



# LAW 315

## Administrative Law

S2 Day 2015

*Dept of Law*

### Contents

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<a href="#"><u>General Information</u></a>	2
<a href="#"><u>Learning Outcomes</u></a>	2
<a href="#"><u>General Assessment Information</u></a>	3
<a href="#"><u>Assessment Tasks</u></a>	9
<a href="#"><u>Delivery and Resources</u></a>	11
<a href="#"><u>Policies and Procedures</u></a>	12
<a href="#"><u>Graduate Capabilities</u></a>	13
<a href="#"><u>Changes from Previous Offering</u></a>	17

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#### **Disclaimer**

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

## General Information

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Credit points 3
Prerequisites LAW314(P)
Corequisites
Co-badged status
Unit description This unit provides a basic introduction to administrative law. It covers access to information (including the provision of reasons for decisions, freedom of information, and privacy), merits review, and judicial review, as well as considering varying theories, overarching concepts and doctrines, and statutory interpretation.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## General Assessment Information

All written work must be submitted on time. Any work submitted late will receive a mark of zero. No extensions are granted, other than in accordance with the Disruption to Study Policy, available at [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html). Please **NOTE**: with respect to the Final sit-down exam, **ONLY ONE** supplementary examination is proffered: students who have successfully sought a supplementary exam due to disruption, **MUST** sit the stipulated supplementary exam.

### Disruptions to Study and Special Consideration

Unit Convenors must grant appropriate Special Consideration in all cases where the University has found that a **disruption is serious and unavoidable**. Please read the information below carefully. If you meet the criteria, you need to apply through [www.ask.mq.edu.au](http://www.ask.mq.edu.au) **within five (5) working days of the commencement of the disruption**.

**Serious and Unavoidable Disruption** is defined in the policy as :

“The University classifies a disruption as **serious and unavoidable** if it:

- could not have reasonably been anticipated, avoided or guarded against by the student; and
- was beyond the student's control; and
- caused substantial disruption to the student's capacity for effective study and/or completion of required work; and
- occurred during an event critical study period and was at least three (3) consecutive days duration, and / or
- prevented completion of a final examination.

“Students with a pre-existing disability/health condition or prolonged adverse circumstances may be eligible for ongoing assistance and support. Such support is governed by other policies and may be sought and coordinated through [Campus Wellbeing and Support Services](#).”

### **Evidence requirements for applying for Special Consideration due to Disruption to Study**

When applying for special consideration, you will need to provide evidence of the kind set down in the following schedule.

<b>Purpose</b>	This Schedule provides guidance to administrators and academic staff engaged in the process of determining whether a <i>serious and unavoidable</i> disruption to a student's study should be regarded as being <i>serious and unavoidable</i> under the Disruption to Study Policy.  It also establishes minimum standards in regard to the documentary evidence required to substantiate such cases.
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**Schedule**

Under the Disruption to Study Policy the University deems a disruption to studies to be **serious and unavoidable** if it arises from a set of circumstances that:

- could not have reasonably been anticipated, avoided or guarded against by the student; and
- was beyond the student's control; and
- caused substantial disruption to the student's capacity for effective study and/or completion of required work; and
- occurred during an event critical study period and was at least three (3) consecutive days duration, and / or
- prevented completion of a final examination.

The University does not regard conditions or circumstances that exist prior to commencing a unit of study as being *serious and unavoidable* disruptions, except in the event of unanticipated deterioration of that condition or circumstance. However, the University does provide for the ongoing support of students who experience acute adverse conditions, circumstances or disabilities. This planned support may be sought by contacting Campus Wellbeing and Support Services. Disruption to Studies notifications that are intended to document a *serious and unavoidable* disruption must be supported by specific evidence as described below.

**General Evidence Requirements:** *Evidence must demonstrate that substantial disruption has been caused to the student's capacity for effective study during an event critical study period and include:*

- beginning date and duration of the effect of disruption; and
- a statement *confirming that the student:*
  - was unable to complete a final examination because of the effect of the disruption; and / or
  - was unable to complete an assessable task, on the relevant date, because of the disruption which was of no fewer than three (3) consecutive days, or
  - had their preparation for an assessable task affected for not fewer than three (3) consecutive days duration.

