



# LAWS818

## Research Methodologies in Law

S2 Day 2017

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Convenor

Dr Amanda Head

[amanda.head@mq.edu.au](mailto:amanda.head@mq.edu.au)

Contact via [amanda.head@mq.edu.au](mailto:amanda.head@mq.edu.au)

By appointment

Credit points

4

Prerequisites

(Admission to LLM or MIntTrdeComLaw or MIntLawGovPP) or (Admission to JD and LAWS600)

Corequisites

Co-badged status

Unit description

This unit introduces students to an array of concepts and research methodologies that underpin various theoretical approaches to legal scholarship, including doctrinal, comparative, interdisciplinary, empirical, and critical legal studies (CLS) approaches, as well as particular issues in human rights and international law research. The unit emphasises theoretical concerns and requirements that pertain to research objectives, research design, research methods, argumentation, writing, and critique including self-critique. The unit also explores the roles, rights and obligations of students in their own scholarship. The unit equips students to better understand the nexus among legal education, legal scholarship and legal practice; enhances their capacity to design research projects with rigorous research methodologies, to proffer good written analyses with sound argumentation, and to reflect on legal scholarship and on the law critically; and helps prepare them for a higher degree by research or for careers in legal practice, government, international organisations, and think tanks, and consultancies.

## 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:

Identify and locate primary and secondary legal resources from a variety of library and online collections using appropriate research strategies

Apply principles of good written presentation and language to the processes of drafting, editing and re-drafting legal writing

Understand the principles and values that underpin ethical research and academic honesty and apply them in own research.

Accurately apply accepted standards of legal referencing, including the Australian Guide to Legal Citation 3.

Become aware of the capabilities of bibliographic management software to organise references in research

Understand the key elements of a research strategy and work-plan, and apply that to own research project

Understand the different kinds of legal research questions (theoretical, doctrinal, normative, empirical, comparative etc) and the appropriate methodologies for answering them

Understand the principal methods of legal research and apply that understanding to own research project.

## General Assessment Information

1. All assignments must be submitted by **11:59pm** on the due date.
2. In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. **Applications for a Disruption to Studies** are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the [Disruption to Studies policy](#) for complete details of the policy and a description of the supporting documentation required.
3. **All assessments in the unit are to be submitted electronically** via the iLearn site for this unit. **Plagiarism detection software** is used in this unit.
4. **Word limits** will be strictly applied and work above the word limit will not be marked. **Word counts** for assignments will be taken solely from the tally generated automatically by TURNITIN upon submission.
5. You are required to obtain an **overall mark of 50% to pass this unit** - you are not required to pass each individual item of assessment.

## Assessment Tasks

| Name                              | Weighting | Hurdle | Due                         |
|-----------------------------------|-----------|--------|-----------------------------|
| <u>1. Legal research - Part A</u> | 15%       | No     | Wk 3, Fri 18/8/17           |
| <u>2. Legal research - Part B</u> | 15%       | No     | Wk 6, Wed 6/9/17            |
| <u>3. Legal referencing</u>       | 20%       | No     | Wk8, noon 3/10 to noon 4/10 |
| <u>4. Legal research plan</u>     | 50%       | No     | Wk 12, Fri 3/11/17          |

### 1. Legal research - Part A

Due: **Wk 3, Fri 18/8/17**

Weighting: **15%**

A practical assignment to test doctrinal research techniques for finding the law (legislation), its antecedents and its subsequent development. **Maximum 1000 words including footnotes (no bibliography required).**

A detailed marking rubric for Assessment Task 1 will be provided on iLearn.

On successful completion you will be able to:

- Identify and locate primary and secondary legal resources from a variety of library and online collections using appropriate research strategies
- Apply principles of good written presentation and language to the processes of drafting, editing and re-drafting legal writing
- Understand the principal methods of legal research and apply that understanding to own research project.

### 2. Legal research - Part B

Due: **Wk 6, Wed 6/9/17**

Weighting: **15%**

A practical assignment to test doctrinal research techniques for finding the law (cases), its antecedents and its subsequent development. **Maximum 1000 words including footnotes (no bibliography required).**

A detailed marking rubric for Assessment Task 2 will be provided on iLearn.

