



UNSW Course Outline

LAWS3314 Alternative Dispute Resolution in Practice - 2024

Published on the 25 Aug 2024

General Course Information

Course Code : LAWS3314

Year : 2024

Term : Term 3

Teaching Period : T3

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

Most legal education in common law systems scrutinises the interpretation and development of the law via decisions made by courts in the process of litigation. This fosters the assumption that litigation, or legal advice predicting the outcome of litigation, is the normal method of

resolving disputes. In fact, only a small proportion of disputes are resolved by litigation and there is a growing dissatisfaction with the cost, speed and adversarial character of litigation, and a corresponding interest in alternative forms of non-adjudicative dispute resolution.

This course follows on from Resolving Civil Disputes, investigating and giving practical experience in a range of alternative forms of dispute resolution including negotiation, facilitation, mediation and group process. It requires students to identify and analyse examples of the interface between the outcomes of non-adjudicative dispute resolution processes and what might be termed 'black-letter law' such as contract and revenue law.

Dispute Resolution is delivered as a skills course. Whilst there will be some formal tuition, the focus of the course is on experiential learning. Skill training depends on a building block approach to learning whereby basic ideas are built upon through group discussion, preparation, performance and review.

Because group dynamics and interaction play such an important part in the process, skills training works most effectively when it occurs in concentrated bursts of a day or more. For this reason, the course is delivered in full day sessions with an introductory lecture at the beginning.

Main Topics

- The taxonomy of ADR and introduction to the most commonly encountered processes
- The influence of group dynamics on ADR processes
- Tools from the Harvard Negotiation Program
- Development of some 'rules of thumb' which enhance the application of ADR principles in a group setting
- Other influences on the ADR process such as behavioural preferences and communication styles
- Communication in dispute resolution and developing a communication strategy
- Various mediation role plays and debrief of case studies

Course Learning Outcomes

Course Learning Outcomes
CLO1 : Review the development of the ADR continuum and the relationships to the law and legal processes (PLOs 1, 2 & 3)
CLO2 : Identify key processes (PLOs 1, 2 & 3)
CLO3 : Identify and analyse their comparative advantages and disadvantages (PLOs 4, 5, 6 & 7)
CLO4 : Demonstrate, at a basic level, the skills involved in the key processes. Particular attention is paid to negotiation and mediation and students have the opportunity to participate in role plays using these processes (PLOs 4, 6, 7 & 9)
CLO5 : Demonstrate the effective and collaborative preparation for, engagement in and review of various ADR processes (PLOs 6, 9 & 10)

Course Learning Outcomes	Assessment Item
CLO1 : Review the development of the ADR continuum and the relationships to the law and legal processes (PLOs 1, 2 & 3)	<ul style="list-style-type: none"> • Class Participation • Research Essay • Reflective Journal
CLO2 : Identify key processes (PLOs 1, 2 & 3)	<ul style="list-style-type: none"> • Group Project • Class Participation • Research Essay
CLO3 : Identify and analyse their comparative advantages and disadvantages (PLOs 4, 5, 6 & 7)	<ul style="list-style-type: none"> • Group Project • Class Participation • Research Essay
CLO4 : Demonstrate, at a basic level, the skills involved in the key processes. Particular attention is paid to negotiation and mediation and students have the opportunity to participate in role plays using these processes (PLOs 4, 6, 7 & 9)	<ul style="list-style-type: none"> • Group Project • Class Participation
CLO5 : Demonstrate the effective and collaborative preparation for, engagement in and review of various ADR processes (PLOs 6, 9 & 10)	<ul style="list-style-type: none"> • Reflective Journal • Group Project • Research Essay

Learning and Teaching Technologies

Moodle - Learning Management System

Assessments

Assessment Structure

Assessment Item	Weight	Relevant Dates
Class Participation Assessment Format: Individual	20%	Start Date: Ongoing Due Date: Ongoing
Group Project Assessment Format: Group	30%	Start Date: Not Applicable Due Date: Not Applicable
Research Essay Assessment Format: Individual	50%	
Reflective Journal Assessment Format: Individual	0%	

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

- CL01 : Review the development of the ADR continuum and the relationships to the law and legal processes (PLOs 1, 2 & 3)
- CL02 : Identify key processes (PLOs 1, 2 & 3)
- CL03 : Identify and analyse their comparative advantages and disadvantages (PLOs 4, 5, 6 & 7)
- CL04 : Demonstrate, at a basic level, the skills involved in the key processes. Particular attention is paid to negotiation and mediation and students have the opportunity to participate in role plays using these processes (PLOs 4, 6, 7 & 9)

Detailed Assessment Description

Participation refers to participation in formal and informal sessions, completion of formal and informal preparation tasks and **contribution to the development of ideas and to the learning of others**. This is something that may not have been required of you in other classes however this subject has a strong focus on group work and experiential learning. This means **how you work in groups and your commitment to engaging effectively in group tasks has a significant influence on your class participation mark**.

Assignment submission Turnitin type

Not Applicable

Generative AI Permission Level

Not Applicable

Generative AI is not considered to be of assistance to you in completing this assessment. If you do use generative AI in completing this assessment, you should attribute its use.