Type of Disruption	Evidence	Professional Authority
<p><b>medical / psychological / mental health</b></p>	<p>Professional Authority Form Documentary evidence that simply states "student is unfit for school or studies or work" <b>will not be accepted</b>. Consulting with your doctor at time of illness is highly recommended.</p>	<p>Health professionals that are registered with a professional body such as:</p> <ul style="list-style-type: none"> <li>• Medical practitioners</li> <li>• Psychiatrists</li> <li>• Physiotherapists</li> <li>• Counsellors</li> <li>• Social workers</li> <li>• Psychologists,</li> <li>OR</li> <li>• a member of Macquarie Campus Wellbeing &amp; Support Services</li> </ul>

<p><b>compassionate grounds</b> <u>for example:</u> Grief caused by the death or serious injury of a close family member or close friend. Indirect disruption, such as the requirement to care for family member or relative.</p>	<p>Professional Authority Form Letter from relevant professional  In cases where the disruption is indirect, the documentary evidence must state the effect of the disruption on the student. It is not sufficient to only supply a medical certificate pertaining to a friend or family member.</p>	<p>Health professionals that are registered with a professional body such as:</p> <ul style="list-style-type: none"> <li>• Medical practitioners</li> <li>• Psychiatrists</li> <li>• Physiotherapists</li> <li>• Counsellors</li> <li>• Social workers</li> <li>• Psychologists, OR</li> <li>• a member of Macquarie Campus Wellbeing &amp; Support Services</li> </ul>
<p><b>hardship or trauma</b> <u>for example:</u> Sudden loss of employment, family breakdown, severe disruption to domestic arrangements, impact of crime /accident /natural disasters, imprisonment or a motor vehicle accident.</p>	<p>Police event number and a Statutory Declaration Professional Authority Form Letter from relevant professional acknowledging impact of disruption on student In cases where other documentary evidence could not be obtained a statutory declaration may be used. Any available evidence, such as a flight itinerary or a death notice, should accompany this statutory declaration.</p>	<p>Health professionals that are registered with a professional body such as:</p> <ul style="list-style-type: none"> <li>• Medical practitioners</li> <li>• Psychiatrists</li> <li>• Physiotherapists</li> <li>• Counsellors</li> <li>• Social workers</li> <li>• Psychologists, OR</li> <li>• a member of Macquarie Campus Wellbeing &amp; Support Services, OR</li> <li>• Police officer, OR</li> <li>• Legal officer</li> </ul>

<p><b>unavoidable absence or commitments</b> <u>for example</u>: Unavoidable work commitments. Cultural or religious commitments, such as weddings or funerals (of close family members) or significant religious festivals. Unexpected training or competition attendance demands placed upon an elite athlete. Transportation problems such as late trains, car breakdowns or automobile accidents. Wedding or funeral of a family member or close friend.</p>	<p>Letter from a relevant professional acknowledging impact of disruption on student and requirement to attend the unavoidable commitment, or explanation of unavoidable absence.</p> <p>Documentary evidence from employer must clearly state that the inability to be released from work commitments was unforeseen at time of enrolment.</p> <p>In cases where a student is absent to attend a cultural event evidence must demonstrate that attendance could not have been anticipated, avoided or guarded against by the student; and that the student's attendance is warranted.</p> <p>In cases where a student is required to attend an event such as a funeral or wedding, the evidence must demonstrate that the event prevented attendance on the day of the assessment task or impacted on study for three or more days.</p>	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Religious leader</li> <li>• Coach</li> <li>• Transport authority</li> <li>• Police</li> <li>• NRMA</li> <li>• Government agency</li> <li>• Sheriff's office, OR</li>   <li>• A Statutory Declaration</li> </ul>
<p><b>disruption during a final examination or an invigilated assessment</b> <u>for example</u>: Fire alarm or sudden illness.</p>	<p>Examination or assessment room report. Professional Authority Form in cases of illness. When a student is taken ill during a final examination he or she should be accompanied by a member of staff to attend a medical practitioner of the Campus <b>Medical Service</b>. Students are not expected to notify the University of a disruption in cases where an assessment task is interrupted by a disruption such as a fire alarm. This notification will be made on their behalf by the assessment supervisor.</p>	<p>Examination or assessment supervisor. Health professionals that are registered with a professional body such as:</p> <ul style="list-style-type: none"> <li>• Medical practitioners</li> <li>• Psychiatrists</li> <li>• Physiotherapists</li> <li>• Counsellors</li> <li>• Social workers</li> <li>• Psychologists, OR</li> <li>• a member of Macquarie Campus Wellbeing &amp; Support Services</li> </ul>

