

**A CATALOGUE OF THE TEACHING OF LEGAL ETHICS, PROFESSIONAL RESPONSIBILITY, ETC IN AUSTRALIAN LAW COURSES**

This document has been created as part of the work of the Discipline Based Initiative (DBI) in Law, entitled *Learning and Teaching in the Discipline of Law: Achieving and Sustaining Excellence in a Changed and Changing Environment*. The initiative is funded by the Australian Learning and Teaching Council and is being pursued under the auspices of the Council of Australian Law Deans.

The document relates to one of the approved Goals for the DBI, namely “Goal 6: develop effective means to inculcate in Australian law students the values of professionalism, ethics and service”. It attempts to catalogue the various ways in which the law schools go about teaching legal ethics, professional responsibility and related matter.

In teaching this subject matter, the law schools are at least partly motivated by the imperative to offer a law course that satisfies the academic requirements for admission to practice (the so-called “Priestley 11”) contained in the Uniform Admission Rules. In this case, the relevant requirement is the area of knowledge originally known as “Professional Conduct (including basic Trust Accounting)”. Jurisdictions are progressively working to adopt a slightly modified version which carries the name “Ethics and Professional Responsibility”, but this change remains to be fully implemented nationally: contrast, for example, *Supreme Court (Admission) Rules 2004* (Qld) [Professional Conduct] with the *Rules of the Legal Practitioners’ Education and Admission Council 2004* (SA) [Ethics and Professional Responsibility].

Professional Conduct (including basic Trust Accounting)

Professional and personal conduct in respect of practitioners duty:

- (a) to the law;
- (b) to the Courts;
- (c) to clients, including a basic knowledge of the principles of trust accounting; and
- (d) to fellow practitioners.

or

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the various pertinent rules concerning a practitioner's duty to the law, the Courts, clients and fellow practitioners, and a basic knowledge of the principles of trust accounting.

The aims of the trust account segment of Professional Conduct are:

- (a) To impart an understanding of the legal requirements on solicitors for dealing with trust property.
- (b) To help students obtain a level of competence in, and understanding of, the recording requirements for trust accounts and other trust dealings.

Areas covered should included:

- (a) Provisions of the relevant State or Territory legislation governing the legal profession which relate to the handling of trust money and other trust property.
- (b) Legislative provisions which enable the proper identification of trust moneys.
- (c) The ramifications of breach of trust.

(d) Methods of maintaining trust accounts records. This includes class exercises in recording of receipts, payments and direct payments of trust moneys and of investments (including mortgage investments) by solicitors on behalf of their clients.

(e) A detailed study of any relevant legislation, regulations or rules relating to trust accounting.

#### Ethics and Professional Responsibility

Professional and personal conduct in respect of a practitioner's duty:

- (a) to the law;
- (b) to the Courts;
- (c) to clients, including a basic knowledge of the principles relating to the holding of money on trust; and
- (d) to fellow practitioners.

or

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the various pertinent rules concerning a practitioner's duty to the law, the Courts, clients and fellow practitioners, and a basic knowledge of the principles relating to the holding of money on trust.

In addition to providing a subject or subjects that can be said to satisfy (for accreditation purposes) the Priestley 11 obligation, it is evident that many law schools adopt the view that there is a wider purpose for educating law students in this field, one that goes beyond only teaching students the formal professional conduct rules and the common law, equitable and statutory rules that regulate legal practitioners. A few law schools might be regarded as adopting in some sense an opposite approach, by not including a professional conduct subject in the compulsory core, but rather advising students that if they wish to be eligible for admission to practice, they must select the relevant professional conduct or legal ethics subject as one of their electives.

The information in this document was compiled initially through a canvass of Australian law school websites. This was conducted early in 2008. The canvass sought out that which was immediately apparent with regard to the subjects in which ethics and/or professional conduct and related matter were being taught. In other words, the search determined the most likely subjects containing such content and utilised the official subject descriptions and other information published on the websites. If it was possible and convenient to drill down to more detailed information (eg downloadable documents such as subject outlines), that was done. A preliminary catalogue was compiled, and a summary document and analysis was provided to CALD in March 2008 and subsequently made available on the CALD website.