On successful completion you will be able to:

- Identify and locate primary and secondary legal resources from a variety of library and online collections using appropriate research strategies

- Apply principles of good written presentation and language to the processes of drafting, editing and re-drafting legal writing

### 3. Legal referencing

Due: **Wk8, noon 3/10 to noon 4/10**

Weighting: **20%**

A time limited compulsory online quiz to test legal referencing skills and an understanding of the Australian Guide to Legal Citation 3 (AGCL3). Students can open the quiz any time after 12noon. The quiz will shut down at 12noon the following day. Students will have 30 minutes to complete their answers from the time they open the quiz. When the 30 minutes has expired, all saved answers will automatically be submitted.

A detailed marking rubric for Assessment Task 3 will be provided on iLearn.

On successful completion you will be able to:

- Accurately apply accepted standards of legal referencing, including the Australian Guide to Legal Citation 3.

### 4. Legal research plan

Due: **Wk 12, Fri 3/11/17**

Weighting: **50%**

This assignment will require students to select a specific area for research, undertake a literature review of that area, formulate a precise research question, identify a research method and a practical research strategy, and draft a clear heading outline of the research report. It will not require students to write that report. **Maximum 4000 words, including footnotes and bibliography.**

A detailed marking rubric for the Legal Research Plan will be provided on iLearn.

On successful completion you will be able to:

- Identify and locate primary and secondary legal resources from a variety of library and online collections using appropriate research strategies
- Apply principles of good written presentation and language to the processes of drafting, editing and re-drafting legal writing
- Understand the principles and values that underpin ethical research and academic honesty and apply them in own research.
- Accurately apply accepted standards of legal referencing, including the Australian Guide to Legal Citation 3.
- Become aware of the capabilities of bibliographic management software to organise references in research

- Understand the key elements of a research strategy and work-plan, and apply that to own research project
- Understand the different kinds of legal research questions (theoretical, doctrinal, normative, empirical, comparative etc) and the appropriate methodologies for answering them
- Understand the principal methods of legal research and apply that understanding to own research project.

## Delivery and Resources

INTERNAL STUDENTS: This unit will be delivered through (a) online materials available through iLEARN, and (b) six 2-hour lectures.

EXTERNAL STUDENTS: This unit will be delivered through (a) online materials available through iLEARN, and (b) one day-long on-campus session (OCS). The OCS will be held on **Thursday 28 September 2017**. For external students, the on-campus session is compulsory. Students who are unable to attend must apply for a disruption to studies. If that application is accepted, alternative work will be set in lieu of on-campus attendance.

Students can set their own pace for learning, insofar as they can accelerate progress through the modules. However, the due dates for assignments indicate the minimum rate of progress expected of students as the semester advances.

In each module you will be expected to read background materials, watch relevant online video clips, and undertake practical exercises that are intended to build your skills in legal research and writing.

**Students should have their own copy of the following prescribed text: Terry Hutchinson, *Researching and Writing in Law* (Thomson Reuters, 3rd ed 2010)**

## Unit Schedule

### Module 1 (Week 2) Legal Research - Legislation

- Introduction
- Finding and using primary legal materials - legislation.
- Searching with legal databases: Austlii, Comlaw, parliamentary websites etc.
- Research strategies
- Using Boolean operators to improve search strategies

### Module 2 (Week 4) Legal Research - Cases

- Finding and using primary legal materials - cases.
- Finding and using secondary legal materials

- Searching with legal databases: Hein, Westlaw, LexisNexis, Thomson Reuters, APAIS, etc.
- Research strategies: time, locality, language, subject matter, source.
- Using Boolean operators to improve search strategies.

### **Module3 (Week 6) Legal Referencing**

- The purposes of bibliographic referencing
- Legal referencing systems, and their critics
- *Australian Guide to Legal Citation 3* (AGCL3)
- Bibliographic management software (eg Endnote)
- Use (and abuse) of footnotes in legal writing

### **Module 4 (Week 8) Research Methodologies**

- The relationship between research methodology, research method, and research design.
- Different types of research design in the physical (natural) and social sciences.
- Styles of research in the legal sciences.
- Understanding the differences between the main methods of legal research—doctrinal research; reform-oriented research; empirical socio-legal research; and theoretical research in law.

