



# LAWS13017 Civil Procedure

## Term 2 - 2020

Profile information current as at 25/04/2024 06:05 pm

All details in this unit profile for LAWS13017 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

LAWS13017 Civil procedure explores the issues of cost, delay and access to justice as critical issues in modern case management. In this unit you will examine in detail the following issues in civil litigation: court adjudication under an adversary system; the cost of litigation and the use of costs to control litigation; service of originating process - as foundation of jurisdiction, including service out of the relevant State or Territory and choice of forum; joinder of claims and parties, including group proceedings and the defence of prior adjudication as instances of the public interest in avoiding a multiplicity of proceedings and inconsistent verdicts; defining the questions for trial - pleadings, notices to admit and other devices; obtaining evidence - discovery of documents, interrogatories, subpoena and other devices; disposition without trial, including the compromise of litigation; extra-judicial determination of issues arising in the course of litigation; judgment; appeal; enforcement; alternative dispute resolution; and obligations of parties and practitioners relating to the resolution of disputes. This unit meets the LPAB requirements for civil dispute resolution.

#### 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:- LAWS11061, LAWS11062, LAWS11063 & LAWS11064

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 - 2020

- 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: 35%

#### 2. **Practical Assessment**

Weighting: 35%

#### 3. **Online Quiz(zes)**

Weighting: 30%

### 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](#).

## Unit Learning Outcomes

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

1. Comprehend and critically examine the court adjudication process under the adversarial system in Australia in comparison with the Civil Law inquisitorial system
2. Articulate and apply Supreme Court civil procedure, referencing legislation, rules, practice directions and court forms
3. Research and draft appropriate pleadings for a hypothetical fact situation
4. Apply civil procedure knowledge in a clinical setting.

## Alignment of Learning Outcomes, Assessment and Graduate Attributes



### Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes			
	1	2	3	4
1 - Written Assessment - 35%		•	•	
2 - Practical Assessment - 35%		•		•
3 - Online Quiz(zes) - 30%	•	•		

### 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				

## Graduate Attributes

## Learning Outcomes

1 2 3 4

### 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 - 35%

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2 - Practical Assessment - 35%

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3 - Online Quiz(zes) - 30%

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## Textbooks and Resources

### Textbooks

LAWS13017

#### Prescribed

#### Civil Procedure: Commentary and Materials

Edition: 7th (2019)

Authors: Colbran, Spender, Douglas, Jackson

LexisNexis

Chatswood, NSW, Australia

ISBN: 9780409348842

Binding: Paperback

#### Additional Textbook Information

If you prefer to study with a paper copy, they are available at the CQUni Bookshop here: <http://bookshop.cqu.edu.au> (search on the Unit code). eBooks are available at the publisher's website.

[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

**Stephen Colbran** Unit Coordinator

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

Unit Coordinator

## Schedule

### Week 1 Court adjudication, Case Management and Alternative Dispute Resolution - 13 Jul 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Week 2 Jurisdiction and Limitation of Actions - 20 Jul 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Week 3 Instituting proceedings, Service and Notice of Intention to Defend - 27 Jul 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Week 4 Parties and Joinder, Class action, Non-compliance, Amendment and Time - 03 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Week 5 Pleading and Summary Disposition - 10 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Vacation Week - 17 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Week 6 Disclosure - 24 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Week 7 Further means of obtaining evidence and Affidavits - 31 Aug 2020

Module/Topic	Chapter	Events and Submissions/Topic
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**Pleading** Due: Week 7 Tuesday (1 Sept 2020) 11:00 pm AEST

### Week 8 Interlocutory procedures - 07 Sep 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Week 9 Disposition without Trial - 14 Sep 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Week 10 Trial - 21 Sep 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Week 11 Appeal and New Trial - 28 Sep 2020

Module/Topic	Chapter	Events and Submissions/Topic
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**Practical Assessment** Due: Week 11 Tuesday (29 Sept 2020) 11:00 am AEST

### Week 12 Revision - 05 Oct 2020

Module/Topic	Chapter	Events and Submissions/Topic
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### Review/Exam Week - 12 Oct 2020

Module/Topic	Chapter	Events and Submissions/Topic
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**Online Quiz** Due: Review/Exam Week Tuesday (13 Oct 2020) 11:00 pm AEST

### Exam Week - 19 Oct 2020

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

### 1 Pleading

#### Assessment Type

Written Assessment

#### Task Description

This task will involve drafting a Claim and Statement of Claim to be filed in the Supreme Court of Queensland. Detailed facts will be provided in week 2.

