



LAWS3400

Evidence

Session 2, In person-scheduled-weekday, North Ryde 2023

Macquarie Law School

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General Information

Unit convenor and teaching staff

Unit Convenor

Ilija Vickovich

ilija.vickovich@mq.edu.au

Contact via iLearn email link

6 First Walk, 624

TBA

Tutor

Keith Williams

TBA

Credit points

10

Prerequisites

LAWS398 or LAWS3200

Corequisites

Co-badged status

Unit description

This unit examines and teaches the principles and rules of evidence in civil and criminal matters in New South Wales. The focus is on the uniform evidence scheme, with particular attention given to the Evidence Act 1995 (NSW) and relevant judicial decisions that affect an interpretation of the Act. The unit starts with an introduction to litigation systems, and then proceeds to the fundamentals of trials, and the statutory and discretionary powers of courts to control their proceedings. The adducing of testamentary, documentary and real evidence is addressed, as are issues relating to proof and relevance. Detailed coverage is then given to the rules of admissibility relating to hearsay, admissions, opinion, tendency, coincidence, credibility, character and identification evidence.

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:

ULO1: Explain the reasons for and describe the principal rules of evidence.

ULO2: Explain the reasons for and describe the main exceptions to the principal rules of evidence

ULO3: Critically analyse the appropriateness and fairness of the principal evidentiary rules

ULO4: Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems

General Assessment Information

Late Assessment Submission Penalty

Unless a Special Consideration request has been submitted and approved, a **5% penalty** (of the total possible mark) will be applied **each day** a written assessment is not submitted, up until the 7th day (including weekends). After the 7th day, a mark of '0' (zero) will be awarded even if the assessment is submitted. Submission time for all written assessments is set at 11.55pm. A 1-hour grace period is provided to students who experience a technical issue.

This late penalty will apply to non-timed sensitive assessment (incl essays, reports, posters, portfolios, journals, recordings etc). Late submission of time sensitive tasks (such as tests/exams, performance assessments/presentations, scheduled practical assessments/labs etc) will only be addressed by the unit convenor in a Special consideration application. Special Consideration outcome may result in a new question or topic.

Fit to Sit Model

Macquarie University operates under a 'Fit to Sit' model. This means that in sitting an exam and/or in-class test or otherwise submitting an assessment (including an online quiz), a student declares themselves fit to do so. Therefore, if a student is feeling unfit to sit the exam or test, or otherwise submit the assessment (as the case may be), they should not do so.

If a student sits an exam or test, or otherwise submits an assessment, knowing that they are unfit to do so, they will not be granted Special Consideration. It is the responsibility of the student to determine whether they are fit to sit an examination or test or otherwise submit an assessment, or whether a Special Consideration application should be submitted.

A student's sitting an examination or test or otherwise submitting an assessment will not preclude the student from being granted Special Consideration if the student can demonstrate that:

- they were unfit to make reasonable judgement on their fitness to undertake the assessment, due to mental illness or other exceptional circumstances;
- they were taken ill during the assessment (in the case of an examination or test); or
- other exceptional circumstances beyond their control vitiated the Fit to Sit declaration.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Assignment</u>	30%	No	4 Sep
<u>Final Take-Home Assessment</u>	50%	No	13 Nov 1pm-4pm
<u>Class Participation</u>	20%	No	Continuing

Assignment

Assessment Type ¹: Essay

Indicative Time on Task ²: 30 hours

Due: **4 Sep**

Weighting: **30%**

Hypothetical Problem Assignment

On successful completion you will be able to:

- Explain the reasons for and describe the principal rules of evidence.
- Explain the reasons for and describe the main exceptions to the principal rules of evidence
- Critically analyse the appropriateness and fairness of the principal evidentiary rules
- Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems

Final Take-Home Assessment

Assessment Type ¹: Quiz/Test

Indicative Time on Task ²: 12 hours

Due: **13 Nov 1pm-4pm**

Weighting: **50%**

Final Take-Home Assessment

On successful completion you will be able to:

- Explain the reasons for and describe the principal rules of evidence.

