



# LAWS13013 Legal Professional Conduct

## Term 1 - 2017

Profile information current as at 26/04/2024 10:31 pm

All details in this unit profile for LAWS13013 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

Legal Practitioners owe professional and personal duties to the law, the courts, their clients and to fellow practitioners. This unit examines the personal and professional conduct expected of a legal practitioner. Students will also obtain a basic knowledge of the principles of trust accounting.

#### Details

Career Level: *Undergraduate*

Unit Level: *Level 3*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

#### Pre-requisites or Co-requisites

Prerequisite:- LAWS11057 & LAWS11059

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 1 - 2017

- 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. **Practical Assessment**

Weighting: 10%

#### 3. **Examination**

Weighting: 50%

### 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 Surveys and consultations

**Feedback**

Students seek further opportunities for formative feedback, particularly on the scripting activity.

**Recommendation**

Provide opportunities for pitching and peer reviewing script concepts, with academic supervision.

**Action**

Given the larger enrolments of students in LAWS13013 it was not feasible for the unit coordinator to supervise pitching and peer review of the scripting activity. As an alternative approach, further scaffolding was provided to students on appropriate software to use and examples of student scripts from previous terms were also provided. Additional assessment options were also implemented to afford greater choice for students. A comprehensive survey analysis was also conducted on how to improve the assessment task. Students rated the value of the scripting activity as follows: 41% Excellent value, 28% above average value, 1% average value, 9% below average value, 3% poor value.

#### Feedback from Surveys

**Feedback**

Organising groups for the interview exercise was difficult for some students

**Recommendation**

Look at enhancing the matchmaking options for the interview exercise

**Action**

Students were actively encouraged to form interview exercise groups through a dedicated Moodle forum. Numerous reminders were sent using Easy connect. Students who did not voluntarily form a group were assigned to a group. Dysfunctional groups were actively managed by the unit coordinator.

#### Feedback from Surveys

**Feedback**

Difficulty in accessing resources on moodle given the large number of resources and slow moodle response

**Recommendation**

Revise the moodle site, look to moving the resources from the main page to repositories

**Action**

The Moodle site was revised with a large number of images removed to improve download speeds. The file sizes of PDF downloads were reduced. The idea of hiding readings in lower level repositories was rejected on the basis that lack of visibility would impede likely reading of the materials by students.

## Unit Learning Outcomes

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

1. Comprehend, analyse, and evaluate legislation and rules dealing with legal professional conduct.
2. Compare and contrast the professional conduct rules in the United States with those in Australia.
3. Think creatively in researching and presenting an ethical issue to your peers.
4. Construct solutions to ethical issues involved with client interviewing.

## Alignment of Learning Outcomes, Assessment and Graduate Attributes



## Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes			
	1	2	3	4
1 - Examination - 50%	•			
2 - Written Assessment - 40%	•	•	•	
3 - Practical Assessment - 10%	•		•	•

## Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes			
	1	2	3	4
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 - Examination - 50%	•	•	•	•	•	•	•	•		
2 - Written Assessment - 40%	•	•	•	•				•		
3 - Practical Assessment - 10%	•	•	•		•			•		

## Textbooks and Resources

### Textbooks

LAWS13013

#### Prescribed

#### **Ethics in Law: Lawyers' Responsibility and Accountability in Australia**

Edition: 6th (2014)

Authors: Ysaiah Ross

LexisNexis

Australia

ISBN: 9780409332803 (pbk)

Binding: Hardcover

[View textbooks at the CQUniversity Bookshop](#)

### IT Resources

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

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)
- iPad (optional)
- www.zoom.us free license

## 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

**Stephen Colbran** Unit Coordinator

[s.colbran@cqu.edu.au](mailto:s.colbran@cqu.edu.au)

## Schedule

### Week 1 - 06 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Accountability and Responsibility	Ross Ch 1, 2, 3 Anne Daley, What Is the Recent Evidence on an Excess Supply of Legal Qualifications in Australia? <i>The Australian Economic Review</i> , 2012, vol. 45, no. 4, pp. 441-54.	