#### Assessment Due Date

Week 7 Tuesday (1 Sept 2020) 11:00 pm AEST

#### Return Date to Students

Week 9 Tuesday (15 Sept 2020)

#### Weighting

35%

#### Assessment Criteria

Criteria	Excellent	Good	Poor
Basic goals (20%):			
Identification of primary issues	Identification of all major issues.	Identification of most major issues.	Identification of some major issues.
Demonstrated understanding of the subject matter	Excellent demonstrated understanding of the subject matter.	Good understanding of the subject matter.	Lacks understanding of the subject matter.
Structured argument	Superbly structured document.	Well-structured document.	Poorly structured document.
Higher order goal (7.5%):			
Analytical ability	Demonstrated high level of analysis.	Some analytical errors or omissions.	Numerous analytical errors or omissions.
Skills (7.5%):			
Demonstrated clear and concise written expression	Clear and concise written expression.	Some unclear or verbose written expression.	Numerous examples of unclear or verbose written expression.
Spelling and grammar	No identifiable spelling or grammatical issues.	Minor spelling or grammatical issues.	Numerous spelling or grammatical issues.
Plain English drafting	No Plain English drafting errors.	Some Plain English drafting errors.	Numerous Plain English drafting errors.

#### Referencing Style

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

#### Submission

Online

#### Submission Instructions

The assessment is to be submitted as one pdf file containing your answer. Name your pdf submission as follows: \_\_LAWS13017\_1.pdf

#### Learning Outcomes Assessed

- Articulate and apply Supreme Court civil procedure, referencing legislation, rules, practice directions and court forms
- Research and draft appropriate pleadings for a hypothetical fact situation

#### Graduate Attributes

- Communication
- Problem Solving

- Critical Thinking
- Information Literacy

## 2 Practical Assessment

### Assessment Type

Practical Assessment

### Task Description

The 35% Practical Assessment for LAWS13017 Civil Procedure is a practical exercise. The exercise will involve you choosing one of the following options:

- Option 1 - A Court Report - from any Court or Tribunal in Australia.
- Option 2 - A law reform submission/proposal.
- Option 3 - Researching and reflecting on the law for an actual client matter you are able to source.
- Option 4 - Research article on any approved civil procedure topic. Send an email to the unit coordinator for approval.

### Assessment Due Date

Week 11 Tuesday (29 Sept 2020) 11:00 am AEST

### Return Date to Students

Review/Exam Week Tuesday (13 Oct 2020)

### Weighting

35%

### Assessment Criteria

Detailed rubrics for each assessment option are available on the Moodle site in the document entitled "Practical Assessment 2020".

### Referencing Style

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

### Submission

Online

### Submission Instructions

Your final version must be submitted as a single PDF using 'e-Submission'. No consideration will be given to content which exceeds the 2500 word limit. When uploading your file make sure that you adopt the following naming convention: "\_\_LAWS13017\_Practical\_Assessment.pdf" eg 16789909\_Bloggs\_LAWS13017\_Practical\_Assessment.pdf.

### Learning Outcomes Assessed

- Articulate and apply Supreme Court civil procedure, referencing legislation, rules, practice directions and court forms
- Apply civil procedure knowledge in a clinical setting.

### Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking

## 3 Online Quiz

### Assessment Type

Online Quiz(zes)

### Task Description

The Quiz will be in multiple-choice format with 6 choices per question. Some questions have one correct answer, others will require multiple components to be selected to constitute a correct answer. Each question will indicate the number of responses required to constitute a correct answer. The quiz will be of a duration of 120 minutes and will have a total of 36 questions consisting of 3 questions from each week of the 12 week course.

The Quiz will be available for 24 hours. Make sure you start and complete the 120 min quiz within the 24 hour period. Once you start the quiz you must complete the quiz within 120 min.

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. You will receive a mark of zero for this assessment task.

You will receive a mark out of 30 (<your score>x30/36) representing 30% of your grade for this unit.

**Number of Quizzes****Frequency of Quizzes**

Other

**Assessment Due Date**

Review/Exam Week Tuesday (13 Oct 2020) 11:00 pm AEST

The quiz opens Friday, 09/10/2020, 1am and closes Tuesday, 13/10/2020, 11:00pm.

**Return Date to Students**

Review/Exam Week Monday (12 Oct 2020)

Automated return after expiry of quiz period.

**Weighting**

30%

**Assessment Criteria**

The quiz opens Friday, 09/10/2020, 1am and closes Tuesday, 13/10/2020, 11:00pm.

**Referencing Style**

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

**Submission**

Online

**Learning Outcomes Assessed**

- Comprehend and critically examine the court adjudication process under the adversarial system in Australia in comparison with the Civil Law inquisitorial system
- Articulate and apply Supreme Court civil procedure, referencing legislation, rules, practice directions and court forms

**Graduate Attributes**

- Problem Solving
- Critical Thinking

## 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