



# LAWS819

## Dispute Resolution Processes and Law

S2 Block 2018

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Lise Barry

[lise.barry@mq.edu.au](mailto:lise.barry@mq.edu.au)

Contact via iLearn

6 First Walk Rom 507

Mondays 4 - 5pm and other times by appointment

Credit points

4

Prerequisites

48cp in LAW or LAWS units at 600 level or above

Corequisites

Co-badged status

Unit description

This final year unit draws together doctrinal, theoretical and practical knowledge and experience in the study of law through a focus on the use of alternative dispute resolution (ADR) in the Australian and international context. Students are encouraged to think critically about the ways that legal disputes are typically resolved and the extent to which developments in the ADR field have been integrated into legal practice and regulation. This unit consolidates student learning on the range of legal remedies available through a comparison of ADR processes including negotiation, mediation, arbitration and restorative justice. This unit also provides students with an opportunity to consolidate high level communication skills by providing simulated opportunities for legal negotiations and to further develop the discipline specific communication skills required in conflict resolution processes.

## 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:

Analyse and critique models of dispute resolution in the Australian and International context

Distinguish the key theoretical and doctrinal differences in the application of dispute

resolution frameworks

Apply high level communication skills to dispute resolution processes and distinguish the skills required for different models of dispute resolution

Explain the strengths and weaknesses of different models of dispute resolution and match the models to different types of disputes

Produce research findings in appropriate oral and written reports

## General Assessment Information

All written work in the Unit is to be submitted via Turnitin.

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. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

Work above the word limit will not be marked.

All referencing should comply with the Australian Guide to Legal Citation.

Students are responsible for uploading the correct file to iLearn.

Online assessments are conducted in this unit. It is the student's responsibility to ensure they have access to a secure and reliable server for assignment submission and for online exams.

All due dates and examination times are based on the local times in Sydney, Australia.

## Assessment Tasks

| Name                                      | Weighting | Hurdle | Due                     |
|---|-----------|--------|-------------------------|
| <a href="#"><u>Participation</u></a>      | 40%       | No     | Weekly and 24-26th Sept |
| <a href="#"><u>ADR Research Essay</u></a> | 40%       | No     | Fri 26th Oct 5pm        |
| <a href="#"><u>Online quiz</u></a>        | 20%       | No     | Fri 9th Nov 12pm to 9pm |

### Participation

Due: **Weekly and 24-26th Sept**

Weighting: **40%**

Over the course of the semester, students will develop their skills in ADR through exercises and discussion in class and online.

At the on-campus block session, students will be required to participate in tutorial role plays, discussions, debates, negotiation activities and other exercises. All students must attend the block session of classes on the 24th, 25th and 26th September. This unit is taught in block

mode to allow time for extended skills exercises, including a half day team negotiation on the 26th September.

A suite of tasks will be assessed requiring students to demonstrate practical skills that have been developed across the JD program and are implemented in this unit for the purposes of alternative dispute resolution. For instance, students will write a letter of advice to a client related to settlement negotiations, prepare a negotiation plan identifying risks and benefits of negotiation over litigation, draft a Heads of Agreement for settlement, and take part in team based legal negotiation challenges.

Weekly discussion forums will provide students the opportunity to reflect on their understandings of the development of dispute resolution in Australia.

A detailed marking rubric for participation will be available online.

On successful completion you will be able to:

- Analyse and critique models of dispute resolution in the Australian and International context
- Distinguish the key theoretical and doctrinal differences in the application of dispute resolution frameworks
- Apply high level communication skills to dispute resolution processes and distinguish the skills required for different models of dispute resolution
- Explain the strengths and weaknesses of different models of dispute resolution and match the models to different types of disputes
- Produce research findings in appropriate oral and written reports

## ADR Research Essay

Due: **Fri 26th Oct 5pm**

Weighting: **40%**

Students are required to complete a research paper from a choice of topics that will be provided on iLearn.

Essays will be no more than 3000 words.

Details of the topics and the marking criteria will be available on iLearn.