### Week 2 - 13 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
History, Structure and Regulation	Ross Ch 4, 5	

### Week 3 - 20 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
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Admission

Ross Ch 6  
 Mary Wyburn, 'Disclosure of prior student academic misconduct in admission to legal practice: Lessons for universities and the courts' (2008) 8(2) *QUTLJ* 314-341.  
<https://lr.law.qut.edu.au/article/view/46>  
 (Accessed 4 January, 2014).

**Week 4 - 27 Mar 2017**

Module/Topic	Chapter	Events and Submissions/Topic
Money Matters Part 1 Costs and Liens Part 2 Trust Accounting	Gino Dal Pont, <i>Lawyers' Professional Responsibility in Australia and New Zealand</i> (5th ed, 2013) Ch 14-16 extracts (referred to as 'Lawyers Professional Responsibility' 2013 Dal Pont Extracts (Course Resources Online) Queensland Law Society, <i>Trust Accounting Guide. Trust money and trust accounts, The new legislation regime - Part 3.3 Legal Professional Act 2007</i> Version 2.0, 29-08-2009	

**Week 5 - 03 Apr 2017**

Module/Topic	Chapter	Events and Submissions/Topic
Discipline	Ross Ch 7	

**Vacation Week - 10 Apr 2017**

Module/Topic	Chapter	Events and Submissions/Topic

**Week 6 - 17 Apr 2017**

Module/Topic	Chapter	Events and Submissions/Topic
Duties of Representation	Ross Ch 8	

**Week 7 - 24 Apr 2017**

Module/Topic	Chapter	Events and Submissions/Topic
Communication and Control	Ross Ch 9	<b>Professional Resource Creation - Ethical Issue</b> Due: Week 7 Friday (28 Apr 2017) 11:45 pm AEST

**Week 8 - 01 May 2017**

Module/Topic	Chapter	Events and Submissions/Topic
Competence and Care	Ross Ch 10, 11	

**Week 9 - 08 May 2017**

Module/Topic	Chapter	Events and Submissions/Topic
Confidentiality	Ross Ch 11	

**Week 10 - 15 May 2017**

Module/Topic	Chapter	Events and Submissions/Topic
Conflicts of Interest	Ross Ch 12	

**Week 11 - 22 May 2017**

Module/Topic	Chapter	Events and Submissions/Topic
The Adversarial System	Ross Ch 13, 14, 15	

**Week 12 - 29 May 2017**

Module/Topic	Chapter	Events and Submissions/Topic

Client Interviewing  
and Conclusion

Helen Carr, Sarah Carter, Kirsty  
Horsey, Skills for Law Students  
(Oxford, 2009) Ch 31 (Course  
Resources Online)  
Ross Hyams, Susan Campbell, Adrian  
Evans, Practical Legal Skills (Oxford,  
3rd ed 2011) Ch 2 (Course Resources  
Online)  
Ross Ch 16

**Client Interviewing** Due: Week 12  
Friday (2 June 2017) 11:45 pm AEST

#### Review/Exam Week - 05 Jun 2017

Module/Topic	Chapter	Events and Submissions/Topic
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#### Exam Week - 12 Jun 2017

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

### 1 Professional Resource Creation - Ethical Issue

#### Assessment Type

Written Assessment

#### Task Description

This assessment is designed to develop your creativity, challenge your personal moral beliefs and ability to locate and critique primary and secondary materials in relation to an ethical dilemma of your own creation. Students are asked to prepare a visual scenario on an ethical issue related to legal work that you personally find morally repugnant. Your visual scenario can be presented as a

1. comic strip; or
2. animation; or
3. storyboard for a scene in a film; or
4. film of no more than 3 minutes duration.

Together with your visual scenario you are asked to prepare a 1000 word written summary of the legal and ethical issues involved.