<p><b>ongoing disruption during the semester</b> <u>for example:</u> Glandular fever or ongoing grief.</p>	<p>Documentary evidence must indicate an acute episode of the condition that is directly related to a student's capacity for effective completion of an assessment. Students experiencing ongoing disruptions should be referred to Campus Wellbeing and Support Services. In cases where a student cannot complete replacement assessment tasks, the disruption should be managed by the withdrawal without penalty procedure.</p>	<p>Health professionals that are registered with a professional body such as:</p> <ul style="list-style-type: none"><li>• Medical practitioners</li><li>• Psychiatrists</li><li>• Physiotherapists</li><li>• Counsellors</li><li>• Social workers</li><li>• Psychologists,</li></ul> <p>OR</p> <ul style="list-style-type: none"><li>• a member of Macquarie Campus Wellbeing &amp; Support Services.</li></ul>
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### Application of the Policy to LAW315 Assessment Tasks

To detail the Special Consideration outcomes that can be granted to a disruption to study that has met the criteria set out in the Disruption to Studies Policy.

Result of Disruption	Type of Assessment	Type of Disruption	Possible Outcomes
Absence	<b>Marked Attendance:</b> lecture, tutorial, on-campus session, field trip, practicum	<b>Not applicable</b>	
Absence	<b>Graded Participation:</b> tutorial, class, lecture		
Absence	<b>In class assessment:</b> tutorial, class, lecture		
Absence	<b>Final Examination</b>	Serious and unavoidable	Supplementary exam
		Otherwise	No special consideration; mark of zero.
Examination performance affected	<b>Final Examination</b>	Serious and unavoidable	Supplementary exam
		Otherwise	No special consideration; mark of zero.
Preparation affected	<b>Assessment</b>	Serious and unavoidable	Extension of time to complete assessment task
		Otherwise	Possibility of extension of time to complete assessment task.
Preparation affected	<b>Final Examination</b>	Serious and unavoidable	Supplementary exam
		Otherwise	No special consideration; mark of zero.
Late submission of assessment item	<b>Assessment</b> (other than final examination)	Serious and unavoidable	Extension of time to complete an assessment task.
		Otherwise	Mark of zero.
Ongoing impact on performance	<b>Assessment</b> (other than final examination)	Any	Extension of time to complete an assessment task; or, Recommendation to Withdraw

### Requirements for all Written Work in Assignments



All written work must be written clearly, with good grammar, correct word usage, correct punctuation, and lack of spelling errors. Poor or bad expression will be penalised, as the study of law is one in which clear expression and the meaning of words are of the highest importance. All written work must be properly referenced and conform to standard stylistic conventions. All cases have to be properly cited. Students must consult *The Australian Guide to Legal Citation (3rd edn., 2010)* which may either be bought from or ordered through the Co-op Bookshop, or accessed for viewing through <http://www.law.unimelb.edu.au/files/dmfile/FinalOnlinePDF-2012Reprint.pdf>.

In addition to clear grammatical sentence structure, students are expected to structure their work logically. Headings may be used to facilitate the progress of your argument in the essay. A very poorly referenced and expressed essay will likely fail.

Essays may include a bibliography of all sources consulted (though all bibliographical information of sources quoted or referred to in the essay *must* be included in footnotes.) **A bibliography is not mandatory.**

Essays are to comply with the word limit. **The number of words must be clearly stated on the first page of the essay.** The type-face for the body of the essay is to be in **Times New Roman** (or similar) **12-point font** and use **1½ line spacing** is to be used. Footnotes are to be in **Times New Roman** (or similar) **10 point font** using **single line spacing**. **Footnotes are only to be used for referencing, not for argumentation.** All four margins of the pages are to be 2.5 cm. Footnotes are not to be counted in the word length.

