

Exercise 4

Here is what Diana thinks about Charlotte's legal problem. Complete the text using the highlighted words from Exercise 3.

Diana's opinion

Does Charlotte have a (a) _____ with Chatsworth CitiTravel?

In some legal systems around the world the answer is 'Yes' and in some it is 'No'. Many lawyers will say it is difficult to reach a definite conclusion.

According to English law, Charlotte probably does not have a contract with the bus company. Because she has no contract with the bus company she is not (b) _____ to pay the £360.

What are my grounds for concluding that Charlotte has probably not made a contract with CitiTravel?

Because there is a (c) _____ in English law that says (d) _____ of an (e) _____ cannot be made by silence. Acceptance must be actively communicated to the (f) _____. In this (g) _____ Charlotte did not accept the bus company's offer. Therefore there is no contract.

MORE ABOUT PRECEDENT

We can say that Charlotte does not have a contract because there is a precedent case in English law that says that acceptance of an offer cannot be made by silence. To make a contract Charlotte needed to call CitiTravel and accept their offer.

Exercise 1

You are now going to read more about precedent. The most important words are in the key vocabulary. Read the text below. Decide if the statements on the next page are true or false.

Key vocabulary

- precedent
- common law
- recorded
- binding
- courts of first instance
- ratio decidendi
- obiter dictum
- distinguishable

Precedent comes from what is called the **common law**. The common law is one of the main sources of law in England and the USA. The common law developed after the year 1066, when the whole of England developed the same body of laws instead of each area having its own local laws – that is why it is called 'common'. The common law covers both criminal and civil court decisions.

As judges' decisions were written down, often described as '**recorded**', in law reports that were common to the whole country, the idea of precedent developed. This means that when a judge decides the result of a particular case he or she must pay attention to the principles of law that come from an earlier case dealing with the same or

similar points. In this way, a statement of law can become **binding** upon later judges and can become the law for everyone to follow. When does a particular decision, or pronouncement, by a judge become binding upon later judges? There are two important deciding factors:

1. Judges in courts at the lowest level of decision-making, often called **courts of first instance**, do not normally create binding precedents. It is the higher courts that issue binding rulings and the lower courts must follow them.
2. The pronouncement must form what is called the **ratio decidendi** of the case. This is Latin for 'the reasoning behind the decision'. This is the part of