



# **LAWS12062 Alternative Dispute Resolution**

## **Term 2 - 2018**

Profile information current as at 28/04/2024 04:45 pm

All details in this unit profile for LAWS12062 have been officially approved by CQUUniversity 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 examines the theory and application of procedures for the resolution of disputes as an alternative to a judicial process. Alternative Dispute Resolution examines ADR methods such as negotiation, mediation, conciliation and arbitration and theoretical developments such as Collaborative law. The unit seeks to develop basic skills in listening, negotiation and mediation. Students 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 2*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

#### Pre-requisites or Co-requisites

There are no requisites for this unit.

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 - 2018

- Distance

#### 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

##### Feedback

I find UCROO not as effective as Moodle for communication and discussion. UCROO is a separate program to log into and check, it also keeps everything in 1 thread whereas Moodle is individual conversations/posts which you can add to. I find this is easier to find and refer back to if you wish.

##### Recommendation

Continue with UCROO as the preferred online forum, but engage with students about the process in more detail at the commencement of the unit.

## Unit Learning Outcomes

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

1. Discuss the range and operation of ADR methods and their relationship with litigation.
2. Develop and 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 an appreciation of the ADR processes of International Commercial Arbitration or Australian Indigenous peoples.

## 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	•	•	•	•	

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
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

LAWS12062

#### Prescribed

##### Principles of Dispute Resolution

Edition: 2nd (2016)

Authors: Spencer, David

Thomson Reuters (Professional) Australia Limited

Sydney , NSW , Australia

ISBN: 9780455237985

Binding: Paperback

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#### Supplementary

##### Alternative Dispute Resolution

Edition: 5th (2016)

Authors: Sourdin, Tania

Thomson Reuters (Professional) Australia Limited

Sydney , NSW , Australia

ISBN: 9780455236957

Binding: Paperback

#### Additional Textbook Information

Although highly recommended, the text 'Alternative Dispute Resolution' (by Sourdin, Tania) is a non-prescribed supplementary text.

[View textbooks at the CQUniversity Bookshop](#)

### IT Resources

**You will need access to the following IT resources:**

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

## Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 3rd ed](#)  
For further information, see the Assessment Tasks.

## Teaching Contacts

**John Milburn** Unit Coordinator  
[j.a.milburn@cqu.edu.au](mailto:j.a.milburn@cqu.edu.au)

## Schedule

### Week 1 - 09 Jul 2018

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

**Week 2 - 16 Jul 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Understanding and Dealing with Conflict	Chapter 2 pp 30 to 35	

**Week 3 - 23 Jul 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Negotiation	Chapter 2 (balance)	

**Week 4 - 30 Jul 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Mediation	Chapter 3	

**Week 5 - 06 Aug 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Conciliation	Chapter 5 (5.20 and 5.30)	

**Vacation Week - 13 Aug 2018**

Module/Topic	Chapter	Events and Submissions/Topic
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**Week 6 - 20 Aug 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Arbitration	Chapter 4	

**Week 7 - 27 Aug 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Other Dispute Resolution Processes	Chapters 5 and 6	

**Week 8 - 03 Sep 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Statutory Dispute Resolution Schemes	Chapter 7	<b>Assessment Task 1 - Practical Task</b> Due: Week 8 Thursday (6 Sept 2018) 11:45 pm AEST

**Week 9 - 10 Sep 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Legal Issues	Chapter 8	

**Week 10 - 17 Sep 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Ethics and Standards	Chapter 9	

**Week 11 - 24 Sep 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Special Issues in Practice	Chapter 10	

**Week 12 - 01 Oct 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Review		<b>Assessment Task 2 - Final Take Home Paper</b> Due: Week 12 Thursday (4 Oct 2018) 11:45 pm AEST

**Review/Exam Week - 08 Oct 2018**

Module/Topic	Chapter	Events and Submissions/Topic
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**Exam Week - 15 Oct 2018**

Module/Topic	Chapter	Events and Submissions/Topic
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## Assessment Tasks

### 1 Assessment Task 1 – Practical Task

#### Assessment Type

Written Assessment

#### Task Description

#### Practical assessment 1 – audio-visual

The first assessment task is a practical task. The task is worth 40% of the overall assessment for this unit. I require students to work in small groups. You are to prepare a short written document and then record and upload a mock mediation or conciliation session involving role-playing. Students will alternate between the role of participant and mediator/conciliator. Essentially, I will grade you for your work as the mediator/conciliator. I will grade you on your mediation/conciliation ability. I do not grade you at all in relation to your role as a participant. Even though you are working in groups, I grade you individually. You create the scenario and introduce the nature of the dispute to your colleagues who will act as role-playing participants for your assessment piece.

I hope that you can quickly arrange your groups. If you have less than three in the group – do not worry – perhaps you could find a fellow student who would volunteer to help you out as a participant in the mock mediation or you could bring in a person external to the unit.

The assessment is comprised of a brief written document scenario and your YouTube video I attribute the marks almost exclusively to your video presentation. The written assessment should be no more than 300 words. In it, you should state whether you conduct the process as a mediation or conciliation. You can be more specific than that if you wish and describe the nature of the mediation or conciliation process. You should also provide an outline of the scenario for the dispute. In essence, in this document you are to provide some issues regarding the facts in this case. You will each submit your own (up to) 25 minutes video and you will be individually marked solely on your mediation skills. You can attempt at the exercise as many times as you like.

I ask you to conduct the mediation/conciliation. I expect that you will all use a different dispute scenario, but you can use the same dispute if you wish. The dispute can be in any area of practice. You can have as many attempts at the video as you wish before uploading the final session but I would like the video to be in one take. That is, do not break up your session into number of videos. I need to see the continuous flow of your work.