**Please note: students who fail to follow these guidelines on style, length and formatting are liable to be significantly penalised.**

Students **must** keep a printed copy of their paper made at the same time as they submit their work, and identical to the submitted work. Do not just keep a copy on disk.

**Be sure to answer the question.** To do so, it is necessary to begin by identifying the key points that need to be addressed in your essay, and by defining the key terms. **Students, as a result of their analysis, must always come to a conclusion.**

## Assessment Tasks

Name	Weighting	Due
<a href="#">Optional Refresher Quiz</a>	0%	End Week 1
<a href="#">Essay Statutory Interpretation</a>	15%	3 pm, 28 August 2015
<a href="#">Essay: Facts and Evidence</a>	25%	3 pm, 2 October 2015
<a href="#">Sit down closed book exam</a>	60%	Exam period

## Optional Refresher Quiz

Due: **End Week 1**

Weighting: **0%**

This Quiz of 10 questions is designed to refresh students' memories of constitutional law studied in Semester 1, especially relating to the judicial power, Chapter III, and constitutional interpretation and characterization. **It is optional**, and designed merely to assist students recall basic principles. If students choose to do the Quiz, it should be completed by the end of Week 1. The answers will be available in Week 2.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Contextualise administrative law within the government, legal, constitutional and social contexts

## Essay Statutory Interpretation

Due: **3 pm, 28 August 2015**

Weighting: **15%**

This is a short essay dealing with statutory interpretation and the principle of legality: 750 words. It is compulsory.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Essay: Facts and Evidence

Due: **3 pm, 2 October 2015**

Weighting: **25%**

A longer analytical essay dealing with facts and evidence in administrative law [1500 words]. It is compulsory.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Sit down closed book exam

Due: **Exam period**

Weighting: **60%**

This is a sit-down closed book exam; but student may take 2 A4 pages of notes into the exam room.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Delivery and Resources

*Technology:* This Unit uses iLearn; students must read the LAW315 Unit page religiously. Lectures are recorded through iLearn and are available through the Echo recordings on the LAW315 iLearn site.

*Delivery:* 1x2 hour lecture, and 1x1 hour tutorial per week. **Attendance at tutorials is NOT compulsory for internal students, but attendance at the OnCampus Session is compulsory for external students.** Lecture Notes and slides will be made available on iLearn.

What has changed? : The programme of Lectures for 2015 has been changed slightly from that given in 2014.

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy [http://mq.edu.au/policy/docs/grievance\\_management/policy.html](http://mq.edu.au/policy/docs/grievance_management/policy.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

## Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](http://ask.mq.edu.au).

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

#### Learning outcomes

- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts

#### Assessment task

- Essay: Facts and Evidence

### Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

#### Learning outcomes

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.

- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## **Assessment tasks**

- Optional Refresher Quiz
- Essay Statutory Interpretation
- Essay: Facts and Evidence
- Sit down closed book exam

## **Commitment to Continuous Learning**

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

### **Assessment task**

- Optional Refresher Quiz

## **Discipline Specific Knowledge and Skills**

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

### **Learning outcomes**

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.

- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Assessment tasks

- Optional Refresher Quiz
- Essay Statutory Interpretation
- Essay: Facts and Evidence
- Sit down closed book exam

## Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

## Learning outcomes

- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Communicate clearly and thoughtfully

## Assessment tasks

- Essay Statutory Interpretation
- Essay: Facts and Evidence
- Sit down closed book exam

## Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:



## Learning outcomes

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Communicate clearly and thoughtfully

## Assessment task

- Sit down closed book exam

## Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

## Learning outcomes

- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Assessment tasks

- Essay Statutory Interpretation
- Essay: Facts and Evidence
- Sit down closed book exam

## Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:



## **Learning outcomes**

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts

## **Changes from Previous Offering**

The Unit description was changed to reflect that the Unit now deals solely with administrative law.