LAW 465

Dispute Management and Resolution

S2 Day 2018

Dept of Law

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General Information

Unit convenor and teaching staff
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6 First Walk, room 616
1-2pm Tuesday

Tutor
Tatiana Lozano
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Credit points
3

Prerequisites
24cp in LAW or LAWS units

Corequisites

Co-badged status

Unit description
Dispute resolution schemes now dominate the practice of law at many levels. This unit explores various types of dispute resolution processes with an emphasis on negotiation, mediation, conciliation, arbitration and restorative justice. The unit provides an overview of the theory, philosophy, process, ethical and legal issues involved in each of these methods of dispute resolution. Through experiential role plays, discussions and exercises, students will be introduced to the skills required to advise on and participate in conflict resolution and management.

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:

Describe and critique the various types of dispute resolution processes in operation in Australia and other jurisdictions

Demonstrate and apply the necessary skills required in alternative methods of resolving disputes, including in teams.

Identify and analyze the legal issues surrounding the practice of dispute resolution in Australia.

Evaluate the relevant ethical considerations in dispute resolution and management processes

Identify and apply the applicable dispute resolution process to the nature of the dispute and the participants in that dispute

Assessment Tasks

Name	Weighting	Hurdle	Due
Class participation	10%	No	Ongoing
Negotiation Exercise	30%	No	Week 9
Dispute Resolution Report	30%	No	5pm 26 October 2018
Exam	30%	No	20 November 2018

Class participation

Due: **Ongoing**
Weighting: **10%**

Because of the skills development undertaken through the tutorial activities, attendance at and participation in tutorials is compulsory. If you are unable to attend a tutorial you need to submit a special consideration application AND complete the remedial work for that tutorial.

Tutors will engage in ongoing assessment of student participation using the following criteria:

a) Preparation and understanding of material: the student has listened to the lecture, read the required reading and has attempted to link the materials to the lectures, to other course materials and to their life experience

b) Ability to think critically about the material: the student is able to think critically about the materials from different angles and is able to question the materials

c) Clear expression of ideas: the student is able to clearly express their ideas about the materials

d) Engaging with other students: the student engages with others in the class taking an active role in discussions, role plays, debates and other activities assigned by the tutor. The student responds to others in the class by listening to them, providing constructive feedback and asking questions.

e) Demonstration of skills: The student is able to demonstrate communication and

negotiation skills.

On successful completion you will be able to:

- Describe and critique the various types of dispute resolution processes in operation in Australia and other jurisdictions
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Negotiation Exercise

Due: **Week 9**
Weighting: **30%**

Students will be paired together and required to conduct a face to face negotiation with another pair of students in relation to a scenario provided. The negotiation will be conducted over a 30 minute period.

The marker will observe the students conducting the negotiation and mark the assessment in accordance with the rubric provided on iLearn.

Times for the negotiation exercise will be arranged for Week 9 (including for external students), outside the regular lecture, tutorial and OCS times. Students need to make sure before the Census date that they can be available to complete this assessment task in week 9.

Full details about this assessment will be available in iLearn.

This is a timed assessment and students are required to be punctual for their allotted time. Any student who cannot attend their live negotiation must submit an application for special consideration via Ask.mq and notify the convenor via iLearn at the earliest opportunity so that an alternative time can be arranged.

On successful completion you will be able to:

- Demonstrate and apply the necessary skills required in alternative methods of resolving disputes, including in teams.
- Evaluate the relevant ethical considerations in dispute resolution and management processes

Dispute Resolution Report

Due: **5pm 26 October 2018**
Weighting: **30%**

The report builds on the negotiation exercise by requiring students to reflect on the negotiation exercise and then to explore another dispute resolution process suitable for resolving the dispute outlined in the negotiation scenario.

Full details about the assessment will be available in iLearn. The unit convenor moderates this assessment task.

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. Where a student has already submitted the assessment by the due time and date, they cannot resubmit during the late period.

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

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

On successful completion you will be able to:

- Identify and analyze the legal issues surrounding the practice of dispute resolution in Australia.
- Evaluate the relevant ethical considerations in dispute resolution and management processes
- Identify and apply the applicable dispute resolution process to the nature of the dispute and the participants in that dispute

Exam

Due: **20 November 2018**
Weighting: **30%**

The exam will consist of 30 multiple choice questions relevant to the material from weeks 1-13 of the unit. Each question is worth 1 mark.

Length of exam: 90 minutes.

Time frame for completion: The exam will be open between 1 pm and 5 pm on 20 November 2018. Students can commence the exam any time in this period, but once the exam is opened the 90 minutes starts. It is not possible to pause the exam. The latest time to start the exam in order to have the full 90 minutes is 3.30pm.

