the print version, search by journal title. In this example, however, we don’t know the journal title, we only have the journal’s abbreviated title: JCL.

Find out what that abbreviation means using the Cardiff Index to Legal Abbreviations from the Law Subject guide.

Use your knowledge of the topic to choose the right journal. Copy and paste the full title into library search.

Type in the Journal title.
“” phrase search if necessary.
Click on title to get more information about location and holdings.
Journals are shelved alphabetically in the Law Library.
The open dash in the holdings information (vol 1 -) means the subscription is active, and there are none missing.
Click on Find in Library to see a map.
Solution 2: Look for the article manually in Westlaw or Lexis Advance US But which one?

The first step is the same as above. You need to decode the Journal title abbreviation using Cardiff.

This time, look for clues about the jurisdiction and publisher, so we interrogate the ‘right’* database. Of course, you could just try looking in both places, until you get the hang of it.


Use your knowledge of the topic to choose the right journal. Note the Jurisdiction (Australia). Copy and paste the full title into LSK.

Search by Journal title.
“ ” phrase search if necessary.
This time, it is the publisher information that we need, so we can look for the journal and the article from the right database.
This one is Butterworths aka Lexis*

Now go to the Law Subject Guide and click on Lexis Advance US (under the Quicklinks Journals heading).

Lexis Advance US is where most full text journals from the Lexis/Butterworths family from all jurisdictions reside,, including from NZ and Australia—just another non-intuitive thing to learn.

Start typing in the journal title, and select it.

You are now only searching within the Journal of Contract Law. Search for the article. Using author and keywords.

* See Tips page.
Solution 2: Look for the article manually in *Westlaw* or *Lexis Advance US* But which one?

Here is another example.

First, decode the abbreviation of the journal title, using *Cardiff*. (Note, sometimes you will already know the full journal title, so this step might not be necessary)

M Roberts “Continuing representations and agency” (2014) 20 NZBLQ 73

Again, look for clues within LSK about the jurisdiction and publisher. The publisher information helps us select the ‘right’* database.

Of course, you could just try looking in both places, until you get the hang of it.

* Westlaw is where most full text journals from the Brookers / Thomson Reuters family from all jurisdictions reside, including from NZ and Australia—just another non-intuitive thing to learn.

* See Tips page.
Now go to the Law Subject Guide (Quicklinks box) and click on Westlaw (Foreign Law heading), or Westlaw: International Materials (Journals heading).

You can type in the citation—in quote marks—“20 NZBLQ 73”

Or, to be confident the journal is here, type the title of the journal, New Zealand Business Law Quarterly, into the search box, and select it from the drop-down.

Now go to the Law Subject Guide (Quicklinks box) and click on Westlaw (Foreign Law heading), or Westlaw: International Materials (Journals heading).

You can type in the citation—in quote marks—“20 NZBLQ 73”

Or, to be confident the journal is here, type the title of the journal, New Zealand Business Law Quarterly, into the search box, and select it from the drop-down.

Now you are searching just within the journal: Type in author and title keywords

Check the scope note for date range covered. Is your article too old?
Find it in hardcopy journal on 7th floor.

Note also the date of the “most recent” listed. Is your journal article too new? Find it in the hardcopy journal on the 7th floor.
Solution 3. If the Library does not subscribe to the journal, you can Interloan. This is a service whereby you can request items from other libraries around the country and around the world.

Begin by checking Library Search (LSK). E.g. looking for: The Practical Law Journal

Scroll down to the bottom of the LSK search results screen to link to interloan. The search will happen automatically. At some point you will have to log in too.

Complete the form. Scroll to the bottom to accept copyright conditions. The article will be emailed to you.
Commercial databases such as CCH, LexisNexis and Westlaw provide expert opinion about legislation. This kind of literature is called ‘commentary’, or is sometimes referred to as a ‘loose-leaf’. The authors are judges, lawyers and academics.

Using commentary is an excellent way to quickly discover key issues around specific sections of an Act, as well as directing the researcher to key cases in that area. They are regularly updated, making them more accurate and responsive to changing laws than a textbook.

Commercial databases such as CCH, Lexis Advance and WestlawNZ provide extra analysis by connecting you to other useful materials such as cases citing the statute, or supporting secondary sources which can guide you to key cases, journal articles, and more.

You should always search across all the relevant databases— they get updated at different rates, and may link out to different sources.