I suggest that you start working on the technology and if you have some useful information to share with your colleagues, please let them know through UCROO.

I recommend, but do not prescribe, the audio-visual program, Zoom as the platform for recording the session. You will be responsible for uploading the session or sessions where you take the role of mediator.

#### Assessment Due Date

Week 8 Thursday (6 Sept 2018) 11:45 pm AEST

Audio/visual Assessment 1 Due Thursday (06 September, 2018) 11:45 PM AEST. I expect students to present their assignment work on time. Please note that I will not consider any request for an extension of time unless you upload an application in the appropriate manner, supported by documentation and made prior to the due time/date. I will impose a penalty deduction of 5% per day for late work until the nominated cut-off date, Saturday, 15 September 2018.

#### Return Date to Students

Week 10 Tuesday (18 Sept 2018)

Student satisfaction surveys in the past indicate student concerns when a unit coordinator does not provide assessment feedback quickly. Generally, I release the feedback and marks the day after the final cut-off date (that is, I provide feedback and marks 10 days after the due date)

#### Weighting

40%

#### Assessment Criteria

Students will be assessed on their ability to identify the appropriate issues in dispute, conduct the process and demonstrate practical skills. I would like student to:

- Set appropriate ground rules, extensively covered the opening statement requirements, and engaged with participants.
- Maintain control while identifying a workable set of issues in conjunction with the participants.
- Engage with the participants through the exploration phase to a high degree of professionalism.
- Demonstrate an understanding of the ADR process.

#### Referencing Style

- [Australian Guide to Legal Citation, 3rd ed](#)

**Submission**

Online

**Submission Instructions**

I will only accept online submission of your work. Upload your work in a Word document (not PDF). In your Word document, include a link to your video. Make sure that I can view your work. You should check your settings. Take care with your submission. Avoid obvious mistakes, such as basic spelling and grammatical errors. You should submit one document and ensure that you include your name in the name of the saved document.

**Learning Outcomes Assessed**

- Discuss the range and operation of ADR methods and their relationship with litigation.
- Develop and 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 an appreciation of the ADR processes of International Commercial Arbitration or Australian Indigenous peoples.

**Graduate Attributes**

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

## 2 Assessment Task 2 – Final Take Home Paper

**Assessment Type**

Written Assessment

**Task Description**

This written assessment is in the form of a take home paper in week 12. You will be required to upload your assessment through the Moodle unit website. This is an individual assessment. I will release the task on Wednesday, 3 October 2018 at 6:30 PM (AEST) . This assessment task must be completed by Thursday, 4 October 2018 at 11:45 PM (AEST) .

In the absence of an approved extension, there will be no opportunity to complete the task after this date and there will be no opportunity to apply a late penalty of five per cent per day and you will receive a mark of zero for this assessment task.

**Assessment Due Date**

Week 12 Thursday (4 Oct 2018) 11:45 pm AEST

Thursday, 4 October 2018 at 11:45 PM AEST (Australian Eastern Standard Time)

**Return Date to Students**

The final take home paper will not be returned to students, you will receive your mark when grades for this unit are finalised.

**Weighting**

60%

**Assessment Criteria**

The assessment requires students to provide a response to a take-home paper. The contribution should consist of no more than 2000 words. Students will be expected to draw upon research.

**Assessment criteria**

I assess students on their ability to demonstrate thinking and writing skills, to comprehend the material, to process the material and to provide a critical analysis and logical discussion of the law. Students are required to communicate an answer clearly and logically and in a concise manner. I expect you to present your paper in a professional manner. Please paginate your paper and use correct spelling and grammar. You



must appropriately reference and attribute the work of others.

### **Fail**

You will have shown evidence of the following:

- the written expression is poor and difficult to understand
- the answer is poorly organised
- referencing is generally inadequate
- lack of familiarity with the legislation and its application
- failure to identify and address the issues in the question
- reasoning and application demonstrated is poor

### **Pass**

You will have:

- made a conscientious attempt to address the topic and/or answer the question
- shown evidence of having done the required reading and of having understood the reading
- presented a reasonable argument to back up your conclusions
- demonstrated a reasonable level of spelling and grammatical usage
- used referencing but this may need improvement
- issues that may need to be identified and addressed in more depth

### **Credit**

You will have:

- addressed the topic and/or answered the question directly
- 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 reading widely
- demonstrated understanding of the reading
- used referencing that is satisfactory

### **Distinction**

You will have:

- met the above criteria for a credit
- demonstrated the attainment of a high degree of understanding of the concepts of the course
- demonstrated deep insight into the application of knowledge and skills acquired to complex theoretical and practical situations
- used referencing correctly
- made reference to all appropriate legislation

### **High Distinction**

You will have:

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

### **Referencing Style**

- [Australian Guide to Legal Citation, 3rd ed](#)

### **Submission**

Online

**Submission Instructions**

I will only accept online submission of your work. Upload your work in a Word document (not PDF). Students must present their assignment work on time. Take care with your submission. Avoid obvious mistakes, such as basic spelling and grammatical errors. Read your paper out aloud, word by word. It is slow however; it may be a productive exercise. Alternatively, or in addition, ask a friend to read your material. You should submit one document (even if the assessment is in two or more parts) and ensure that your name is included in the name of the saved document.

**Learning Outcomes Assessed**

- Discuss the range and operation of ADR methods and their relationship with litigation.
- Develop and 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 an appreciation of the ADR processes of International Commercial Arbitration or Australian Indigenous peoples.

**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