



LAWS11068 Resolving Civil Disputes (ADR)

Term 2 - 2022

Profile information current as at 25/04/2024 06:57 pm

All details in this unit profile for LAWS11068 have been officially approved by CQU University and represent a learning partnership between the University and you (our student). The information will not be changed unless absolutely necessary and any change will be clearly indicated by an approved correction included in the profile.

General Information

Overview

Alternative Dispute Resolution (ADR) examines the theory and application of procedures for the resolution of disputes as an alternative to a judicial process. In this unit you will examine ADR methods such as negotiation, mediation, conciliation and arbitration and theoretical developments such as Collaborative Law. You will develop basic skills in listening, negotiation and mediation. You will also explore how to design ADR approaches suitable to help resolve client disputes, quickly, at minimal cost and consistent with the principles of access to justice.

Details

Career Level: *Undergraduate*

Unit Level: *Level 1*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

Pre-requisites or Co-requisites

Co-requisite: LAWS11057 Introduction to Law.

Important note: Students enrolled in a subsequent unit who failed their pre-requisite unit, should drop the subsequent unit before the census date or within 10 working days of Fail grade notification. Students who do not drop the unit in this timeframe cannot later drop the unit without academic and financial liability. See details in the [Assessment Policy and Procedure \(Higher Education Coursework\)](#).

Offerings For Term 2 - 2022

- Online

Attendance Requirements

All on-campus students are expected to attend scheduled classes - in some units, these classes are identified as a mandatory (pass/fail) component and attendance is compulsory. International students, on a student visa, must maintain a full time study load and meet both attendance and academic progress requirements in each study period (satisfactory attendance for International students is defined as maintaining at least an 80% attendance record).

Website

[This unit has a website, within the Moodle system, which is available two weeks before the start of term. It is important that you visit your Moodle site throughout the term. Please visit Moodle for more information.](#)

Class and Assessment Overview

Recommended Student Time Commitment

Each 6-credit Undergraduate unit at CQUniversity requires an overall time commitment of an average of 12.5 hours of study per week, making a total of 150 hours for the unit.

Class Timetable

[Regional Campuses](#)

Bundaberg, Cairns, Emerald, Gladstone, Mackay, Rockhampton, Townsville

[Metropolitan Campuses](#)

Adelaide, Brisbane, Melbourne, Perth, Sydney

Assessment Overview

1. **Written Assessment**

Weighting: 40%

2. **Written Assessment**

Weighting: 60%

Assessment Grading

This is a graded unit: your overall grade will be calculated from the marks or grades for each assessment task, based on the relative weightings shown in the table above. You must obtain an overall mark for the unit of at least 50%, or an overall grade of 'pass' in order to pass the unit. If any 'pass/fail' tasks are shown in the table above they must also be completed successfully ('pass' grade). You must also meet any minimum mark requirements specified for a particular assessment task, as detailed in the 'assessment task' section (note that in some instances, the minimum mark for a task may be greater than 50%). Consult the [University's Grades and Results Policy](#) for more details of interim results and final grades.

CQUniversity Policies

All University policies are available on the [CQUniversity Policy site](#).

You may wish to view these policies:

- Grades and Results Policy
- Assessment Policy and Procedure (Higher Education Coursework)
- Review of Grade Procedure
- Student Academic Integrity Policy and Procedure
- Monitoring Academic Progress (MAP) Policy and Procedure – Domestic Students
- Monitoring Academic Progress (MAP) Policy and Procedure – International Students
- Student Refund and Credit Balance Policy and Procedure
- Student Feedback – Compliments and Complaints Policy and Procedure
- Information and Communications Technology Acceptable Use Policy and Procedure

This list is not an exhaustive list of all University policies. The full list of University policies are available on the [CQUniversity Policy site](#).

Previous Student Feedback

Feedback, Recommendations and Responses

Every unit is reviewed for enhancement each year. At the most recent review, the following staff and student feedback items were identified and recommendations were made.

Feedback from Student unit and teaching evaluation

Feedback

During the tutorials, too many students provided varying answers which could be confusing

Recommendation

While giving students a lot of opportunities to engage in tutorials can enhance their learning and interest in the subject, it is also true that other students might find the process confusing. There is a need for the lecturer to adopt an approach that is more directive and provides clarity about an ideal legal advice or answer.

