Model Answers to Potential Exam Questions

Chapter 2

3) Explain why it is important to distinguish between ratio decidendi and obiter dictum.

The English Legal System is a common law legal system which operates according to the doctrine of binding precedent or stare decisis. This means that judges are bound by certain previous decisions. There are a number of ingredients that need to be present for this system to operate. One is a court hierarchy which enables a number of important decisions to be made by superior courts, which then permeate down the court system. Another ingredient is a system of law reporting so that the words of the judges can be recorded in order to determine the legal principle can be determined. This leads to the final factor which is a system of extracting the legal principle of a case to state which part of the case is binding.

The binding legal principle of a case is known as the ratio decidendi, which literally means “the reason for deciding”. This is the principle of law on which the case is decided in the light of that case’s material facts. The material facts are the facts which are relevant to the legal issue being determined.

Obiter dictum literally means “a statement said by the way”. This term relates to the part of the case which is not the ratio decidendi. The wide definition of an obiter dictum statement is that it is anything said in a case which does not form part of the ratio decidendi. The narrow definition is that it relates to statements of law which do not form part of the ratio decidendi. Examples of obiter dicta include dissenting judgments and hypothetical statements relating to how a judge would have applied the law if the facts had been different.

An obiter dictum statement cannot be binding. It can, however, be persuasive, and the higher the court in which the statement is made, the more persuasive the obiter dictum will be. To conclude, it is essential to distinguish between ratio decidendi and obiter dictum as the ratio decidendi is the binding part of the case and will therefore have a direct impact on subsequent, related cases.