More recently, this stocktake was updated and, if necessary, modifications were made to the catalogue of information. Following that, each law school was contacted by email directed to the person that Deans had previously nominated as contacts for teaching and learning matters (see the Contact Network available on the CALD website). They were provided with a draft of the entry for their own law school, and offered the opportunity to provide further information or detail, make revisions, etc. Specific questions and requests for further information were asked when it was thought that the information was incomplete or confusing. Law schools, on the whole, were very cooperative in assisting with this enterprise

by providing commentary and more detailed documentation. This additional information was incorporated into the present document, which in light of the process that has been adopted, ought to be viewed with reasonable confidence as presenting, with a limited exceptions, a complete and accurate picture of the current or, in some cases, expected picture.

It has never been the case that the DBI's task is one of attempting to prescribe how law schools in Australia ought to go about educating law students. CALD made it clear from the outset that it was interested in information, insights and options that would inform the sector and assist law schools in making decisions about future directions. The ALTC representatives have advised similarly that the DBI projects provided opportunities for sharing and collaboration rather than mandating.

Therefore, this document brings together in one place the wide variety of approaches that are, and can be, taken to the teaching of legal ethics and professional conduct, broadly construed. It would be expected that this catalogue will become accessible on the CALD website and able to be consulted by law school academics, administrators and other interested parties. As such, it accords with two of CALD's stated objectives:

consultation on matters of mutual concern to members or their institutions and where appropriate the adoption of common policies;

the promotion of cooperation between law schools

CALD has in the past attempted to further these objectives by collating and disseminating information, but it has not been an overly successful enterprise. The CALD website currently contains links to two such collations:

Australian Law Schools' Practice and Policies on Honours; and

Australian Law Schools' Practice and Policies on Grades.

However, these are well out of date (Dec 1997) and of little current utility. One of the advantages of the DBI is that it has been able to resurrect a sharing ethos among all law schools. In compiling documents such as this one and an upcoming one on graduate attributes frameworks, and in establishing a network of Associate Deans for Teaching and Learning (or similar), the DBI is providing a means for continuation of this development. However, in order for the greatest dividend to arise from the initiative, it would be prudent for CALD to find a way to support ongoing cooperation, including regularly updating, so that it is not left with the situation of having 11-year old reports purporting to be available as resources to the law schools and others.

Although this catalogue of teaching legal ethics and professional conduct furthers the goals of collaboration, cooperation and dissemination and, if updated regularly, will continue to do so, it remains the "raw material". Therefore, the upcoming DBI work will include the task of updating the initial preliminary analysis of educational approaches in this area that was submitted to CALD in March 2008, and will deliver that to CALD and the ALTC prior to the DBI's conclusion in the first part of 2009.

Gary Davis

5 November 2008

## AUSTRALIAN CAPITAL TERRITORY

### AUSTRALIAN NATIONAL UNIVERSITY

<http://law.anu.edu.au/scripts/Course.asp?CourseID=3>

#### **LAWS1202: Lawyers Justice and Ethics**

Normal enrolment pattern = First year, Semester 2

Contact: 3 hours per week plus 4 additional hours spread over the course devoted to instruction in “skills”.

Prerequisites: None

Syllabus: Whereas law is commonly studied as a body of doctrine or rules, Lawyers, Justice and Ethics makes a critical and contextual examination of legal process, legal practice, and the legal profession.

The course is designed:

- to impart an awareness of the social, political and economic contexts of legal practice, litigation and statutory law-making;
- to generate insight into the realities and diversity of legal practice;
- to examine the nature of legal processes and procedures and the limitations on access to the legal system;
- to investigate the structure and workings of the legal profession from a political and sociological, as well as functional, perspective;
- to explore the ethical dimension of legal practice and the various forms of regulation of professional conduct;
- to introduce students through simulations and role playing to skills required for working in a legal setting, particularly in relation to clients, including interviewing, legal writing, negotiation and advocacy.