From Law Subject Guide, choose a NZ-based legal database to begin your search. [https://otago.libguides.com/law/](https://otago.libguides.com/law/)

## 2. FIND COMMENTARY USING WESTLAW NZ

From the Law Subject Guide, select WestlawNZ.

### 2A. BASIC SEARCH—BROWSE

Browsing is a good way to find “I’ll know it when I see it” content. You might need to think laterally though!

For this problem, we will browse by Practice Area to Commercial law, then drill down for the Contract and Commercial Law Act 2017, and see if a section about granting relief (or perhaps a related phrase) appears. From there, hopefully we will link to commentary.

Jot down the path you took so you can repeat the search again easily.

---

1. Search Westlaw
2. Select all Commercial
3. Select Contract and Commercial Law
4. Click the scope to see the scope of this publication, i.e. what it is about.
   - NB: referencing data is here too.

Continue to drill down to find the section of Act that looks relevant. E.g. s43
2. FIND COMMENTARY USING WESTLAW NZ

2B. ADVANCED SEARCH

Browsing is not always the most efficient method, especially if the Act is a long one, and the section you need commentary for is low down on the list! Advanced Search provides a targeted search option. From the Westlaw NZ homepage, select the Advanced Search Template—Legislation and Commentary. These are linked because commentary is always about providing analysis to the Act. The Act is analysed (interpreted) using the opinion of the author, backed up with exemplar case law.

So, find the Act first, and that will lead you to the commentary. This method is good for beginners because you do not need to know what the publication title of the commentary is.... Westlaw NZ will just lead you straight to it, based on the statute.

Find the Act first, and that will lead you to commentary.

Mix it up a bit. Use the free text field to search for keywords within the Act.

Note, this is a phrase search, with " " to force the two words together.

Scroll through the results, scan the Title, the Document Path, and the Hit Terms in Context to help you choose the 'right' section.

If you know the section number, e.g. 43, use that instead of free text keywords. The result will be singular!

Click on Gault on Commercial Law to get to the Commentary, or click the highlighted words to jump straight in.

Scroll down to see the commentary listed after the words of s 43.

Note how the commentary is written—with direct references to key cases.
EXPLORE RESULTS (GATHER CLUES)

Select a section about the court granting relief.

Sometimes, there is no Commentary Tab. Why?
Usually it is because the guiding statute is too recent to warrant any analysis.

In this example, explore the Compare: 1979 No 11 s 9(1) link too because we already know the new and old statutes are very similar, and there may be more useful information ‘hidden’ behind the old Act.

Follow the leads. For example, look at the cases highlighted in the commentary. They are probably important if they’ve been cited. Look at the other sections of the Act highlighted.

Jot down your pathways so you can get back to them easily.
3. FIND COMMENTARY USING LEXIS ADVANCE

From the Law subject guide, select Lexis Advance. Sign in with your student username and password. NOTE: you can modify the look and feel of this database to suit your needs and preferences.

This suite of databases within Lexis Advance includes a section called Secondary Materials, including several journals published by Lexis / Butterworths such as the New Zealand Law Journal, and many commentary services, such as Morisons company Law, and The Laws of New Zealand.

Data about legislation and commentary are linked, so one way to find the commentary is to find the Act first, and let the database lead you to the commentary and other analytical content.

Or, you can browse.

3A. BASIC SEARCH—BROWSE

Browsing is a good way to find “I’ll know it when I see it” content. You might need to think laterally though!

For this problem, we will browse by Topic: Contract Law, then drill down to Remedies, then Cancellation and Get Documents. This should lead us to commentary, along with other secondary sources. Use filters to narrow results.

Jot down the path you took so you can repeat the search again easily.
3. FIND COMMENTARY USING LEXIS ADVANCE

3B. BIG RED BOX SEARCH

The Big Red Box will search across everything. Remember to try different combinations of searches.

Once you have the results, select the Secondary Materials tab, and then Narrow to Commentary, or a specific publication.

EXPLORE RESULTS—GATHER CLUES

*Laws of New Zealand* is a good starting point for analysis and opinion. *LONZ* is like an encyclopaedia, with chapters on all areas of law, all written by experts, with regular updates, and links to key legislation and cases to give a quick overview of the topic.

Use *LONZ* as a starting point, follow the leads, find more. One good thing leads to another.

Note the Review Date. This chapter now incorporates the new Act.

Note the Authors. They’re an impressive bunch.