Feedback from Student unit and teaching evaluation

Feedback

There is a significant amount of reading outside of the textbook and weekly study guides.

Recommendation

The number of supplementary resources that students are invited to read can be reduced.

Feedback from Student unit and teaching evaluation

Feedback

The lecture videos were often over 45 minutes in length which is far too long.

Recommendation

More of the content can be added to the study guide and the lecture videos can be shorter and provide a summary of the key learning ideas.

Feedback from Student unit and teaching evaluation

Feedback

Excellent and enjoyable tutorials

Recommendation

The tutorials, which use problem-based scenarios, have been found by students to be helpful, enriching and enjoyable to engage with. They should continue to be ran in a way that engages students.

Feedback from Prof. Stephen Colbran

Feedback

The unit lacks interactive exercises and simulations of students engaging in ADR activities.

Recommendation

The unit should have interactive exercises and simulations of students engaging in ADR activities to supplement theory.

Unit Learning Outcomes

On successful completion of this unit, you will be able to:

1. Discuss the range and operation of Alternative Dispute Resolution (ADR) methods and their relationship with litigation
2. Demonstrate skills in listening, negotiation, and mediation together with the ability to design ADR processes and drafting appropriate documents to support an ethical dispute resolution design
3. Research, critique and evaluate the ADR literature to assist with determining appropriate ADR processes in a given fact situation
4. Outline the basic theoretical principles of dispute resolution systems and how to apply them to manage conflicts
5. Gain and discuss an appreciation of the ADR processes of International Commercial Arbitration or Australian First Nations People.

Alignment of Learning Outcomes, Assessment and Graduate Attributes



Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes				
	1	2	3	4	5
1 - Written Assessment - 40%	•	•	•	•	•
2 - Written Assessment - 60%	•	•	•	•	•

Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
1 - Communication	•	•	•	•	
2 - Problem Solving	•	•	•	•	
3 - Critical Thinking	•	•	•	•	
4 - Information Literacy		•	•	•	
5 - Team Work		•			
6 - Information Technology Competence	•				
7 - Cross Cultural Competence					•
8 - Ethical practice	•	•	•	•	
9 - Social Innovation					
10 - Aboriginal and Torres Strait Islander Cultures					

Alignment of Assessment Tasks to Graduate Attributes

Assessment Tasks	Graduate Attributes									
	1	2	3	4	5	6	7	8	9	10
1 - Written Assessment - 40%	•	•	•	•	•	•	•	•		
2 - Written Assessment - 60%	•	•	•	•			•	•		

Textbooks and Resources

Textbooks

LAWS11068

Prescribed

Principles of Dispute Resolution

Third Edition (2020)

Authors: David Spencer

Thomson Reuters

Pyrmont, NSW, Australia

ISBN: 9780455244167

Binding: Paperback

[View textbooks at the CQUniversity Bookshop](#)

IT Resources

You will need access to the following IT resources:

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)

Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 4th ed](#)

For further information, see the Assessment Tasks.

Teaching Contacts

Matthew Dunlop Unit Coordinator

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Manjo Oyson Unit Coordinator

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Schedule

Week 1 - 11 Jul 2022

Module/Topic	Chapter	Events and Submissions/Topic
Introduction to Alternative Dispute Resolution	David Spencer, Chapter 1	

Week 2 - 18 Jul 2022

Module/Topic	Chapter	Events and Submissions/Topic
Understanding and dealing with conflict Negotiation	David Spencer, Chapter 2, and "Conflict Coaching" [10.70] John Milburn, Applied skills in mediation and conciliation (2016) NADRAC, Your Guide to Dispute Resolution (2012), pages 10 to 12	

Week 3 - 25 Jul 2022

Module/Topic	Chapter	Events and Submissions/Topic
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Mediation Arbitration	David Spencer, Chapter 3 NADRAC, Your Guide to Dispute Resolution (2012), pages 13 to 14, 18 David Spencer, David Spencer, Chapter 4 Kim Lovegrove, 'Arbitration Explained Along With Its Strengths & Weaknesses' (2012)	
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Week 4 - 01 Aug 2022

Module/Topic	Chapter	Events and Submissions/Topic
Conciliation	David Spencer, Chapter 5	