Assessment: Seminar participation (10%); 4 writing exercises (20%) – including *reflections* upon learning progress; letter-writing; drafting; etc; Assignment - essay on roles of lawyers; access to justice; structure of profession; etc (20%); Examination (50%).

This course is taken in second semester of first year. Most students will have completed Foundations of Australian Law and Torts and will also be studying Contracts. Examples and case studies in Lawyers, Justice and Ethics will draw on both familiar and new material.

Seminars include “legal skills exercises”, described as “experiential learning” (ie attendance essential; reading no substitute)

Skills exercises involve group work to simulate professional activities – therefore “each student has an *ethical obligation* to other group members to attend and participate” (from Course Outline, Sem 2, 2008, original emphasis).

See also <http://law.anu.edu.au/scripts/class.asp?unitID=997>

<http://law.anu.edu.au/UnitUploads/LAWS1202-11052-FullOutline.pdf>

UNIVERSITY OF CANBERRA

<http://www.canberra.edu.au/courses/index.cfm?action=detail&subjectid=7043&year=2008>

See further <http://www.canberra.edu.au/schools/law/courses/typical-course>

**7043 Lawyers and Professional Responsibility**

Normal enrolment pattern = Final semester (Yr 4, Sem 2)

Credit points: 3

Class Contact: Three hours per week (lecture and 2-hour tutorial).

Prerequisite: Completion of Legal Systems or equivalent.

Syllabus: This unit examines the role of lawyers in the legal system and their broader social obligations. Attention will be given to the history, organisation and functioning of the profession as well as to the place of ethical rules and professional discipline. The unit will also examine the types of legal work and work structures within the profession, the cost of legal services and problems of gaining access to legal services in Australia. It will also consider the role of non-lawyers in the legal system. Major areas covered are:

- Law as a professional occupation: theories and models
- The National Practice Project: background and outcomes
- The regulation of legal practice
- The organization of legal work
- Regulating lawyers' conduct
- Complaints and discipline
- The labour market for lawyers
- The future of the legal profession

Learning Outcomes: On successful completion of this unit students will have been enabled to comprehend:

- The significance of law as a professional occupation
- The key features of the regulation and organization of the legal profession
- The principles governing lawyers' duties to their clients, the courts and fellow practitioners
- The disciplinary process applying to lawyers
- Developments in the labour market for the legal profession
- Factors affecting the future of lawyers' work

Assessment: tutorial performance (10%); two problem-type assignments (15% + 15%); examination (60%)

## NEW SOUTH WALES

### MACQUARIE UNIVERSITY

<http://handbook.mq.edu.au/unit.php?unitCode=LAW208>

#### **LAW 208 Law, Lawyers and Society**

Normal enrolment pattern = Second year course (from 2009, currently 1<sup>st</sup> year LAW 104)

Credit points: 3

Contact hours: 4

Description: This unit is the third introductory law unit, building on from first year subjects, and the questions those units ask about the nature of law and legal reasoning. This unit is focused on the institutional arrangements of public and private law and the role of the legal profession(s) in their administration. The unit will cover topics on the history and profile of the legal profession(s), the development of ethical reasoning and application of ethical systems to legal practice. Importantly, the unit focuses on discrete problems of legal ethics such as confidentiality, access to justice, truth in the adversarial system, conflicts of interest and relationships between lawyers, clients and society. The unit also aims at building on basic legal research and writing skills and it introduces students to general skills of ethical problem solving.

<http://handbook.mq.edu.au/unit.php?unitCode=LAW500>

#### **LAW500 Litigation - 4 credit points**

Description: Litigation examines and teaches the principles of civil procedure, and rules of evidence in civil and criminal matters. Major topics include pre-trial procedures, concepts of relevance and reliability in evidence, proof, the nature of adversarial disputation, *the ethics of practice*, and a critical evaluation of the administration of justice.