Scroll down for footnotes. Aside from the content itself, the footnotes are very useful.
3C. ADVANCED SEARCH

Alternatively, select the Advanced Search Template for Secondary Materials before you do the search, for more targeted results.

Get to the Secondary Materials template here. Each template is context specific.

Use the different fields to combine free-text searching and Legislation searching.

As you fill the template, the data is transferred to the Big Red Search Box.

Follow instructions carefully to connect keywords or phrases.

3D. QUICK FIND: SECONDARY MATERIALS

Note, Quick Find is probably too targeted and narrow with its results, unless you are looking by title.

Quick Find looks for your search terms only in the titles and headings, and not across the full text.

Coloured text shows you how the search was done.

This result is from The Laws of New Zealand, a good encyclopaedic source.
4. FIND COMMENTARY USING CCH INTELLICONNECT

From the Law Subject guide, select **CCH Intelliconnect**.

This suite of databases focuses on commercial and tax law for Australia and New Zealand, plus some other ‘boutique’ areas.

4A. BASIC SEARCH—BROWSE

Browsing is useful if “you know it when you see it”. Think about the topic in its broadest possible terms to get started.

Tip: Contract Law information is within the Business Law area.

Drill down through the contents on the left, by clicking on the + signs until you find the commentary on contract law. Jot down the steps you took so you can go back to it later. Add references to cases, statutes or journal articles to your research path.

4B. BASIC SEARCH—BROWSE AND SEARCH

Combine search and browse. Tick the box on the left. Now the search bar will search just within that selected content. This means your keywords can be quite basic, as you’ve already provided some context.
5. FIND JOURNAL ARTICLES USING LEGALTRAC, HEINOLINE & LINXPLUS

The benefit of searching these databases directly (instead of using the LSK search engine) is that everything in them is about law, so it immediately takes care of an element of your search strategy—focusing on law.

5A. LEGALTRAC

From the Law subject Guide, select LegalTrac.

This database is also an index. This means it contains some full-text, but it describes, indexes, and links out to many other law journal articles. Too many results?

Build the search one term at a time. Choose the auto-select option only if you want to.

Note, ‘Zealand’ needs to be added as a search term, but not ‘law’. Everything in this database is about law.

IMPORTANT
Deselect the Full Text Documents filter. This is because much of the data in LegalTrac is not full text, and it relies on linking to other providers instead.
You can also remove this filter later if you forget now.

In this search, LegalTrac has found the full text of all the results. Click on the article title to access download / save options.

There is no PDF button.
Use the download button to open the PDF.

If full text is not available here, the result will look like this. Click on the Article Link button for alternative access.
5B. HEINONLINE

From the Law subject Guide, select HeinOnline

This database contains a lot of historical data from the UK and USA, as well as journal articles worldwide. HeinOnline is a third-party provider (or aggregator), so some journal content is on a delayed release.

Select the Law Journal Library. Then go to Advanced Search.

Build the search using " " for phrases. Change the search fields as required. Text = anywhere in the article.

HeinOnline Help is very good if more complicated search structures are needed.

Deselect the data types as required, to remove for example, legislation and case results.

This pink result means you have to find the full text some other way.

Try Library Search | Ketu (LSK).

Title search by article title in Library Search | Ketu (LSK).
5C. FIND ARTICLES USING LINXPLUS

Think of Linxplus as a databases within Lexis Advance. Linx is an index of judgments and journal articles maintained by the NZ Law Society. An index is a file that describes data, but doesn’t necessarily provide the data. Lexis Advance hosts this index, and has added PDF file to the judgments data—hence the ‘plus’ in Linxplus.

Linxplus results appear in the Secondary Materials tab when you perform broad Big Red Box searches. The index simply describes the journal articles, but does not link to them. Look for Linxplus results in the filters on the left, after any search.

Why use it?

Despite this limitation, Linxplus is one of the best places to look for New Zealand focussed journal articles.

The full text is almost always available somewhere else you just have to find it yourself (see earlier pages of this document for details).

From the Law Subject Guide, select Lexis Advance. Note you can also open the direct link for LinxPlus, taking you to the Advanced Search template for LinxPlus... so it’ll look different.
5. FIND JOURNAL ARTICLES USING WESTLAW AND LEXIS

The journal articles within these ‘mega’ databases are buried so deeply, search engines like Google, and Library Search | Ketu cannot get in. These two databases, Westlaw and Lexis, publish and host 1000’s of journals, including a few titles from Australia and New Zealand.