### **Module 5 (Week 10) Developing a Legal Research Proposal**

- Literature review
- Identifying a research gap
- Specifying research method(s) in law
- Developing a realistic research plan (time, money, ethics approvals ...)

### **Module 6 (Week 12) Legal Writing**

- Elements of good legal writing
- Plain legal language
- Presentation of written work

## **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\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.html)

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

Complaint Management Procedure for Students and Members of the Public [http://www.mq.edu.au/policy/docs/complaint\\_management/procedure.html](http://www.mq.edu.au/policy/docs/complaint_management/procedure.html)

Disruption to Studies Policy (in effect until Dec 4th, 2017): [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html)

Special Consideration Policy (in effect from Dec 4th, 2017): <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

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).

### Additional points to note

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the [Disruption to Studies policy](#) for complete details of the policy and a description of the supporting documentation required.

Word limits will be strictly applied and work above the word limit will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## 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://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

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

## Graduate Capabilities

### PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

#### Learning outcomes

- Understand the principles and values that underpin ethical research and academic honesty and apply them in own research.
- Understand the key elements of a research strategy and work-plan, and apply that to own research project
- Understand the principal methods of legal research and apply that understanding to own research project.

#### Assessment tasks

- 1. Legal research - Part A
- 2. Legal research - Part B
- 4. Legal research plan

### PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

## **Learning outcomes**

- Identify and locate primary and secondary legal resources from a variety of library and online collections using appropriate research strategies
- Apply principles of good written presentation and language to the processes of drafting, editing and re-drafting legal writing
- Accurately apply accepted standards of legal referencing, including the Australian Guide to Legal Citation 3.
- Become aware of the capabilities of bibliographic management software to organise references in research
- Understand the different kinds of legal research questions (theoretical, doctrinal, normative, empirical, comparative etc) and the appropriate methodologies for answering them
- Understand the principal methods of legal research and apply that understanding to own research project.

## **Assessment tasks**

- 1. Legal research - Part A
- 2. Legal research - Part B
- 3. Legal referencing
- 4. Legal research plan

## **PG - Critical, Analytical and Integrative Thinking**

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

## **Learning outcomes**

- Understand the key elements of a research strategy and work-plan, and apply that to own research project
- Understand the different kinds of legal research questions (theoretical, doctrinal, normative, empirical, comparative etc) and the appropriate methodologies for answering them
- Understand the principal methods of legal research and apply that understanding to own

research project.

## **Assessment task**

- 4. Legal research plan

## **PG - Research and Problem Solving Capability**

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

### **Learning outcomes**

- Identify and locate primary and secondary legal resources from a variety of library and online collections using appropriate research strategies
- Understand the key elements of a research strategy and work-plan, and apply that to own research project
- Understand the different kinds of legal research questions (theoretical, doctrinal, normative, empirical, comparative etc) and the appropriate methodologies for answering them
- Understand the principal methods of legal research and apply that understanding to own research project.

## **Assessment tasks**

- 1. Legal research - Part A
- 2. Legal research - Part B
- 4. Legal research plan

## **PG - Effective Communication**

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

### **Learning outcomes**

- Apply principles of good written presentation and language to the processes of drafting, editing and re-drafting legal writing
- Accurately apply accepted standards of legal referencing, including the Australian Guide

to Legal Citation 3.

- Become aware of the capabilities of bibliographic management software to organise references in research
- Understand the key elements of a research strategy and work-plan, and apply that to own research project
- Understand the different kinds of legal research questions (theoretical, doctrinal, normative, empirical, comparative etc) and the appropriate methodologies for answering them
- Understand the principal methods of legal research and apply that understanding to own research project.

## **Assessment tasks**

- 3. Legal referencing
- 4. Legal research plan

## **PG - Engaged and Responsible, Active and Ethical Citizens**

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

## **Learning outcomes**

- Understand the principles and values that underpin ethical research and academic honesty and apply them in own research.
- Understand the key elements of a research strategy and work-plan, and apply that to own research project

## **Assessment task**

- 4. Legal research plan