



## UNSW Course Outline

# JURD7285 Equity and Trusts - 2024

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## General Course Information

**Course Code :** JURD7285

**Year :** 2024

**Term :** Term 3

**Teaching Period :** T3

**Is a multi-term course? :** No

**Faculty :** Faculty of Law and Justice

**Academic Unit :** School of Private and Commercial Law

**Delivery Mode :** In Person

**Delivery Format :** Standard

**Delivery Location :** Kensington

**Campus :** Sydney

**Study Level :** Postgraduate

**Units of Credit :** 6

### Useful Links

[Handbook Class Timetable](#)

## Course Details & Outcomes

### Course Description

This course introduces students to the doctrines of equity and the law of trusts. It traces the historical development of equity and its relationship with common law. Students will critically consider the appropriate application of a range of equitable doctrines to particular scenarios and the availability of different remedies. Students will also be introduced to the law of trusts and, in

particular, the nature of a trust, legal requirements in establishing a trust as well as the rights, duties and powers associated with trusts. The course assumes familiarity with equitable doctrines taught in Principles of Private Law and Contracts, for instance estoppel, undue influence, unconscionability. This is an important pre-requisite for learning about trusts, which involve property.

This course is one of the core subjects for law and will normally be taken after completion of Contracts. It fits within the private law stream, which includes such subjects as Torts, Contracts and Land Law. It provides a good grounding for further studies in this area.

The aim of the course is to ensure that you are familiar with the central principles of equity, including the law of trusts. In particular, the course will cover the following topics:

#### Main Topics:

- Equitable rights and equitable titles
- Fiduciary obligations
- Assignment and Priorities (excluding Torrens land)
- Express trusts, including types of express trust, trusts distinguished from contract, charge, lien, bailment and corporation, lifecycle of an express trust
- Trustee duties, powers and rights
- Beneficiary rights
- Tracing
- Personal liability of accessories and recipients
- Remedies
- Resulting and constructive trusts
- General bars to relief

## Course Aims

This course introduces students to the doctrines of equity and the law of trusts. It traces the historical development of equity and its relationship with common law. Students will critically consider the appropriate application of a range of equitable doctrines to particular scenarios and the availability of different remedies. Students will also be introduced to the law of trusts and, in particular, the nature of a trust, legal requirements in establishing a trust as well as the rights, duties and powers associated with trusts. Students will develop efficient strategies for research and writing.

# Course Learning Outcomes

Course Learning Outcomes
CLO1 : Demonstrate awareness of principles of equity and trusts and their relationship to the broader context (PLO 1)
CLO2 : Identify important equitable doctrines and remedies and apply them to hypothetical fact scenarios (PLOs 1 & 5)
CLO3 : Engage in critical analysis of the role played by equity in the legal system (PLOs 3 & 7)
CLO4 : Apply knowledge of trust law to critique and suggest improvements to clauses in a trust deed (PLO 6)
CLO5 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLO 9)
CLO6 : Work as a member of a team in contributing to class discussion and completing a group assessment task (PLOs 10 & 12)
CLO7 : Demonstrate effective written communication skills by articulating and applying legal concepts clearly, persuasively and appropriately (PLOs 1, 5 & 6)
CLO8 : Retrieve legal research, work through complex legal research problems and write up research in a variety of professional contexts (PLO 6)

Course Learning Outcomes	Assessment Item
CLO1 : Demonstrate awareness of principles of equity and trusts and their relationship to the broader context (PLO 1)	<ul style="list-style-type: none"> <li>• Class Participation</li> <li>• Assignment</li> <li>• Final Invigilated Examination</li> </ul>
CLO2 : Identify important equitable doctrines and remedies and apply them to hypothetical fact scenarios (PLOs 1 & 5)	<ul style="list-style-type: none"> <li>• Class Participation</li> <li>• Assignment</li> <li>• Final Invigilated Examination</li> </ul>
CLO3 : Engage in critical analysis of the role played by equity in the legal system (PLOs 3 & 7)	<ul style="list-style-type: none"> <li>• Class Participation</li> <li>• Final Invigilated Examination</li> </ul>
CLO4 : Apply knowledge of trust law to critique and suggest improvements to clauses in a trust deed (PLO 6)	
CLO5 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLO 9)	<ul style="list-style-type: none"> <li>• Assignment</li> <li>• Class Participation</li> </ul>
CLO6 : Work as a member of a team in contributing to class discussion and completing a group assessment task (PLOs 10 & 12)	<ul style="list-style-type: none"> <li>• Assignment</li> </ul>
CLO7 : Demonstrate effective written communication skills by articulating and applying legal concepts clearly, persuasively and appropriately (PLOs 1, 5 & 6)	<ul style="list-style-type: none"> <li>• Final Invigilated Examination</li> <li>• Assignment</li> </ul>
CLO8 : Retrieve legal research, work through complex legal research problems and write up research in a variety of professional contexts (PLO 6)	<ul style="list-style-type: none"> <li>• Assignment</li> </ul>

