5. The doctrine of judicial precedent

This chapter considers an essential source of law in the English legal system: judicial precedent (or 'case law'). This chapter discusses the rules and principles of the doctrine of judicial precedent, including how precedents are created, developed, and followed. The chapter considers the rule that forms the precedent—the ratio decidendi, or the reason for the decision—as well as the importance of other judicial statements that do not form part of those reasons—the obiter dicta. The principle of binding precedent is captured by the expression ‘stare decisis’ (stand by what is decided) and binding precedent relies on a hierarchy of courts. The hierarchy can help to establish whether a particular ratio decidendi binds a particular court and whether an appellate court is bound by its own previous precedents. The chapter is packed with case law examples and it also highlights the role of non-binding precedent which may still be deemed persuasive for a particular court. Again, the relationship between the English courts and the Court of Justice of the European Union (EU)
5. The doctrine of judicial precedent

and the European Court of Human Rights (ECtHR) is considered. Finally, the chapter considers how a court may avoid following a particular precedent by the process of overruling, distinguishing, or reversing.

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