### SOUTHERN CROSS UNIVERSITY

[http://www.scu.edu.au/courses/unit\\_detail.php?spk\\_cd=LAW00519](http://www.scu.edu.au/courses/unit_detail.php?spk_cd=LAW00519)

#### **LAW00519 - Professional Conduct**

Normal enrolment pattern = Final year

Additional pre-requisite: Eleven (11) law units and enrolment in a Bachelor of Laws degree or Head of School written approval. *Therefore, studied towards end of course.*

Pre-requisite/s: LAW00111 Legal Process

Description: Will provide the student with an understanding of the principles of legal ethics together with a detailed knowledge of the application of these principles in respect of the legal profession. Emphasis will be placed on the most significant ethical considerations encountered by practitioners such as entry and regulation of the profession, delivery of legal services, duties to clients, duties to lawyers and duties to the courts

See also **LAW00520 The Philosophy of Law**, undertaken in final or penultimate year which “examines major themes in the philosophy of law [and] introduces students to a range of philosophical perspectives with implications for law, legal institutions and legal practices, identifying the assumptions, *values* and methodology which render each perspective distinctive, and the practical consequences of these perspectives.” Note advice from Law

School's Director of Teaching and Learning that a broader approach to ethics informs the whole of this unit, which also contains a distinct topic on "ethical frameworks for legal scholarship and legal practice". Director also advises that "ethics in some form" is present nearly all units, consistent with social justice ethos of School of Law and Justice, and that "ethical awareness" is a component of University and School graduate attributes.

#### UNIVERSITY OF NEW ENGLAND

<http://www.une.edu.au/courses/2008/units/LS320>

#### **LS320 Professional Conduct**

Normal pattern enrolment = Penultimate semester

Credit Points: 6

Prerequisites: 48 cp in Legal Studies

Unit Description: LS 320 examines the ethics of modern legal professional practice and also the principles relating to management of trust accounts. Topics include trust accounting, professionalism and legal ethics, the history, structure and regulation of the legal profession, admission, discipline, duties of representation, communication and control, conflicts of interest, costs and liens, liability, immunity and indemnity.

#### UNIVERSITY OF NEW SOUTH WALES

<http://www.law.unsw.edu.au/course/LAWS6210/>

#### **LAWS6210 Law, Lawyers and Society**

Normal enrolment pattern: Year 3 (but for Grad Law - First Year, Sem 1)

Credits: 6

Contact hours: 2 x 2 hrs = 4 hours per week

Description: This course is a course in applied legal ethics. It aims to instil in students the understanding of values, skills and qualities necessary to become highly qualified professionals with a strong sense of citizenship, community and social justice. It examines the different values, rules and regulations that affect legal practice, including skills for deliberating and negotiating with colleagues about ethical and social issues, effective client communication and other client care skills, and negotiation techniques. Students will (1) learn to identify the values, rules and norms that lawyers should apply in practice; (2) judge what roles lawyers do play in society and the justice system, and what roles lawyers ought to play; (3) identify and begin to develop the skills necessary for ethical practice. The course considers the lawyer-client relationship, the regulatory framework governing legal practice including the role of self-regulation, the role of lawyers as advocates including the responsibility of lawyers for access to justice and the special duties and roles of the criminal defence lawyer, the prosecutor, and the public interest lawyer.

Objectives: This course will teach students to:

- Recall the central facts and legal principles established in case law we have studied
- Explain in your own words the meaning of legal concepts, doctrines and principles we have studied

- Analyse case law
- Identify the approach of judges in decision-making
- Identify legal issues in a hypothetical fact situation
- Apply legal principles to a hypothetical fact situation
- Evaluate the impact of judgments on people's conduct and affairs
- Demonstrate an ethical understanding of the nature of law
- Demonstrate your ability to think critically and to justify your ideas in a reasoned manner, rather than purely by way of dogmatic assertions or emotional responses
- Communicate effectively in speaking and in writing

Main Topics:

- Lawyers and clients: communication, representation and advice; interviewing skills; lawyers' fees and costs; representation; aspects of practice
- Lawyers' duties and regulation: admission to the legal profession and legal education; self-regulation, competition and reform; the disciplinary process; the Office of the Legal Services Commissioner; duties of competence and care; fiduciary duties
- Advocacy and justice: negotiation skills; ethics in negotiating; access to justice; poverty and public interest lawyering; the adversary system and fairness and candour in civil litigation; duties of prosecutors and defence lawyers in criminal trials

Assessment:

- Class participation (10%)
- Kingsford Legal Centre report (10%, following participation in or observation of interview session; aimed at, inter alia, understanding principles of community legal centres; issues affecting disadvantaged clients)
- Seminar presentation and handout (15%, involving groupwork, to permit students to work together to discuss and resolve ethical dilemmas)
- Take home exam (65%)

UNIVERSITY OF NEWCASTLE

[http://webapps.newcastle.edu.au/handbook/index.cfm?event=handbookResults&course\\_level=&noSearch=true&timetable=&term\\_year=2008&strm=4815,4825,4840,4845,4855,4875,4880,4885,4900&subject\\_area=LAWS&catalog\\_id=4007](http://webapps.newcastle.edu.au/handbook/index.cfm?event=handbookResults&course_level=&noSearch=true&timetable=&term_year=2008&strm=4815,4825,4840,4845,4855,4875,4880,4885,4900&subject_area=LAWS&catalog_id=4007)

**LAWS4007 Professional Conduct**

Normal pattern enrolment = towards end of course (see “assumed knowledge” below)

Units: 10

Contact Hours: Lecture: 3 hours per week for the full term

Description: Examines the role of the legal profession and the legal and ethical responsibilities of practitioners. Students consider the history, structure and regulation of the legal profession, before focusing on the duties and obligations of its members to the courts, clients, fellow practitioners and other parties.

Course Objectives: The aim of this course is to provide students with knowledge and understanding of the standards of character demanded of lawyers, their duties to clients, the courts, the profession and the community, and the rationale and institutional framework for regulating the legal profession. Students should be able to

1. apply their knowledge of professional responsibility in novel fact situations raising ethical dilemmas or demands, like those they might encounter in practice,
2. make ethical decisions of choices in these situations.
3. critically evaluate the institutional framework for regulating the legal profession
4. respond to demands for reform in an analytical and public-spirited fashion.

Course Content:

1. Overview of Professional Regulation
2. Admission to the Roll of Legal Practitioners and Specialist Accreditation
3. The Legal Practitioner's Duty to the Court
4. The Legal Practitioner's Duties to Clients
5. The Legal Practitioner's Duties of Other Practitioners and Third Parties
6. Conflicts of Interest
7. Advocates: Special Duties and Immunity
8. Retainers, Costs Agreements and Liens
9. Legal Aid and pro bono work
10. Disciplinary Proceedings
11. The Changing Nature of Legal Practice
12. Relationships with the Law Society of New South Wales
13. Trust Accounting

Assumed Knowledge: LAWS1001A, LAWS1001B, LAWS1002A, LAWS1002B, LAWS2003A, LAWS2003B, LAWS3004A, LAWS3004B, LAWS3005

Assessment Items: mid-semester assignment; formal examination for the component Trust Accounting; end of semester examination

UNIVERSITY OF SYDNEY

[http://www.law.usyd.edu.au/cstudent/undergrad/docs\\_pdfs/combined\\_law\\_table.pdf](http://www.law.usyd.edu.au/cstudent/undergrad/docs_pdfs/combined_law_table.pdf) and  
[http://www.law.usyd.edu.au/cstudent/undergrad/docs\\_pdfs/graduatelaw\\_structure.pdf](http://www.law.usyd.edu.au/cstudent/undergrad/docs_pdfs/graduatelaw_structure.pdf)  
[http://www.usyd.edu.au/handbooks/law/11\\_undergrad\\_listing.shtml](http://www.usyd.edu.au/handbooks/law/11_undergrad_listing.shtml)