## Learning and Teaching Technologies

Moodle - Learning Management System

## Assessments

### Assessment Structure

Assessment Item	Weight	Relevant Dates
Class Participation Assessment Format: Individual	10%	Start Date: Not Applicable Due Date: Not Applicable
Assignment Assessment Format: Group	30%	Due Date: Week 6: 14 October - 20 October
Final Invigilated Examination Assessment Format: Individual	60%	

# **Assessment Details**

## **Class Participation**

### **Assessment Overview**

This assessment requires you to prepare for and actively engage in class-based and online activities.

### **Course Learning Outcomes**

- CLO1 : Demonstrate awareness of principles of equity and trusts and their relationship to the broader context (PLO 1)
- CLO2 : Identify important equitable doctrines and remedies and apply them to hypothetical fact scenarios (PLOs 1 & 5)
- CLO3 : Engage in critical analysis of the role played by equity in the legal system (PLOs 3 & 7)
- CLO5 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLO 9)

### **Detailed Assessment Description**

Class participation will be assessed based on participation in class (whether online or face to face). Your lecturer will provide information in your first seminar about the criteria they will use to assess class participation. There is also information in Moodle.

### **Generative AI Permission Level**

#### **No Assistance**

This assessment is designed for you to complete without the use of any generative AI. You are not permitted to use any generative AI tools, software or service to search for or generate information or answers.

For more information on Generative AI and permitted use please see [here](#).

## **Assignment**

### **Assessment Overview**

This assessment requires you to complete a written memorandum (small groups) and a written reflection (individual).

### **Course Learning Outcomes**

- CLO1 : Demonstrate awareness of principles of equity and trusts and their relationship to the broader context (PLO 1)
- CLO2 : Identify important equitable doctrines and remedies and apply them to hypothetical fact scenarios (PLOs 1 & 5)
- CLO5 : Demonstrate effective oral communication skills by discussing and debating course

- concepts in a scholarly, reflective and respectful manner (PLO 9)
- CLO6 : Work as a member of a team in contributing to class discussion and completing a group assessment task (PLOs 10 & 12)
  - CLO7 : Demonstrate effective written communication skills by articulating and applying legal concepts clearly, persuasively and appropriately (PLOs 1, 5 & 6)
  - CLO8 : Retrieve legal research, work through complex legal research problems and write up research in a variety of professional contexts (PLO 6)

#### **Detailed Assessment Description**

- Groupwork Memorandum
- Individual Reflection

You will need to respond to a memorandum from a 'partner' at a law firm. You and your teammates are playing the role of associates at a law firm, working together. You can respond to the questions raised in any order and structure your answer as you believe is appropriate. You should do any research you feel is necessary to respond to the issues/questions raised in the memorandum.

Reflect on the experience of working in a small team on a project.

Full instructions are provided on Moodle.

#### **Generative AI Permission Level**

##### **Simple Editing Assistance**

In completing this assessment, you are permitted to use standard editing and referencing functions in the software you use to complete your assessment. These functions are described below. You must not use any functions that generate or paraphrase passages of text or other media, whether based on your own work or not.

If your Convenor has concerns that your submission contains passages of AI-generated text or media, you may be asked to account for your work. If you are unable to satisfactorily demonstrate your understanding of your submission you may be referred to UNSW Conduct & Integrity Office for investigation for academic misconduct and possible penalties.

For more information on Generative AI and permitted use please see [here](#).

#### **Final Invigilated Examination**

##### **Assessment Overview**

This assessment requires you to complete an invigilated written examination within the University examination period.

## Course Learning Outcomes

- CLO1 : Demonstrate awareness of principles of equity and trusts and their relationship to the broader context (PLO 1)
- CLO2 : Identify important equitable doctrines and remedies and apply them to hypothetical fact scenarios (PLOs 1 & 5)
- CLO3 : Engage in critical analysis of the role played by equity in the legal system (PLOs 3 & 7)
- CLO7 : Demonstrate effective written communication skills by articulating and applying legal concepts clearly, persuasively and appropriately (PLOs 1, 5 & 6)

## Detailed Assessment Description

The exam will include two parts:

Part 1: Problem-Based Question

Part 2: Problem-Based Question

## Hurdle rules

Students must obtain 40% or more on the Final Examination to pass the course.

## Generative AI Permission Level

### No Assistance

This assessment is designed for you to complete without the use of any generative AI. You are not permitted to use any generative AI tools, software or service to search for or generate information or answers.

For more information on Generative AI and permitted use please see [here](#).