No late submissions will be accepted as this is a timed assessment.

This assessment task is based on a universal design principle, and has incorporated reasonable accommodations.

All answers will be automatically submitted once the time allocated for the quiz (90 mins) is completed.

Full details about this assessment will be available in iLearn.

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Delivery and Resources

David Spencer and Samantha Hardy, Dispute Resolution in Australia Thomson Reuters 3rd ed, 2014

Unit Schedule

Week 1 Introduction to the Unit

Week 2 Negotiation Part 1

Week 3 Negotiation Part 2

Week 4 Mediation Part 1

Week 5 Mediation Part 2

Week 6 Advisory and Determinative Processes

Week 7 Court based ADR and on-line dispute resolution

Week 8 Legal Issues in Dispute Resolution

Week 9 Negotiation Exercise - No lectures or tutes

Week 10 Family Law Dispute Resolution

Week 11 Restorative Justice Processes

Week 12 Ethics & Standards in ADR

Week 13 Dispute Management & Future Directions

Policies and Procedures

Macquarie University policies and procedures are accessible from Policy Central (https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- Academic Appeals Policy
- Academic Integrity Policy
- Academic Progression Policy
- Assessment Policy
- Fitness to Practice Procedure
- Grade Appeal Policy
- Complaint Management Procedure for Students and Members of the Public
- Special Consideration Policy *(**Note:** The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.)*

Undergraduate students seeking more policy resources can visit the Student Policy Gateway (htt

ps://students.mq.edu.au/support/study/student-policy-gateway). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit Policy Central (https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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.

Published word limits for an assignment are the maximum allowed. Any words over the limit will not be marked.

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) 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

IT Help

For help with University computer systems and technology, visit 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

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

- Describe and critique the various types of dispute resolution processes in operation in Australia and other jurisdictions
- Demonstrate and apply the necessary skills required in alternative methods of resolving disputes, including in teams.
- Identify and analyze the legal issues surrounding the practice of dispute resolution in Australia.
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Assessment tasks

- Class participation
- Negotiation Exercise

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

- Describe and critique the various types of dispute resolution processes in operation in Australia and other jurisdictions
- Demonstrate and apply the necessary skills required in alternative methods of resolving disputes, including in teams.

- Identify and analyze the legal issues surrounding the practice of dispute resolution in Australia.
- Evaluate the relevant ethical considerations in dispute resolution and management processes

Assessment tasks

- Class participation
- Negotiation Exercise
- 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:

Learning outcome

- Demonstrate and apply the necessary skills required in alternative methods of resolving disputes, including in teams.

Assessment task

- Dispute Resolution Report

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

- Describe and critique the various types of dispute resolution processes in operation in Australia and other jurisdictions
- Demonstrate and apply the necessary skills required in alternative methods of resolving disputes, including in teams.

- Identify and analyze the legal issues surrounding the practice of dispute resolution in Australia.
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Assessment tasks

- Class participation
- Negotiation Exercise
- 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 and apply the necessary skills required in alternative methods of resolving disputes, including in teams.
- Identify and apply the applicable dispute resolution process to the nature of the dispute and the participants in that dispute

Assessment tasks

- Class participation
- Dispute Resolution Report
- 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

- Demonstrate and apply the necessary skills required in alternative methods of resolving disputes, including in teams.
- Identify and analyze the legal issues surrounding the practice of dispute resolution in Australia.
- Identify and apply the applicable dispute resolution process to the nature of the dispute and the participants in that dispute

Assessment tasks

- Class participation
- 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

- Describe and critique the various types of dispute resolution processes in operation in Australia and other jurisdictions
- Demonstrate and apply the necessary skills required in alternative methods of resolving disputes, including in teams.
- Identify and analyze the legal issues surrounding the practice of dispute resolution in Australia.

Assessment tasks

- Class participation
- Negotiation Exercise
- Dispute Resolution Report
- 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

- Describe and critique the various types of dispute resolution processes in operation in Australia and other jurisdictions
- Demonstrate and apply the necessary skills required in alternative methods of resolving disputes, including in teams.
- Identify and analyze the legal issues surrounding the practice of dispute resolution in Australia.
- Evaluate the relevant ethical considerations in dispute resolution and management processes
- Identify and apply the applicable dispute resolution process to the nature of the dispute and the participants in that dispute

Assessment task

- Class participation

Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

Learning outcome

- Evaluate the relevant ethical considerations in dispute resolution and management processes

Assessment task

- Class participation