Week 5 - 08 Aug 2022

Module/Topic	Chapter	Events and Submissions/Topic
Other Dispute Resolution Processes Statutory Dispute Resolution Schemes	David Spencer, Chapter 5 NADRAC, Your Guide to Dispute Resolution (2012) Donna M Cooper, 'The family law dispute resolution spectrum' (2007) David Spencer, Chapter 6 Robert French (Chief Justice), 'Perspectives on Court-annexed Alternative Dispute Resolution'	Live Negotiation and Written Reflection Due: Week 5 Friday (12 Aug 2022) 12:00 am AEST

Vacation Week - 15 Aug 2022

Module/Topic	Chapter	Events and Submissions/Topic
Vacation Week	Vacation Week	Vacation Week

Week 6 - 22 Aug 2022

Module/Topic	Chapter	Events and Submissions/Topic
Legal issues Special issues in practice	David Spencer, Chapter 8 NADRAC, Your Guide to Dispute Resolution (2012), pages 25 to 28 NADRAC and Family Law Council, <i>Joint letter of advice on immunity for Family Counsellors and Family Dispute Practitioners under the Family Law Act</i> Tina Cockburn & Melinda Shirley, 'When will a mediator operating outside the protections of statutory immunity be liable in negligence?' (2004) Amy G Applegate & Connie J A Beck, 'Self-Represented Parties in Mediation: Fifty Years Later It Remains the Elephant in the Room' (2013) 15 (1) <i>Family Court Review</i> 87 [online CQU library] Claire Baylis & Robyn Carroll, 'Power issues in mediation' (2005) 7 (8) ADR Bulletin 1 Omer Shapira, 'Exploring the Concept of Power in Mediation: Mediators' Sources of Power and Influence Tactics' (2009) 24 (3) <i>Ohio State Journal on Dispute Resolution</i> 535 [online CQU library]	

Week 7 - 29 Aug 2022

Module/Topic	Chapter	Events and Submissions/Topic
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Ethics and standards

David Spencer, Chapter 9
Carrie Menkel-Meadow, 'Ethics in ADR: The Many "Cs" of Professional Responsibility and Dispute Resolution' (2001) Bobette Wolski, 'The truth about honesty and candour in mediation: What the tribunal left unsaid in "Mullins' case"' (2012) *Australian National Mediation Standards* at http://www.amr.asn.au/AMR_Approval_Standards.pdf [both accreditation and practice]
Mediator Standards Board at <http://www.msb.org.au/mediator-standards/national-mediator-accreditation-system-nmas>

Week 8 - 05 Sep 2022

Module/Topic	Chapter	Events and Submissions/Topic
Review		Final Take-Home Paper Due: Week 8 Monday (5 Sept 2022) 12:00 am AEST

Week 9 - 12 Sep 2022

Module/Topic	Chapter	Events and Submissions/Topic
Unit finished		

Week 10 - 19 Sep 2022

Module/Topic	Chapter	Events and Submissions/Topic
Unit finished		

Week 11 - 26 Sep 2022

Module/Topic	Chapter	Events and Submissions/Topic
Unit finished		

Week 12 - 03 Oct 2022

Module/Topic	Chapter	Events and Submissions/Topic
Unit finished		

Review/Exam Week - 10 Oct 2022

Module/Topic	Chapter	Events and Submissions/Topic
Unit finished		

Exam Week - 17 Oct 2022

Module/Topic	Chapter	Events and Submissions/Topic
Unit finished		

Term Specific Information

LAWS11068 Resolving Civil Disputes is offered as an intensive unit over an 8 week period in Term 2.

Resolving Civil Disputes examines the theory and application of procedures for the resolution of disputes as an alternative to a judicial process. In this unit you will examine alternative dispute resolution (ADR) methods such as negotiation, mediation, conciliation and arbitration and theoretical developments such as Collaborative Law. You will develop basic skills in listening, negotiation and mediation. You will also explore how to design ADR approaches suitable to help resolve client disputes, quickly, at minimal cost and consistent with the principles of access to justice.

Assessment Tasks

1 Live Negotiation and Written Reflection

Assessment Type
Written Assessment

Task Description

The first written assessment will require students to apply theory learnt regarding conflict and conflict resolution to a set of facts in a recorded live negotiation with another student. Based on that negotiation, students will prepare an individual written reflection discussing the theories of conflict identified from the facts of the dispute, the strategies attempted in the negotiation, and their personal reflections on their strengths and weaknesses during the negotiation. Only the written reflection will contribute toward your grade for the unit. The recorded live recorded will not be graded but is required for students to prepare the written reflection.