## **General Assessment Information**

For further information on generative AI use in the Faculty of Law & Justice, please review the section titled 'Academic Honesty and Plagiarism' under the 'Other Useful Information' tab.

## Grading Basis

Standard

## Requirements to pass course

Students must obtain 40% or more on the Final Examination to pass the course.

# Course Schedule

Teaching Week/Module	Activity Type	Content
Week 1 : 9 September - 15 September	Online Activity	Introduction to Equity and Trusts This Online Activity is to be completed before Seminar 1A.
	Seminar	Equitable Property
	Seminar	Overview of Equitable Remedies
Week 2 : 16 September - 22 September	Online Activity	Overview of Equitable Remedies: Specific Performance and Injunctions This Online Activity is to be completed after Seminar 1B.
	Seminar	Equitable Fiduciary Obligations
	Seminar	Equitable Fiduciary Obligations continued
Week 3 : 23 September - 29 September	Online Activity	Equitable Fiduciary Obligations Exercise This Online Activity is to be completed after Seminar 2B.
	Seminar	The Law of Assignment
	Seminar	The Law of Assignment continued
Week 4 : 30 September - 6 October	Online Activity	Introduction to Express Trusts This Online Activity is to be completed before Seminar 4A.
	Seminar	Private Express Trusts
	Seminar	Trustee Duties and Powers
Week 5 : 7 October - 13 October	Online Activity	Trustee Investment Duties and Powers This Online Activity is to be completed after Seminar 4B.
	Seminar	Trustee and Beneficiary Rights and Liabilities
	Seminar	Breach of Trust: Defences and Remedies
Week 6 : 14 October - 20 October	Other	Flexibility week - no classes
Week 7 : 21 October - 27 October	Online Activity	Private Express Trusts and Trustee Duties Exercise This Online Activity is to be completed after Seminar 5B.
	Seminar	Accessorial Liability to a Breach of Trust or Fiduciary Obligation
	Seminar	Tracing and Claiming
Week 8 : 28 October - 3 November	Online Activity	Tracing and Claiming This Online Activity is to be completed after Seminar 7B.
	Seminar	Priorities
	Seminar	Money Remedies in Equity
Week 9 : 4 November - 10 November	Online Activity	Principles of Equitable Remedies This Online Activity is to be completed before Seminar 9A.
	Seminar	Resulting Trusts
	Seminar	Constructive Trusts
Week 10 : 11 November - 17 November	Seminar	Personal and Proprietary Equitable Remedies
	Seminar	Exam Revision

## Attendance Requirements

Please see information about attendance requirements in **Law & Justice Assessment Procedure and Student Information** located in the Other Useful Information tab in the Academic Information field.

Please be advised there will be no classes on public holidays. If your class falls on a public holiday, alternative arrangements will be made by the course convenor to make up the missed class.

# Course Resources

## Prescribed Resources

There are two prescribed texts for this course:

- Bryan, Degeling, Donald and Vann, *A Sourcebook on Equity & Trusts in Australia* (Cambridge University Press, 3rd ed, 2022)
- Bryan, Vann, Barkehall Thomas, *Equity & Trusts in Australia* (Cambridge University Press, 3rd ed, 2022)

## Staff Details

Position	Name	Email	Location	Phone	Availability	Equitable Learning Services Contact	Primary Contact
Convenor	Simone Degeling					Yes	Yes

## Other Useful Information

### Academic Information

Upon your enrolment at UNSW, you share responsibility with us for maintaining a safe, harmonious and tolerant University environment.

You are required to:

- Comply with the University's conditions of enrolment.
- Act responsibly, ethically, safely and with integrity.
- Observe standards of equity and respect in dealing with every member of the UNSW community.
- Engage in lawful behaviour.
- Use and care for University resources in a responsible and appropriate manner.
- Maintain the University's reputation and good standing.

For more information, visit the [UNSW Student Code of Conduct Website](#).

### UNSW Law & Justice Assessment Policy

It is essential that all students undertaking this course read and abide by the [UNSW Law & Justice Assessment Policy & Student Information](#). This document includes information on Class

Attendance, Late Work, Word Limits, Marking, Special Consideration, Workload, and Academic Misconduct & Plagiarism. More information can also be found at [Assessment & Exam Information](#).

Information regarding Course Outlines are subject to change and students are advised to check updates. If there is a discrepancy between the information posted here and the handbook or the UNSW Law & Justice website, please contact [Student Services via The Nucleus Hub](#) for advice. UNSW Law & Justice reserves the right to discontinue or vary such courses or staff allocations at any time. If your course is not here, please visit [Handbook](#) for information.