Changes in degree structure mean that there are currently 2 versions of the subject **Law Lawyers and Justice** on offer; they are of different points values (10 & 12) to cater for different student cohorts; both are in the process of being discontinued and will be replaced by the subject **The Legal Profession** (6 points), to be introduced in 2009:

**LAWS2013 The Legal Profession** (from 2009)

Normal enrolment pattern: Year 3, Sem 1 (Grad Law Year 2, Sem 1)

Credit Points: 6

Classes: 2 x 2hr seminars/wk for 10 weeks

Content: The Legal Profession concentrates on the regulation of legal practice and its practitioners. Part 1 of The Legal Profession examines the nature and structure of the legal profession, historical struggles to regulate the profession, and the current regulatory regime in New South Wales. Developments towards national legal practice are also examined. Part 2 explores specific forms of legal practice, highlights the major cultural and economic forces that challenge attempts to regulate the profession and canvasses alternative ways of organising legal practice and providing legal services. Part 3 evaluates the way clients are treated by lawyers and suggests strategies to change their conduct in the interests of both equality and effective communication. Furthermore, it examines lawyers' duties to their clients and the Court, and the ways in which the rules and principles of confidentiality and conflicts of interest shape the advice and representation lawyers provide for their clients.

Assessment: class work/participation (10%); 2500 word assignment (40%); open-book examination (50%)

**LAWS3002 Law, Lawyers and Justice** (being phased out)

Normal enrolment pattern = Year 3, Sem 2 (Grad Law Year 2, Sem 2)

Normal enrolment pattern for **Legal Profession** = Year 4, Sem 1 (Grad Law Year 2, Sem 1)

Credit points: 10

Classes: 2x2hr seminars/wk

Prerequisites: LAWS1006 Foundations of Law

Content: Law, Lawyers and Justice has a distinct intellectual focus. It is the only unit in the curriculum that concentrates on the regulation of the legal profession and legal practice. Part 1 of Law, Lawyers and Justice examines the nature and structure of the legal profession, historical struggles to regulate the profession, and the current regulatory regime in New South Wales. Part 2 explores specific forms of legal practice, highlights the major cultural and economic forces that challenge attempts to regulate the profession and canvasses alternative ways of organising legal practice and providing legal services. Part 3 investigates the adversary system and considers its advantages and limitations. More specifically, the material in Part 3 addresses how the adversary system moulds lawyers' behaviour within and outside the judicial process and analyses current regulatory measures aimed at curbing the undesirable aspects of an adversarial culture. Part 4 evaluates the way clients are treated by lawyers and suggests strategies to change their conduct in the interests of both equality and effective communication. Furthermore, it examines lawyers' duties to their clients and the ways in which the rules and principles of confidentiality, legal professional privilege and conflicts of interest shape the advice and representation lawyers provide for their clients.

Assessment: class participation (10%), reflective journal (30%) and 1x3hr open book examination (60%)

**LAWS3004 Law, Lawyers and Justice** (being phased out)

Normal enrolment pattern: Year 3, Sem 2 (Grad Law Year 2, Sem 2)

Credit points: 12

Classes: 2 x 2hr seminars/wk

Prerequisites: LAWS1006 Foundations of Law

Content: Law, Lawyers and Justice has a distinct intellectual focus. It is the only unit in the curriculum that concentrates on the regulation of the legal profession and legal practice. Part 1 of Law, Lawyers and Justice examines the nature and structure of the legal profession, historical struggles to regulate the profession, and the current regulatory regime in New South Wales. Part 2 explores specific forms of legal practice, highlights the major cultural and economic forces that challenge attempts to regulate the profession and canvasses alternative ways of organising legal practice and providing legal services. Part 3 investigates the adversary system and considers its advantages and limitations. More specifically, the material in Part 3 addresses how the adversary system moulds lawyers' behaviour within and outside the judicial process and analyses current regulatory measures aimed at curbing the undesirable aspects of an adversarial culture. Part 4 evaluates the way clients are treated by lawyers and suggests strategies to change their conduct in the interests of both equality and effective communication. Furthermore, it examines lawyers' duties to their clients and the ways in which the rules and principles of confidentiality, legal professional privilege and conflicts of interest shape the advice and representation lawyers provide for their clients.

