



UNSW

UNSW Course Outline

LAWS2351 Court Process, Evidence and Proof - 2024

Published on the 12 May 2024

General Course Information

Course Code : LAWS2351

Year : 2024

Term : Term 2

Teaching Period : T2

Is a multi-term course? : No

Faculty : Faculty of Law and Justice

Academic Unit : School of Law, Society and Criminology

Delivery Mode : In Person

Delivery Format : Standard

Delivery Location : Kensington

Campus : Sydney

Study Level : Undergraduate

Units of Credit : 6

Useful Links

[Handbook Class Timetable](#)

Course Details & Outcomes

Course Description

LAWS2351 is only available in T1 by School Consent. Contact UNSW Law Student Services for more information.

Court Process, Evidence and Proof provides students with an analytical study of the law of evidence and civil and criminal court processes. These topics are examined in their legal, ethical and socio-psychological dimensions. The course approaches these topics by first exploring the legal and factual elements that define evidence law. In the criminal context, the course additionally explores prosecutors' ethical and legal obligations to the court and to the defendant. From this preliminary framework students examine key principles, rules and institutional elements associated with the formal adjudication of legal disputes. Australia's uniform evidence legislation provides the major doctrinal focus of this course. Its institutional focus centres on the role of participants in the court process. The course aims to foster in students critical analytical skills and values consistent with aspirational ideals of professional and ethical legal practice. These goals are pursued by observational fieldwork, audiovisual aids, occasional guest speakers, readings and the engagement of students in classroom discussion that is aimed at developing their understanding of the complexities and challenges evidence law and court processes create for litigants, lawyers, witnesses and decisionmakers. In addition, the course pays particular attention to ensuring students fully appreciate the important rights of criminal defendants and the protections afforded to them in court.

Main Topics

- The criminal trial, fundamental principles, accusatorialism and the presumption of innocence
- Indictments and criminal pleadings
- Screening weak cases and disclosure
- Pre-trial and trial prosecutorial obligations;
- The jury, judges proof
- Fair trials, rationalism
- Relevance
- Discretionary and mandatory exclusions;
- The witness in the box (testimonial competence and compellability, communication, questioning witnesses in court (examination in chief, cross examination, reexamination, unfavourable witnesses, credibility attacks on witnesses)
- The hearsay rule and its exceptions
- Identification Evidence
- Evidence of Opinion
- The accused (as a witness, his/her right to silence, character, tendency and coincidence evidence)
- Unreliable evidence, judicial directions and warnings.

Court Process, Evidence and Proof is one of the core subjects for law and will normally be taken after completion of Criminal Laws. It fits within the criminal law stream.

Course Aims

Court Process, Evidence and Proof aims to develop students' understanding of key legal principles, court processes, rules of evidence and institutional elements associated with the formal adjudication of civil actions and criminal prosecutions. The course aims to develop this understanding across legal and socio-psychological dimensions. In addition it aims to develop students' appreciation of the ethical and legal obligations of lawyers to the court, clients and each other, and in criminal cases, the special ethical and legal obligations of prosecutors. The course aims to foster in students critical analytical skills and values consistent with aspirational ideals of professional and ethical legal practice. In addition, the course pays particular attention to ensuring students fully appreciate the important rights of criminal defendants and the protections afforded to them in court and developing students' understanding of the complexities and challenges evidence law and court processes create for litigants, lawyers, witnesses and decision makers.

Course Learning Outcomes

Course Learning Outcomes
CLO1 : Demonstrate awareness of principles of court process, evidence and proof and their relationship to the broader context (PLOs 1 & 3)
CLO2 : Situate and explain court process and evidence law in their national and interdisciplinary contexts (PLOs 1, 4, 5 & 6)
CLO3 : Engage in critical analysis of the nexus between practice and theory in relation to court process and evidence law (PLOs 1, 4, 5 & 6)
CLO4 : Apply cumulative knowledge and skills to solving problems associated with civil and criminal court process (PLOs 1, 4, 5 & 6)
CLO5 : Demonstrate effective written communication skills evidenced by rigorous analysis, and/or reflection and critique of court process and evidence law (PLOs 6, 8 & 9)
CLO6 : Demonstrate effective oral communication skills by presenting assessments using diverse media (PLOs 6, 8 & 9)
CLO7 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 6, 8 & 9)
CLO8 : Engage in reflective practice regarding the obligation of ethical legal practitioners in a courtroom context (PLOs 6, 8 & 9)

Course Learning Outcomes	Assessment Item
CLO1 : Demonstrate awareness of principles of court process, evidence and proof and their relationship to the broader context (PLOs 1 & 3)	<ul style="list-style-type: none"> • Report • Final Invigilated Examination
CLO2 : Situate and explain court process and evidence law in their national and interdisciplinary contexts (PLOs 1, 4, 5 & 6)	<ul style="list-style-type: none"> • Report • Final Invigilated Examination
CLO3 : Engage in critical analysis of the nexus between practice and theory in relation to court process and evidence law (PLOs 1, 4, 5 & 6)	<ul style="list-style-type: none"> • Class Participation • Report • Final Invigilated Examination
CLO4 : Apply cumulative knowledge and skills to solving problems associated with civil and criminal court process (PLOs 1, 4, 5 & 6)	<ul style="list-style-type: none"> • Class Participation • Final Invigilated Examination
CLO5 : Demonstrate effective written communication skills evidenced by rigorous analysis, and/or reflection and critique of court process and evidence law (PLOs 6, 8 & 9)	<ul style="list-style-type: none"> • Report • Final Invigilated Examination
CLO6 : Demonstrate effective oral communication skills by presenting assessments using diverse media (PLOs 6, 8 & 9)	<ul style="list-style-type: none"> • Report
CLO7 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 6, 8 & 9)	<ul style="list-style-type: none"> • Class Participation
CLO8 : Engage in reflective practice regarding the obligation of ethical legal practitioners in a courtroom context (PLOs 6, 8 & 9)	<ul style="list-style-type: none"> • Class Participation • Report • Final Invigilated Examination