Examples of legal work you may find repugnant may include, but are in no way limited to:

- Formation of a corporation that promotes paedophilia.
  - Evicting a tenant, who is in hospital, unable to work and pay the rent.
  - Creating a will that leaves all the assets to the old dog's home rather than to impoverished close relatives who have cared for the client for a long period.
  - Defending a person whom you believe, although not certain is guilty of manslaughter or murder.
  - Conducting a civil litigation for a mining corporation against an environmental organisation trying to save the Great Barrier Reef.
  - Defending a client who was forced out of necessity and to avoid starvation, killed and ate a fellow survivor of an accident at sea.
  - Defending a potential serial killer, who in interview with you disclosed the location of other victims.
  - A mortgagee exercising power of sale over a charities homeless shelter.[1000 words maximum] - 10%
- Why you find the instructions repugnant?
  - How you will deal with the client in meeting the terms of your retainer?
  - Critique the relevant professional rules (or lack thereof), case law and secondary literature concerning the ethical issue in your script.

The assessment will be judged according to the requirements of the *Legal Profession Act 2007* (Qld), the *Legal Profession Regulation 2007* (Qld), the *Australian Solicitors' Conduct Rules 2012*, case law and relevant literature (including a brief comparison with a USA jurisdiction) according the following rubric.

#### Assessment Due Date

Week 7 Friday (28 Apr 2017) 11:45 pm AEST

#### Return Date to Students

Week 9 Friday (12 May 2017)

Results will be posted on the course Moodle site.

## Weighting

40%

## Assessment Criteria

### Assessment Criteria

#### Scenario (15)

	HD	D	C	P	F
<b>Structure 2</b>	The scenario was very well structured. Clear and well organised sequence of events.	The scenario had a good structure. Clear sequence of events.	The scenario has generally good structure.	The scenario had some structure.	The scenario was unstructured.
<b>Organisation 3</b>	The flow of the scenario is logical and very coherent.	Information is well organised and logical.	Most information is well organised and generally logical.	Some information is poorly organised and at times does not flow logically.	Information is poorly organised or does not flow logically.
<b>Creativity 10</b>	The scenario is highly creative and demonstrates numerous fresh, original and inventive ideas.	The scenario is moderately creative and demonstrates some novel ideas.	The scenario displays some evidence of originality and inventiveness.	The scenario displays an extensive collection of existing ideas. Little evidence of new thought or inventiveness.	The scenario displays minimal or no creativity and is a rehash of others ideas. No evidence of new thought.

#### Written summary (25)

<b>Content, evidence and argument 15</b>	Thoroughly addresses all aspects of the topic. All relevant information is included. Information is well analysed and interpreted correctly. Extensive critical appraisal of the law and secondary literature. Strong, cohesive argument backed up with evidence. Original and/or novel observations.	The summary addresses key aspects of the topic. Few omissions in information or misinterpretations of the law or secondary literature. Argument is strong and backed up with some relevant evidence of strengths and weaknesses of the law. Good evidence of critical analysis. Well-synthesised and coherent argumentation and observation and evidence. Some novel observations and original thinking.	The summary addresses the selected topic. Some minor omissions in information and misinterpretation of the law. Looks at the strengths and weaknesses of the law and associated secondary literature. Some evidence of critical analysis. Argument is cohesive and backed up with some evidence. Some original observations.	Some parts of the summary do not address the selected topic. Some major omissions in information and misinterpretation of the law or secondary literature. Some errors in deduction. Some cohesive argument. Few original observations.	The summary does not address the selected topic. Crucial omissions in information. Serious misinterpretation of the law or secondary sources. Serious errors in deduction. Argument is weak or non-existent. No original observations.
<b>Style and format 3</b>	The summary is cohesively written. Clear format. No grammatical, spelling or punctuation errors. Excellent use of English language. Excellent layout.	The summary is well written. Some minor grammatical, spelling and/or punctuation errors. Good use of English language. Well laid out.	Some grammatical, spelling and/or punctuation errors. English expression is sound.	A number of grammatical, spelling and/or punctuation errors. Some problems with English expression. Not well laid out.	Large number of grammatical, spelling and/or punctuation errors. The reflection contains English construction that is incomprehensible. Poor layout.
<b>Sources 5</b>	A moderate number of sources and references, including seminal and recent articles from peer-reviewed literature. A variety of references are used. All sources are acknowledged and well referenced.	A moderate number of highly relevant sources and references used. References come from a variety of sources. Sources are acknowledged.	A moderate number of sources and references used. References come from a variety in the type of references used, especially articles from peer-reviewed journals. Mostly relevant sources used. Sources are acknowledged.	A small number of sources and references used. References come from a limited number of sources - some not relevant to the task. Some sources are not appropriately acknowledged.	Very few (4) sources and references used. References come from only one source or solely grey literature, personal anecdotes without critique. Incomplete acknowledgment of the work of other.
<b>References 2</b>	Meticulous attention to referencing conventions.	Good and consistent use of referencing style.	Referencing style is sound and mostly consistent	Referencing style is at times poor and/or inconsistent in style.	Referencing style is very poor.

