



# LAWS806

## Applied Legal Ethics

S3 Block 2018

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

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TBA - see iLearn page

Credit points

4

Prerequisites

((Admission after 2014 to GradCertLaw or GradDipLaw or JD) and corequisite LAWS600) or (admission to JD in 2014) or (admission to LLM)

Corequisites

Co-badged status

Unit description

In this unit students will be encouraged to develop an ethical approach to the study and practice of law. Ethical problems may present in diverse ways, including problems of confidentiality, access to justice or conflict of duty and interest. The lawyer's role in the resolution of these problems is examined in the context of the common law, statute, professional rules of conduct and diverse theoretical approaches to legal ethics. The lawyer's relationships with their client, the court and other legal practitioners as well as with the general public are strengthened through development of skills such as listening, interviewing and negotiation. The unit also emphasizes continued improvements in academic writing skills, concentrating on structure, legal language and issues of academic honesty.

## 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:

Explain how ethical principles inform and underpin the law of professional responsibility that regulates the practice of law in Australia.

Recognise the duties and obligations that are part of the legal practitioner's relationship

with his or her client, the court, other practitioners and members of the public.

Apply the law of professional responsibility relevant to lawyers in Australia

Critically analyse the different theoretical approaches to legal ethics and apply this analysis to the resolution of ethical problems.

Demonstrate advanced communication skills required for ethical practice, especially listening skills, interviewing skills, cross cultural communication skills and negotiation skills.

Apply mature and considered approaches to written communication including plain English principles and legal citation methods

## General Assessment Information

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.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Tutorial participation</u>	30%	No	Ongoing
<u>Essay</u>	40%	No	Monday, 14 January 2019 at 5pm
<u>Quiz</u>	30%	No	21/01/2019

### Tutorial participation

Due: **Ongoing**

Weighting: **30%**

#### Active participation

'Active participation' means much more than simply turning up for the on campus sessions. Students will also be assessed on:

- Their level of engagement in the discussions and activities during classes;
- Their understanding of the legal, ethical and moral issues, applicable rules and law evidencing their engagement with the set readings & online lecture materials.
- Online participation in the forums throughout the period of s3 - and not only during the on campus session.

This unit works best when all students attend and give the entire group the benefit of their views

based upon the readings and their experience.

**ONLINE FORUM DISCUSSIONS:** All students are expected to join in the online Forum discussions. You may respond to the questions or observations made by others, or post your own question or discussion point about the law or some legal issue currently in the news. The point is to get involved in the discussion! Hopefully we'll have some fun with it as we learn from each other.

**TOPICS 1-13** on iLearn cover the material normally taught over 13 weeks. Specific readings and exercises are set for each Topic. Students should work through each topic making sure to read the set readings, watch the lectures and make any notes or questions you would like to discuss in class. If there are things you don't understand, **post your question on the Forum.**

**ON CAMPUS PROGRAM:** A program for the on campus sessions will be posted on iLearn. All students are required to attend the sessions on **12-14 December 2018.**

Students are required to participate in the role plays, online and face to face discussions, debates, reflective exercises and other activities. The tutor will engage in ongoing assessment of student participation. A rubric will be provided on iLearn.

**ON CAMPUS PREP:** Students will notice that under each TOPIC heading there is an 'On Campus Prep' section which involves an activity to complete. These will be discussed in class BUT SHOULD BE REVIEWED BEFOREHAND. **Some of this work from WEEKS 1-3 will be collected by your tutor and will count towards your participation mark. At the on-campus session,**

- **Students should be prepared to hand in any of the tutorial preparation materials from Weeks 1-3, and**
- **Students should have read the article: Anthony Kronman, 'Legal Professionalism' (1999) 27 *Florida State University Law Review* 1 and have prepared answers (in no more than THREE PAGES) to the following questions:**
  - **What are the ideals of the legal profession that Kronman describes?**
  - **What are the threats to these ideals?**
  - **Why does Kronman think these ideals have importance? Explain why you agree or disagree.**
  - **Do such ideals have a place in modern lawyering?**

**ABSENCES:** If you cannot attend an on campus session **you must apply for Special Consideration** and support your application with the appropriate documentation. Applications for Special Consideration are made online at [ask.mq.edu.au](http://ask.mq.edu.au).

On successful completion you will be able to:

- Explain how ethical principles inform and underpin the law of professional responsibility that regulates the practice of law in Australia.
- Recognise the duties and obligations that are part of the legal practitioner's relationship

with his or her client, the court, other practitioners and members of the public.

- Apply the law of professional responsibility relevant to lawyers in Australia
- Critically analyse the different theoretical approaches to legal ethics and apply this analysis to the resolution of ethical problems.
- Demonstrate advanced communication skills required for ethical practice, especially listening skills, interviewing skills, cross cultural communication skills and negotiation skills.
- Apply mature and considered approaches to written communication including plain English principles and legal citation methods

## Essay

Due: **Monday, 14 January 2019 at 5pm**

Weighting: **40%**

In this paper students will be asked to provide a response to a question of legal ethics. Students will be required to be familiar with a variety of models of applied legal ethics in order to justify their ethical decision making choices.

Student responses are expected to be well researched and to critically reflect upon and analyse both the law and theory of professional responsibility for lawyers.

Students will also be assessed on their written communication skills, particularly their ability to write in plain English.

The maximum word count for this assessment is 2000 words.

Assessments will be submitted online via Turnitin and must comply with the Macquarie University Policy on Academic Honesty

The complete question will be released on iLearn.