On successful completion you will be able to:

- Analyse and critique models of dispute resolution in the Australian and International context
- Distinguish the key theoretical and doctrinal differences in the application of dispute resolution frameworks

- Apply high level communication skills to dispute resolution processes and distinguish the skills required for different models of dispute resolution
- Explain the strengths and weaknesses of different models of dispute resolution and match the models to different types of disputes
- Produce research findings in appropriate oral and written reports

## Online quiz

Due: **Fri 9th Nov 12pm to 9pm**

Weighting: **20%**

An online multiple choice quiz and associated problem question will allow students to demonstrate their understanding of ADR law and processes.

The quiz will be open from 12pm to 9pm. Once students open the quiz they will have one hour to complete it.

The quiz will consist of 20 questions including questions associated with an ADR scenario that will be released in advance.

On successful completion you will be able to:

- Analyse and critique models of dispute resolution in the Australian and International context
- Distinguish the key theoretical and doctrinal differences in the application of dispute resolution frameworks
- Explain the strengths and weaknesses of different models of dispute resolution and match the models to different types of disputes

## Delivery and Resources

Required Textbook: David Spencer and Samantha Hardy, *Dispute Resolution in Australia: Cases, Commentary and Materials* (3rd ed, 2014) Thomson Reuters.

Students are also advised to obtain a copy of: Roger Fisher, William Ury and Bruce Patton, *Getting to Yes: Negotiating Agreement Without Giving In*. (Any edition)

Lectures are delivered online.

Weekly readings and other learning resources are available online and via the University Library Unit Readings portal.

## Unit Schedule

Week 1: An overview of dispute resolution processes and key issues

Week 2: Negotiation part 1 and dispute resolution critiques

Week 3: Negotiation part 2

Week 4: Mediation

Week 5: Mediation

Week 6: Advisory and Determinative dispute resolution processes

Week 7: Court based ADR and online dispute resolution

Week 8: Legal Issues in ADR

Week 9: Culture and Values in ADR

Week 10: Family Law and dispute resolution

Week 11: Restorative Justice processes

Week 12: Ethics and standards in dispute resolution

Week 13: Future directions for dispute resolution in Australia

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](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 \(https://students.mq.edu.au/support/study/student-policy-gateway\)](https://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 \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](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](#).

## 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

- Analyse and critique models of dispute resolution in the Australian and International context
- Distinguish the key theoretical and doctrinal differences in the application of dispute resolution frameworks
- Apply high level communication skills to dispute resolution processes and distinguish the skills required for different models of dispute resolution
- Explain the strengths and weaknesses of different models of dispute resolution and match the models to different types of disputes

## Assessment tasks

- Participation
- ADR Research Essay

## 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

- Analyse and critique models of dispute resolution in the Australian and International context
- Distinguish the key theoretical and doctrinal differences in the application of dispute resolution frameworks
- Apply high level communication skills to dispute resolution processes and distinguish the skills required for different models of dispute resolution
- Explain the strengths and weaknesses of different models of dispute resolution and match the models to different types of disputes
- Produce research findings in appropriate oral and written reports

## Assessment tasks

- Participation
- ADR Research Essay
- Online quiz

## 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**

- Analyse and critique models of dispute resolution in the Australian and International context
- Distinguish the key theoretical and doctrinal differences in the application of dispute resolution frameworks
- Explain the strengths and weaknesses of different models of dispute resolution and match the models to different types of disputes
- Produce research findings in appropriate oral and written reports

## **Assessment tasks**

- Participation
- ADR Research Essay
- Online quiz

## **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**

- Distinguish the key theoretical and doctrinal differences in the application of dispute resolution frameworks
- Explain the strengths and weaknesses of different models of dispute resolution and match the models to different types of disputes
- Produce research findings in appropriate oral and written reports

## **Assessment tasks**

- Participation
- ADR Research Essay

## 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 high level communication skills to dispute resolution processes and distinguish the skills required for different models of dispute resolution
- Explain the strengths and weaknesses of different models of dispute resolution and match the models to different types of disputes
- Produce research findings in appropriate oral and written reports

### Assessment tasks

- Participation
- ADR Research Essay