## Referencing Style

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

## Submission

Online

## Learning Outcomes Assessed

- Comprehend, analyse, and evaluate legislation and rules dealing with legal professional conduct.
- Compare and contrast the professional conduct rules in the United States with those in Australia.
- Think creatively in researching and presenting an ethical issue to your peers.

## Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy
- Ethical practice

## 2 Client Interviewing

### Assessment Type

Practical Assessment

**Task Description**

Students will be assigned into teams of three. One student will play the role of a client, another the interviewer and the third student will be an observer. The process will be repeated three times by the group, enabling each group member to play each respective role. Each of the three exercises will involve a different scenario.

The interviews will occur at a scheduled time and all efforts will be made to accommodate everyone. Each of the exercises will be conducted over the Internet using Zoom. Sessions are to be recorded using Zoom by the student observing the interview. Scenarios will be sent to students with due notice. Students must not exchange with other students the scenario they have been provided. The information should be regarded as confidential.

Each student will be graded on a written reflection of their experience as an observer. After e-submitting their reflections, as a single pdf document, students will then exchange them with the other members of their group. The written reflection should not exceed 1000 words.

**Assessment Due Date**

Week 12 Friday (2 June 2017) 11:45 pm AEST

**Return Date to Students**

Exam Week Friday (16 June 2017)

**Weighting**

10%

**Assessment Criteria**

The reflection should address the following issues:

- Describe the character of the client. Were they easy or difficult to interview? Why?
- What techniques did the interviewer use to overcome any problems associated with the interview?
- Who was in control of the interview and how was that control established and manifest?
- Was there any noticeable body language, gestures, oral characteristics displayed by either the client or interviewer?
- How were the questions framed – open or closed questioning? Was this appropriate in the circumstances of the interview?
- Did the interviewer display empathy with the client's situation?
- Was the interview mechanical and following a checklist?
- What other techniques should the interviewer have adopted to improve their interviewing skills.
- What additional questions should the interviewer have asked?
- Did the interviewer stay on point or were they distracted by the client towards irrelevant considerations?
- What have you learnt about client interviewing having observed the process?

**Referencing Style**

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

**Submission**

Online

**Submission Instructions**

Submit a single PDF document.

**Learning Outcomes Assessed**

- Comprehend, analyse, and evaluate legislation and rules dealing with legal professional conduct.
- Think creatively in researching and presenting an ethical issue to your peers.
- Construct solutions to ethical issues involved with client interviewing.

**Graduate Attributes**

- Communication
- Problem Solving
- Critical Thinking
- Team Work
- Ethical practice

**Examination****Outline**

Complete an invigilated examination.

**Date**

During the examination period at a CQUniversity examination centre.

**Weighting**

50%

**Length**

120 minutes

**Exam Conditions**

Open Book.

**Materials**

No calculators permitted

Law dictionaries, Business and Law dictionaries (discipline specific dictionaries) are authorised.

## 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