Learning and Teaching Technologies

Moodle - Learning Management System

Assessments

Assessment Structure

Assessment Item	Weight	Relevant Dates
Class Participation Assessment Format: Individual	20%	
Report Assessment Format: Individual	30%	
Final Invigilated Examination Assessment Format: Individual	50%	

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

- CLO3 : Engage in critical analysis of the nexus between practice and theory in relation to court process and evidence law (PLOs 1, 4, 5 & 6)
- CLO4 : Apply cumulative knowledge and skills to solving problems associated with civil and criminal court process (PLOs 1, 4, 5 & 6)
- CLO7 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 6, 8 & 9)
- CLO8 : Engage in reflective practice regarding the obligation of ethical legal practitioners in a courtroom context (PLOs 6, 8 & 9)

Detailed Assessment Description

Class participation is assessed throughout the term according to marking criteria that are communicated to students in advance. Students have the opportunity to discuss class participation with the course convenor/s throughout the term.

Report

Assessment Overview

This assessment requires you to complete a report of a court observation.

Course Learning Outcomes

- CLO1 : Demonstrate awareness of principles of court process, evidence and proof and their relationship to the broader context (PLOs 1 & 3)
- CLO2 : Situate and explain court process and evidence law in their national and interdisciplinary contexts (PLOs 1, 4, 5 & 6)
- CLO3 : Engage in critical analysis of the nexus between practice and theory in relation to court process and evidence law (PLOs 1, 4, 5 & 6)
- CLO5 : Demonstrate effective written communication skills evidenced by rigorous analysis, and/or reflection and critique of court process and evidence law (PLOs 6, 8 & 9)
- CLO6 : Demonstrate effective oral communication skills by presenting assessments using diverse media (PLOs 6, 8 & 9)
- CLO8 : Engage in reflective practice regarding the obligation of ethical legal practitioners in a courtroom context (PLOs 6, 8 & 9)

Detailed Assessment Description

The Advanced Court Observation is a group assessment that requires students to attend and observe witness questioning in a criminal trial. Groups can submit a 2,000 word written assessment or a 10-minute audio or audio-visual response to the assessment question.

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 court process, evidence and proof and their relationship to the broader context (PLOs 1 & 3)
- CLO2 : Situate and explain court process and evidence law in their national and interdisciplinary contexts (PLOs 1, 4, 5 & 6)
- CLO3 : Engage in critical analysis of the nexus between practice and theory in relation to court process and evidence law (PLOs 1, 4, 5 & 6)
- CLO4 : Apply cumulative knowledge and skills to solving problems associated with civil and criminal court process (PLOs 1, 4, 5 & 6)
- CLO5 : Demonstrate effective written communication skills evidenced by rigorous analysis, and/or reflection and critique of court process and evidence law (PLOs 6, 8 & 9)
- CLO8 : Engage in reflective practice regarding the obligation of ethical legal practitioners in a courtroom context (PLOs 6, 8 & 9)

Detailed Assessment Description

This 2-hour invigilated final examination is designed to test student's understanding of the course content.

General Assessment Information

Grading Basis

Standard

Course Schedule

Teaching Week/Module	Activity Type	Content
Week 1 : 27 May - 2 June	Topic	Introduction to the Uniform Evidence Law and the criminal trial context (pt 1).
	Topic	The criminal trial context (pt 2) and proof.
Week 2 : 3 June - 9 June	Topic	Witnesses (pt 1).
	Topic	Witnesses (pt 2).
Week 3 : 10 June - 16 June	Topic	Relevance.
	Topic	Mandatory and discretionary exclusions.
Week 4 : 17 June - 23 June	Topic	Credibility.
	Topic	Hearsay (pt 1).
Week 5 : 24 June - 30 June	Topic	Hearsay (pt 2).
	Topic	Hearsay (pt 3).
Week 6 : 1 July - 7 July	Topic	Flexibility week. No classes.
Week 7 : 8 July - 14 July	Topic	The defendant in court.
	Topic	Identification.
Week 8 : 15 July - 21 July	Topic	Opinion (pt 1).
	Topic	Opinion (pt 2).
Week 9 : 22 July - 28 July	Topic	Tendency and coincidence (pt 1).
	Topic	Tendency and coincidence (pt 2) and context evidence.
Week 10 : 29 July - 4 August	Topic	Directions and warnings.
	Topic	Revision class.

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

Jill Hunter et al, *The Trial: Principles, Process and Evidence* (Federation Press, 2nd ed, 2021)

Recommended Resources

R Weinstein SC, A Anderson, J Marychurch, J Roy, *Uniform Evidence in Australia* (LexisNexis, 3rd ed, 2020)

Staff Details

Position	Name	Email	Location	Phone	Availability	Equitable Learning Services Contact	Primary Contact
Convenor	Althea Gibson		Room 360, Faculty of Law & Justice		By appointment	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.

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.