- Explain the reasons for and describe the main exceptions to the principal rules of evidence
- Critically analyse the appropriateness and fairness of the principal evidentiary rules
- Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems

Class Participation

Assessment Type ¹: Participatory task

Indicative Time on Task ²: 0 hours

Due: **Continuing**

Weighting: **20%**

Series of in-class problem solving activities and presentations

On successful completion you will be able to:

- Explain the reasons for and describe the principal rules of evidence.
- Explain the reasons for and describe the main exceptions to the principal rules of evidence
- Critically analyse the appropriateness and fairness of the principal evidentiary rules
- Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems

¹ If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](#) for academic skills support.

² Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

Delivery and Resources

Prescribed Text:

Bellew, Arthur, Boas, Chifflet & Vickovich: *Australian Uniform Evidence Law: Principles and Context*,

2nd ed, LexisNexis 2022.

Recommended Texts:

S Odgers, *Uniform Evidence Law*, 17th ed, Lawbook Co, 2022

Hon D Heydon, *Cross on Evidence*, 13th ed. LexisNexis, 2021

John Anderson, *Uniform Evidence Law: Text and Essential Cases*, 4th ed, The Federation Press, 2021

S Odgers, M Kumar, & E Peden, *Uniform Evidence Law: Commentary and Materials*, 6th ed, Lawbook Co, 2018

Unit Schedule

Wk	Week Commencing	Lecture Topic	Tutorial Topic
1	24 Jul	Introduction to Evidence	No Tutorial
2	31 Jul	Trials; Judicial Powers and Discretions	1 Introduction to Evidence
3	7 Aug	Adducing Evidence 1	2 Trials; Judicial Powers and Discretions
4	14 Aug	Adducing Evidence 2	3 Adducing Evidence 1
5	21 Aug	Proof and Relevance	4 Adducing Evidence 2
6	28 Aug	Hearsay Evidence 1	5 Proof and Relevance

7	4 Sep	Hearsay Evidence 2	6 Hearsay Evidence 1
		Mid-Semester Break	
8	25 Sep	Hearsay Evidence 3; Admissions	7 Hearsay Evidence 2
9	2 Oct	Opinion Evidence	8 Hearsay Evidence 3; Admissions
10	9 Oct	Tendency and Coincidence Evidence	9 Opinion Evidence
11	16 Oct	Credibility and Character Evidence	10 Tendency and Coincidence Evidence
12	23 Oct	Identification Evidence; Exam Preparation	11 Credibility and Character Evidence
13	30 Oct	No Lecture	12 Identification Evidence

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](https://policies.mq.edu.au) (<https://policies.mq.edu.au>). 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](#)
- [Assessment Procedure](#)
- [Complaints Resolution Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#)

Students seeking more policy resources can visit [Student Policies \(https://students.mq.edu.au/support/study/policies\)](https://students.mq.edu.au/support/study/policies). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

To find other policies relating to Teaching and Learning, visit [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au) and use the [search tool](#).

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/admin/other-resources/student-conduct>

Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) 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 or if you are a Global MBA student contact globalmba.support@mq.edu.au

Academic Integrity

At Macquarie, we believe [academic integrity](#) – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free [online writing and maths support](#), [academic skills development](#) and [wellbeing consultations](#).

Student Support

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

The Writing Centre

[The Writing Centre](#) provides resources to develop your English language proficiency, academic writing, and communication skills.

- [Workshops](#)
- [Chat with a WriteWISE peer writing leader](#)
- [Access StudyWISE](#)
- [Upload an assignment to Studiosity](#)
- [Complete the Academic Integrity Module](#)

The Library provides online and face to face support to help you find and use relevant information resources.

- [Subject and Research Guides](#)
- [Ask a Librarian](#)

Student Services and Support

Macquarie University offers a range of [Student Support Services](#) including:

- [IT Support](#)
- [Accessibility and disability support](#) with study
- Mental health [support](#)
- [Safety support](#) to respond to bullying, harassment, sexual harassment and sexual assault
- [Social support including information about finances, tenancy and legal issues](#)
- [Student Advocacy](#) provides independent advice on MQ policies, procedures, and processes

Student Enquiries

Got a question? Ask us via [AskMQ](#), or contact [Service Connect](#).

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.

Unit information based on version 2023.04 of the [Handbook](#)