The total time allowed for the recording is 20 minutes. The total word count for the written assessment, including footnotes, should not exceed 2000 words. There is no allowance beyond the word-count limit. Any text that exceeds the 2000-word count limit will not be marked.

The written reflection must be submitted to the Moodle page in the usual manner and must contain the opposing student's name and a link to the recorded negotiation. The assessment must be submitted by the deadline or penalties will apply.

Assessment Due Date

Week 5 Friday (12 Aug 2022) 12:00 am AEST

Due to the pairing of students for Part A of the assessments extensions can not be considered.

Return Date to Students

Week 7 Friday (2 Sept 2022)

Weighting

40%

Assessment Criteria

Students are assessed on their ability to demonstrate high-level thinking and writing skills, comprehend the relevant material, and provide a critical analysis and logical discussion of the relevant law. Marks will be given according to the following standards:

Fail

A student will have:

- used written expression that is poor and difficult to understand
- provided an answer that is poorly organised
- used referencing that is generally inadequate
- demonstrated a lack of familiarity with the legislation and/or case law
- failed to identify and address the relevant issues
- used reasoning and application that are poor

Pass

A student will have:

- made a conscientious attempt to address the topic and/or relevant issues
- shown evidence of having done and understood the required readings
- presented a reasonable argument to back up a conclusion
- demonstrated a reasonable level of spelling and grammatical usage
- used referencing that needs improvement
- failed to identify and address issues in more depth

Credit

A student will have:

- addressed the topic and/or relevant issues directly and adequately
- presented soundly based arguments and backed these up with reasons
- gone beyond description to analysis of key issues
- used the English language well
- shown evidence of having read widely
- demonstrated understanding of the readings
- used referencing that is satisfactory

Distinction

A student will have:

- met the above criteria for a credit
- demonstrated the attainment of a high degree of understanding of the concepts of the unit
- demonstrated deep insight into the application of knowledge and skills acquired to complex theoretical and practical situations
- used referencing correctly
- referred to all appropriate legislation and/or case law

High Distinction

A student will have:

- met the above criteria for a distinction
- demonstrated the attainment of an outstanding level of achievement regarding the learning outcomes of this unit
- demonstrated an interesting and/or original approach, idea or argument
- demonstrated mastery of the relevant referencing system
- ensured conclusions are backed by well-reasoned arguments demonstrating a detailed insight and analysis of issues
- ensured that references are made to the appropriate legislation and/or case law for particular issues

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

The reflection must be saved in MS Word (not as a PDF) in the following format: LastName_FirstName.docx. A link to the recorded Zoom negotiation and the name of your opposing party must be included in the document.

Learning Outcomes Assessed

- Discuss the range and operation of Alternative Dispute Resolution (ADR) methods and their relationship with litigation
- Demonstrate skills in listening, negotiation, and mediation together with the ability to design ADR processes and drafting appropriate documents to support an ethical dispute resolution design
- Research, critique and evaluate the ADR literature to assist with determining appropriate ADR processes in a given fact situation
- Outline the basic theoretical principles of dispute resolution systems and how to apply them to manage conflicts
- Gain and discuss an appreciation of the ADR processes of International Commercial Arbitration or Australian First Nations People.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy
- Team Work
- Information Technology Competence
- Cross Cultural Competence
- Ethical practice

2 Final Take-Home Paper

Assessment Type

Written Assessment

Task Description

The final written assessment is in the form of a take-home paper. The total word count for the assessment, including footnotes, should not exceed 2000 words. There is no allowance beyond the word-count limit. Any text that exceeds the 2000-word count limit will not be marked. The take-home paper is 4 hours in duration only. It must be submitted to the Moodle page in the usual manner by the deadline which is to be announced later in the term. Submissions after the deadline will not be accepted.

Assessment Due Date

Week 8 Monday (5 Sept 2022) 12:00 am AEST

The actual deadline for this assessment will be announced later in the term.

Return Date to Students

The final take-home paper will not be returned to students. Marks will be released once final grades are certified.

