



# LAWS11068 Resolving Civil Disputes (ADR)

## Term 2 - 2023

Profile information current as at 23/04/2024 05:06 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 - 2023

- 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 In class/emails

##### Feedback

The "Negotiation" assessment provided an opportunity to practise an important skill in dispute resolution.

##### Recommendation

The unit should continue to have the "Negotiation" assessment as an interactive exercise that allows students to engage in ADR activities to supplement theory.

#### Feedback from Student 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 and should continue to be used.

#### Feedback from In class/emails

##### Feedback

The number of readings is manageable.

##### Recommendation

The prescribed textbook is sufficient for students to develop a strong understanding of ADR. Hence, supplementary readings can continue to be kept to a minimum.

## 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
<b>1 - Written Assessment - 40%</b>	•	•	•	•	•

Assessment Tasks	Learning Outcomes				
	1	2	3	4	5
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

### 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

**Manjo Oyson** Unit Coordinator

[m.oyson@cqu.edu.au](mailto:m.oyson@cqu.edu.au)

## Schedule

### Week 1 - 10 Jul 2023

Module/Topic	Chapter	Events and Submissions/Topic
<b>Module 1:</b> Introduction to Alternative Dispute Resolution	<b>Module 1:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 1 (1.80 to 1.360)	

### Week 2 - 17 Jul 2023

Module/Topic	Chapter	Events and Submissions/Topic
<b>Module 2:</b> Understanding and Dealing with Conflict	<b>Module 2:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 1 (1.10 to 1.70)	
<b>Module 3:</b> Negotiation	<b>Module 3:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 2	

### Week 3 - 24 Jul 2023

Module/Topic	Chapter	Events and Submissions/Topic
<b>Module 4:</b> Mediation	<b>Module 4:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 3	
<b>Module 5:</b> Arbitration	<b>Module 5:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 4	

**Week 4 - 31 Jul 2023**

Module/Topic	Chapter	Events and Submissions/Topic
<b>Module 6:</b> Conciliation and Additional Dispute Resolution Processes	<b>Module 6:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 5	<b>Live Negotiation and Written Reflection</b> Due: Week 4 Friday (4 Aug 2023) 7:00 pm AEST

**Week 5 - 07 Aug 2023**

Module/Topic	Chapter	Events and Submissions/Topic
<b>Module 7:</b> Family, Criminal, Workplace and Online Dispute Resolution <b>Module 8:</b> Statutory Dispute Resolution Schemes	<b>Module 7:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 6 <b>Module 8:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 7	

**Vacation Week - 14 Aug 2023**

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

**Week 6 - 21 Aug 2023**

Module/Topic	Chapter	Events and Submissions/Topic
<b>Module 9:</b> Legal Issues <b>Module 10:</b> Ethics and Standards	<b>Module 9:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 8 <b>Module 10:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 9	

**Week 7 - 28 Aug 2023**

Module/Topic	Chapter	Events and Submissions/Topic
<b>Module 11:</b> The Future of Dispute Resolution	<b>Module 11:</b> David Spencer, <i>Principles of Dispute Resolution</i> (3rd edition), Chapter 10	

**Week 8 - 04 Sep 2023**

Module/Topic	Chapter	Events and Submissions/Topic
Review		

**Week 9 - 11 Sep 2023**

Module/Topic	Chapter	Events and Submissions/Topic
<i>End of Unit</i>		<b>Final Take-Home Paper</b> Due: Week 9 Friday (15 Sept 2023) 7:00 pm AEST

**Week 10 - 18 Sep 2023**

Module/Topic	Chapter	Events and Submissions/Topic
<i>End of Unit</i>		

**Week 11 - 25 Sep 2023**

Module/Topic	Chapter	Events and Submissions/Topic
<i>End of Unit</i>		

**Week 12 - 02 Oct 2023**

Module/Topic	Chapter	Events and Submissions/Topic
<i>End of Unit</i>		

**Review/Exam Week - 09 Oct 2023**

Module/Topic	Chapter	Events and Submissions/Topic
<i>End of Unit</i>		

**Exam Week - 16 Oct 2023**

Module/Topic	Chapter	Events and Submissions/Topic

## 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, conflict resolution and negotiation 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 negotiation will not be graded but is required for students to prepare the written reflection.

The maximum time allowed for the recording is 15 minutes.

The total word count for the written assessment, including footnotes, should not exceed 1500 words. There is no allowance beyond the word-count limit. Any text that exceeds the 1500-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.

#### Assessment Due Date

Week 4 Friday (4 Aug 2023) 7:00 pm AEST

#### Return Date to Students

Week 7 Friday (1 Sept 2023)

#### 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 on 15 September 2023 at 7 PM (AEST). No extensions are permitted for take-home papers. Submissions after the deadline will not be accepted and will receive a mark of zero.

Exam conditions apply to all invigilated take-home papers.

### **Assessment Due Date**

Week 9 Friday (15 Sept 2023) 7:00 pm AEST

### **Return Date to Students**

The final exam marks and final grade will be released only after the Certification of Grades.

### **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