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

Group Project

Assessment Overview

This assessment requires you to work collaboratively to deliver a project.

Course Learning Outcomes

- CL02 : Identify key processes (PLOs 1, 2 & 3)
- CL03 : Identify and analyse their comparative advantages and disadvantages (PLOs 4, 5, 6 & 7)
- CL04 : Demonstrate, at a basic level, the skills involved in the key processes. Particular attention is paid to negotiation and mediation and students have the opportunity to participate in role plays using these processes (PLOs 4, 6, 7 & 9)
- CL05 : Demonstrate the effective and collaborative preparation for, engagement in and review of various ADR processes (PLOs 6, 9 & 10)

Detailed Assessment Description

The Group Project has 2 parts: case analysis task and group video presentation.

Assignment submission Turnitin type

Not Applicable

Generative AI Permission Level

Not Applicable

Generative AI is not considered to be of assistance to you in completing this assessment. If you do use generative AI in completing this assessment, you should attribute its use.

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

Research Essay

Assessment Overview

This assessment requires you to write a research essay.

Course Learning Outcomes

- CL01 : Review the development of the ADR continuum and the relationships to the law and

legal processes (PLOs 1, 2 & 3)

- CLO2 : Identify key processes (PLOs 1, 2 & 3)
- CLO3 : Identify and analyse their comparative advantages and disadvantages (PLOs 4, 5, 6 & 7)
- CLO5 : Demonstrate the effective and collaborative preparation for, engagement in and review of various ADR processes (PLOs 6, 9 & 10)

Detailed Assessment Description

It is important that students select a topic which they find interesting and relevant. In the past, topics have ranged from the theoretical – such as the role of power or gender in dispute resolution – to case studies of a particular dispute or issue in the public arena, at home or at work.

Assessment Length

3,500 words

Assignment submission Turnitin type

This assignment is submitted through Turnitin and students do not see Turnitin similarity reports.

Generative AI Permission Level

Planning/Design Assistance

You are permitted to use generative AI tools, software or services to generate initial ideas, structures, or outlines. However, you must develop or edit those ideas to such a significant extent that what is submitted is your own work, i.e., what is generated by the tool, software or service should not be a part of your final submission. You should keep copies of your iterations to show your Course Authority if there is any uncertainty about the originality of your work.

If your Convenor has concerns that your answer contains passages of AI-generated text or media that have not been sufficiently modified you may be asked to explain your work, but we recognise that you are permitted to use AI generated text and media as a starting point and some traces may remain. 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](#).

ChatGPT and Other AI Software: Planning Assistance

As this assessment task involves some planning or creative processes, you are permitted to use software to generate initial ideas. However, you must develop or edit those ideas to such a

significant extent that what is submitted is your own work, i.e. only occasional AI generated words or phrases may form part of your final submission. It is **required** to keep copies of the initial prompts to show your lecturer if there is any uncertainty about the originality of your work.

If the outputs of generative AI such as ChatGPT form a part of your submission, it will be regarded as serious academic misconduct and subject to the standard penalties, which may include 00FL, suspension and exclusion.

Reflective Journal

Assessment Overview

This assessment requires you to complete a written reflective journal.

Course Learning Outcomes

- CL01 : Review the development of the ADR continuum and the relationships to the law and legal processes (PLOs 1, 2 & 3)
- CL05 : Demonstrate the effective and collaborative preparation for, engagement in and review of various ADR processes (PLOs 6, 9 & 10)

Detailed Assessment Description

Each member of the class is required to maintain a personal reflective journal which provides details of your experiences of the group project.

Assessment Length

1000 words

Generative AI Permission Level

Not Applicable

Generative AI is not considered to be of assistance to you in completing this assessment. If you do use generative AI in completing this assessment, you should attribute its use.

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

Course Schedule

Teaching Week/Module	Activity Type	Content
Week 1 : 9 September - 15 September	Seminar	The Taxonomy of ADR Building skills on the ADR Continuum An introduction to the Harvard Program on Negotiation and the 7 Elements
Week 2 : 16 September - 22 September	Seminar	Introduction to Facilitation Introduction to the relevant legislative framework Mediation
Week 3 : 23 September - 29 September	Seminar	Group writing task Mediation task The influence of group dynamics on ADR processes
Week 4 : 30 September - 6 October	Seminar	The influence of group dynamics continued Communication in Dispute resolution
Week 7 : 21 October - 27 October	Seminar	Revolution vs. Repertoire Beyond the process

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.

Class Attendance

Regular attendance at classes is expected. UNSW Law places great emphasis on the idea that participation in the classes is crucial for learning the law. We use seminar-style learning and teaching methods, so you have many opportunities to participate in class discussions. By being present and active in class, you will learn more. [For students in intensive courses, such as this, the attendance requirement is 100%.](#)

Staff Details

Position	Name	Email	Location	Phone	Availability	Equitable Learning Services Contact	Primary Contact
Convenor	William (Joseph) Nicholls					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 wrongful 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.** Marks for class participation may be reduced where use of translation devices is detected. 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.