On successful completion you will be able to:

- Explain how ethical principles inform and underpin the law of professional responsibility that regulates the practice of law in Australia.
- Recognise the duties and obligations that are part of the legal practitioner's relationship with his or her client, the court, other practitioners and members of the public.
- Apply the law of professional responsibility relevant to lawyers in Australia
- Critically analyse the different theoretical approaches to legal ethics and apply this analysis to the resolution of ethical problems.
- Apply mature and considered approaches to written communication including plain English principles and legal citation methods

## Quiz

Due: **21/01/2019**

Weighting: **30%**

Weighting: **30%**

This is a time limited multiple choice exam of one hour to test students' understanding of the law of professional responsibility. All material from Topics 1 to 12 is examinable.

**NOTE: This is a timed assessment and no late submissions will be accepted.**

Students can open the exam at any time after 3pm on **Monday 21 January 2019**. The exam will **automatically shut down at 9pm**. Students will have **one hour** to complete their answers from the time that they open the paper. **When one hour has expired, or the time is 9pm, all saved answers will be automatically submitted.**

Some of the questions will relate to a problem scenario that will be released for reading 24 hours prior to the quiz in the Assessment block.

This Assessment Task relates to the following Learning Outcomes:

- Describe and explain the role of the lawyer in Australian society
- Explain and apply the law of professional responsibility that regulates the practice of law in Australia, including duties owed to the court, to the client, to practitioners, and to the community.
- Develop legal research skills, including the ability to search for relevant primary and secondary sources
- Identify and respond to legal ethical issues under time pressure

30 questions will be randomly assigned to each student and the order of the questions and answers will also be shuffled.

Some of the questions will begin with the words "In relation to the problem question:" The problem question will be posted in the assessment block at **3pm on Sunday 20 January 2019**.

### **Student instructions for the multiple choice exam**

The instructions below will still be available to you once you have started the quiz. However, to save time, you should be thoroughly familiar with them before you move on.

**Firefox** is the recommended browser to use (please update your browser regularly). Do not use the browser **Back** or **Forward** buttons whilst in the quiz.

Once you begin your quiz attempt you will see the timer begin in the top right corner. You will

have one hour to complete the quiz.

**The quiz will shut down at 9pm Sydney time. You must commence the quiz by 8pm if you wish to have the full hour to complete it.**

Please use the **Save and Next** button at base of screen to **save** and **move** to the next page of question/s. This will finally take you to a Summary screen which indicates the questions you have answered. If you have missed any questions (or you would like to review a question), providing you have time remaining, you can click on these to return to the quiz. Then click **Save and Review** at top right to return to the Summary screen. When you are happy that all questions have been answered please click the **Submit** button at the base of the Summary Screen.

(**Note:** if you need to leave the quiz during the attempt you can log back in and resume provided there is time remaining on the timer. The timer countdown is not paused when you leave the quiz)

Choose the most correct answer for each question.

On successful completion you will be able to:

- Recognise the duties and obligations that are part of the legal practitioner's relationship with his or her client, the court, other practitioners and members of the public.
- Apply the law of professional responsibility relevant to lawyers in Australia

## Delivery and Resources

This unit is delivered in two ways:

- 1) via online learning content that includes recorded lecture material, readings, quizzes, discussions and links to external resources such as videos and blogs
- 2) a three day intensive seminar for all enrolled students from **12-14 December 2019**

The required text is: Lise Barry (ed) *Lawyers: Roles, Skills and Responsibilities* (3rd ed, 2017) Thomson Reuters. Available from the Macquarie University Co-op Bookshop.

Additional reading will be available via iLearn and e-reserve.

Students require access to a computer and a secure and reliable server. All Unit requirements and a weekly teaching schedule are outlined in iLearn.

All assessments are to be submitted electronically via Turnitin.

## Unit Schedule

The schedule is outlined in detail on the iLearn site for this unit

Topics to be covered online and at the block session include:

**Professionalism**

**Normative and applied ethics**

**Duties to the client:** fiduciary duties, duty of confidentiality, duty of care, conflicts of interest, duty to account, costs

**Duties to the Court:** ethics in criminal law, duties of candour, duties of prosecutors, dealing with witnesses, undertakings

**Communication skills:** esp listening, client interviewing, negotiation

**Duty to the community:** Access to justice, pro bono service

**Duty to the profession:** professional courtesy

**Professional regulation and discipline**

**Admission to the profession**

## 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:

### Assessment task

- Quiz

## 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

- Recognise the duties and obligations that are part of the legal practitioner's relationship with his or her client, the court, other practitioners and members of the public.
- Apply the law of professional responsibility relevant to lawyers in Australia
- Demonstrate advanced communication skills required for ethical practice, especially listening skills, interviewing skills, cross cultural communication skills and negotiation skills.
- Apply mature and considered approaches to written communication including plain English principles and legal citation methods

### Assessment tasks

- Tutorial participation
- 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 outcome

- Critically analyse the different theoretical approaches to legal ethics and apply this analysis to the resolution of ethical problems.

## 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:

## Assessment task

- Quiz

## 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

- Demonstrate advanced communication skills required for ethical practice, especially listening skills, interviewing skills, cross cultural communication skills and negotiation skills.
- Apply mature and considered approaches to written communication including plain English principles and legal citation methods

## Assessment tasks

- Tutorial participation
- Essay

## 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

- Explain how ethical principles inform and underpin the law of professional responsibility that regulates the practice of law in Australia.
- Critically analyse the different theoretical approaches to legal ethics and apply this analysis to the resolution of ethical problems.

## Assessment tasks

- Tutorial participation
- Essay

## Changes since First Published

Date	Description
16/11/2018	2nd contact removed