## Academic Honesty and Plagiarism

As a student at UNSW you are expected to display [academic integrity](#) in your work and interactions. Where a student breaches the [UNSW Student Code](#) with respect to academic integrity, the University may take disciplinary action under the Student Misconduct Procedure. To assure academic integrity, you may be required to demonstrate reasoning, research and the process of constructing work submitted for assessment.

To assist you in understanding what academic integrity means, and how to ensure that you do comply with the UNSW Student Code, it is strongly recommended that you complete the [Working with Academic Integrity](#) module before submitting your first assessment task. It is a free, online self-paced Moodle module that should take about one hour to complete.

## Generative AI

Using generative AI to conduct research or to organise your argument is not prohibited but is not encouraged. We note that the output from generative AI tools is often incorrect and almost always more superficial than is required to achieve a passing grade. Moreover, any substantive errors in the assessment, such as inappropriate references or incorrect statements, will be regarded negatively by the marker, just as they would if not generated by AI. You should limit your use of AI to simple editorial assistance, such as standard editing and referencing functions in word processing software in the creation of your submission. You must not use any functions that generate or paraphrase passages of text, whether based on your own work or not. If your marker or Turnitin identify the use of generative AI in the text of your assessment submission, including the use of paraphrasing software, your assessment may be referred to the Student Integrity team for investigation. Please go to the link for further information about [referencing and acknowledging the use of artificial intelligence tools](#).

## **Prohibition on use of translation apps**

With limited exceptions for language study, the course of study and assessment in Australian universities must be in English (Higher Education Standard Framework (Threshold Standards) 2021 1.5 6(c)).

In Law & Justice many classes have assessable class participation. This must be in English. **Use of a translation device to assist with contributions to class discussion is not allowed.** Similar prohibitions apply to use of any other generative text app that is not specifically permitted by the class teacher. However, use of translation software to assist a student to understand material outside of class, or to assist with preparation for assessment is generally permitted.

Further considerations apply to LLB and JD students. International lawyers who seek to be admitted in NSW must satisfy an English proficiency test. That test is expressed as equivalent to IELTS scores of 7.0 -8.0 across the tests. It is assumed that UNSW graduates are at or above those levels of English proficiency. Use of translation apps can impede the attainment of that level of proficiency. Students should avoid behaviours that put them at risk of breach of legal requirements which can have significant consequences, including potential consequences for your admission as a lawyer.

## **Submission of Assessment Tasks**

Before submitting assessment items all students must read and abide by the [UNSW Law & Justice Assessment Policy & Student Information](#).

## **Special consideration**

Special consideration is primarily intended to provide you with an extra opportunity to demonstrate the level of performance of which you are capable. To apply, and for further information, see Special Consideration on the UNSW [Current Students](#) page.

## **Feedback**

UNSW Law & Justice appreciates the need for students to have feedback on their progress prior to the last date for withdrawal without failure. All courses will therefore provide feedback to students prior to this date, as well as throughout the course. However, students should note that feedback does not take the form only of formal grades and written comments on written assessments. Rather, formative feedback, which helps students to self-assess, to identify

misunderstandings, and to identify areas requiring further work, will occur during class and possibly online. For example, where a teacher asks the class a question, all students should think about how they might answer. Even though not all students will necessarily be able to respond orally, everyone can reflect on their tentative answer in light of the teacher's response and subsequent class discussion. If you are struggling to understand what is being asked in class, or if your tentative answers prove incorrect and subsequent discussion does not clear things up, then you should continue to ask questions (of yourself, your peers or your teacher). Similarly, you can get a sense of your ability in a course through peer feedback during group work, your teacher's responses to your in-class contributions, and your own response to in-class problems and examples (whether or not you are called on to relay your answer to the class) and also your online activities and responses by others to those activities. Students enrolled in this course may check their Moodle course page for details on the specific feedback used in this course.

## Faculty-specific Information

### Additional support for students

- Student support: <https://www.student.unsw.edu.au/support>
- Academic Skills and Support: <https://student.unsw.edu.au/academic-skills>
- Student Wellbeing, Health and Safety: <https://student.unsw.edu.au/wellbeing>
- Equitable Learning Services: <https://student.unsw.edu.au/els>
- UNSW IT Service Centre: <https://www.myit.unsw.edu.au>

### Course improvement

Student feedback is very important to continual course improvement. This is demonstrated within the Faculty of Law & Justice by the implementation of the UNSW online student survey myExperience, which allows students to evaluate their learning experiences in an anonymous way. myExperience survey reports are produced from each survey. They are released to staff after all student assessment results are finalised and released to students. Course convenors will use the feedback to make ongoing improvements to the course. Students enrolled in this course may check their Moodle course page for details on the actions taken in response to evaluation feedback in Student Survey.

## School Contact Information

Please contact [Nucleus Student Hub](#) for all enquiries. The Nucleus acts as a central communications hub for UNSW and will distribute your enquiry to the best person to respond.