The greatest hurdle in finding the journal articles within Westlaw and Lexis, is getting past the homepage, which are dedicated to US sources. The Law Subject Guide contains links beyond the front page.

5A. WESTLAW (INTERNATIONAL MATERIALS)

Westlaw is a massive suite of databases with an American focus. It includes cases and statutes, journal articles and treatises. As with all law databases, the advanced search templates are contextual to the type of source you are looking for. Similar strategies can be used for finding articles, or cases.

From the Law Subject guide, choose Westlaw, and click on International Materials.

International Materials = Foreign Law : all non-USA content.

Select Journals content type on the left.

Click on Advanced Search.

Find documents that have

All of these terms:

New Zealand relief

Any of these terms:

e.g., physician surgeon (searched as physician OR surgeon)

This exact phrase:

contractual remedies

Connectors and Expanders

& AND

in same sentence

OR

in same paragraph

phrase

Preceding within sentence

% But not

New Zealand Business Law Quarterly

June, 2014

Note and Comment

Continuing Representations and Agency: The United Kingdom Supreme Court’s Approach

Marcus Roberts

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5B. FINDING A KNOWN JOURNAL ARTICLE IN WESTLAW

For example

Marcus Roberts “Continuing Representations and Agency: The United Kingdom Supreme Court’s Approach” (2014) 20 NZBLQ 73.

From the Westlaw homepage, type in the citation as a phrase “20 NZBLQ 73”.

Generally this is the most accurate way to search, as the citation is like a unique ‘address’ for the article.

Sometimes the citation is inaccurate. Try this instead.

Decode the journal abbreviation (e.g. NZBLQ) using Cardiff (see page 4)

Find the publisher information about the journal by doing a title search in Library Search |Ketu |Sweet & Maxwell = Westlaw

Now that you know—for this example that Westlaw is the same company as the publisher of the journal—type the full title into the main search box, select the title from the drop-down.

Or, if you know which jurisdiction your journal is from, you can browse through the journal lists as per page 16.
5C. LEXIS ADVANCE US

Lexis Advance US is a massive suite of databases, with an American focus. However, it also contains a lot of case law, legislation and journal articles from a wide range of countries.

From the Law subject guide, select Lexis Advance US (under the Foreign Law Heading in Quick links). Sign in with your student username and password.

Note, this interface looks very similar to the NZ view, but it is actually a different subscription with completely different content. Click on the cube grid on the top left to get back to NZ content.

From the US Research homepage, Explore Content from either the International tab if you know the jurisdiction, or the Content type tab.

This searches for law reviews and journals from any country, US and beyond. So, you don’t need to know jurisdiction, but you might have to do a ‘better’ search.
Summary: steps to find a journal article

1. decode the journal abbreviation using **Cardiff**

2. Use this information to:
   a. locate the jurisdiction (place) of publication
   b. search Library Search | Ketu (LSK) for the journal

3. once you have found the journal in LSK, follow the links to:
   a. the print (hardcopy version) held in the library
   b. the online version—click on ‘view details’ to choose the provider that covers the date-range you require, or
   c. use the publication data of the print journal to help you select the right database, ie **Westlaw (International Materials)** or **Lexis Advance US**. Links to these are under the heading “Foreign Law” in the Quicklinks list from the Law Subject Guide.

   Note, NZ and Australian journals are often within the International versions of Westlaw and Lexis, not the domestic versions.

4. Type in the title of the journal in the main search box of **Westlaw** or **Lexis Advance US**
   a. select the journal from the drop-down—now you’re just searching within that ‘universe’.
   b. search for the article title using author and title keywords.

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**There are 3 key publishers of NZ law.**

Knowing who publishes what will SAVE TIME in 2 ways:

1. Decoding a law report abbreviation, e.g. NZLR
   - Look at the abbreviations, and the location of the ‘NZ’.
     - NZXX = LexisNexis
     - XXNZ = Brokers
     - XXXC = CCH

2. Matching a print publisher with their database partner
   - Lexis / LexisNexis / Lexis Advance / Butterworths / Mathew Bender
   - Brokers / WestlawNZ / Westlaw / Wests / Thomson Reuters / Sweet & Maxwell [UK] / Law Book Co [Aus]
   - Wolters Kluwer / CCH / CCH Intelliscope