Weighting

60%

Assessment Criteria

Students are assessed on their ability to demonstrate high-level thinking and writing skills, comprehend the relevant material, and provide a critical analysis and logical discussion of the relevant law. Marks will be given according to the following standards:

Fail

A student will have:

- used written expression that is poor and difficult to understand
- provided an answer that is poorly organised
- used referencing that is generally inadequate
- demonstrated a lack of familiarity with the legislation and/or case law
- failed to identify and address the relevant issues
- used reasoning and application that are poor

Pass

A student will have:

- made a conscientious attempt to address the topic and/or relevant issues
- shown evidence of having done and understood the required readings
- presented a reasonable argument to back up a conclusion
- demonstrated a reasonable level of spelling and grammatical usage
- used referencing that needs improvement
- failed to identify and address issues in more depth

Credit

A student will have:

- addressed the topic and/or relevant issues directly and adequately
- presented soundly based arguments and backed these up with reasons
- gone beyond description to analysis of key issues
- used the English language well
- shown evidence of having read widely
- demonstrated understanding of the readings
- used referencing that is satisfactory

Distinction

A student will have:

- met the above criteria for a credit

- demonstrated the attainment of a high degree of understanding of the concepts of the unit
- demonstrated deep insight into the application of knowledge and skills acquired to complex theoretical and practical situations
- used referencing correctly
- referred to all appropriate legislation and/or case law

High Distinction

A student will have:

- met the above criteria for a distinction
- demonstrated the attainment of an outstanding level of achievement regarding the learning outcomes of this unit
- demonstrated an interesting and/or original approach, idea or argument
- demonstrated mastery of the relevant referencing system
- ensured conclusions are backed by well-reasoned arguments demonstrating a detailed insight and analysis of issues
- ensured that references are made to the appropriate legislation and/or case law for particular issues

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

The paper must be saved in MS Word (not as a PDF) in the following format: LastName_FirstName.docx.

Learning Outcomes Assessed

- Discuss the range and operation of Alternative Dispute Resolution (ADR) methods and their relationship with litigation
- Demonstrate skills in listening, negotiation, and mediation together with the ability to design ADR processes and drafting appropriate documents to support an ethical dispute resolution design
- Research, critique and evaluate the ADR literature to assist with determining appropriate ADR processes in a given fact situation
- Outline the basic theoretical principles of dispute resolution systems and how to apply them to manage conflicts
- Gain and discuss an appreciation of the ADR processes of International Commercial Arbitration or Australian First Nations People.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy
- Cross Cultural Competence
- Ethical practice

Academic Integrity Statement

As a CQUniversity student you are expected to act honestly in all aspects of your academic work.

Any assessable work undertaken or submitted for review or assessment must be your own work. Assessable work is any type of work you do to meet the assessment requirements in the unit, including draft work submitted for review and feedback and final work to be assessed.

When you use the ideas, words or data of others in your assessment, you must thoroughly and clearly acknowledge the source of this information by using the correct referencing style for your unit. Using others' work without proper acknowledgement may be considered a form of intellectual dishonesty.

Participating honestly, respectfully, responsibly, and fairly in your university study ensures the CQUniversity qualification you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

As a student, you are responsible for reading and following CQUniversity's policies, including the [Student Academic Integrity Policy and Procedure](#). This policy sets out CQUniversity's expectations of you to act with integrity, examples of academic integrity breaches to avoid, the processes used to address alleged breaches of academic integrity, and potential penalties.

What is a breach of academic integrity?

A breach of academic integrity includes but is not limited to plagiarism, self-plagiarism, collusion, cheating, contract cheating, and academic misconduct. The Student Academic Integrity Policy and Procedure defines what these terms mean and gives examples.

Why is academic integrity important?

A breach of academic integrity may result in one or more penalties, including suspension or even expulsion from the University. It can also have negative implications for student visas and future enrolment at CQUniversity or elsewhere. Students who engage in contract cheating also risk being blackmailed by contract cheating services.

Where can I get assistance?

For academic advice and guidance, the [Academic Learning Centre \(ALC\)](#) can support you in becoming confident in completing assessments with integrity and of high standard.

What can you do to act with integrity?



Be Honest

If your assessment task is done by someone else, it would be dishonest of you to claim it as your own



Seek Help

If you are not sure about how to cite or reference in essays, reports etc, then seek help from your lecturer, the library or the Academic Learning Centre (ALC)



Produce Original Work

Originality comes from your ability to read widely, think critically, and apply your gained knowledge to address a question or problem