Assessment: class participation (10%), reflective journal (30%) and 1x3hr open book examination (60%)

## UNIVERSITY OF TECHNOLOGY, SYDNEY

<http://www.handbook.uts.edu.au/subjects/75420.html>

### **75420 Ethics and Professional Conduct**

Normal enrolment pattern = Final year, Sem 1

Credit points: 6

Contact Hours: Lecture: 1.5 hours per week + Seminar: 1.5 hours per week

Requisite(s): 70717c Evidence and Criminal Procedure or 71216 Law of Evidence

Content: This subject provides a basis for the understanding of the ethical responsibilities of legal practitioners. The lectures focus on the practical applications of admission to practice, including the basic requirement for the operation of a solicitor's trust account and alternative approaches to applying legal ethics. The practice of law requires an understanding of Legal Profession Act 2004 (NSW) and Legal Profession Regulations 2005 (NSW), the Professional Conduct Rules and case law, thus providing a practical basis for dealing with ethical issues, which may arise in the practice of law. The alternative approaches to legal ethics provide perspectives on the role, which lawyers may adopt when dealing with ethical issues.

The integration of these practical and theoretical approaches to legal ethics provides a framework in which students can modify their own ethical priorities in order to better integrate into the practice of law and to understand how lawyers deal with practical dilemmas within their own moral framework.

The workshops provide practical scenarios in which students can better understand the application of the rules as well as giving them an opportunity to explore the various approaches to legal ethics, which will best suit the individual student's approach to the practice of law. Workshops also provide an opportunity for students to better understand the operation of trust accounting procedures.

Assessment: written discussion paper (20%); presentation of discussion paper (5%); general participation (5%); quiz (20%); examination (50%)

Note also advice from Associate Dean (Teaching & Learning) that process involving implementation of recent curriculum review and adoption of graduate attributes is leading to embedding of “Ethics- A capacity to value and promote honesty, accountability and ethical standards” into subjects with intention to have pervasive coverage. One of the first topics now covered is in the foundational subject Perspectives on Law is “ethical perspective”. Students then study a number of subjects into which ethics have been embedded. By the time they undertake the above-summarised subject Legal Ethics and Professional Conduct in their final year, “students should have had practice in recognising ethical issues and in identifying ways to resolve ethical dilemmas.”

## UNIVERSITY OF WESTERN SYDNEY

<http://handbook.uws.edu.au/hbook/unit.asp?unit=200020.3>

**200020 Professional Responsibility and Legal Ethics** (for course versions in 2009)

Normal enrolment pattern = U/G & Grad Law: First Year, Sem 2 (Combined degrees: Year 3, Sem 2)

Credit Points: 10

Classes: 3-hour seminar per week + 2 e-delivery sessions

Corequisite: 200006.1 - Introduction to Law

Description: This unit examines the nature of the legal profession and its role in society. It deals with the professional, legal and ethical responsibilities lawyers owe to the law, the courts, their clients, to fellow practitioners, as well as the state and society at large. Students will be able to explain and evaluate the law and practice of lawyers, by reference to key topics, such as: professionalism; legal ethics; the history, structure and regulation of the legal profession; and the interpersonal, psychological and cultural factors affecting lawyering. In addition students will be able to demonstrate the process of ethical decision making by selecting and using ethical decision making tools in a legal context.

Learning outcomes: These are to:

1. explain the history, role, ethos, structure and regulation of the legal profession in New South Wales;
2. identify and evaluate the philosophical, policy and legal basis of a lawyer's:
  - a. Duty to court;
  - b. Duty to client;
  - c. Duty to law and other practitioners;
3. identify and apply the principles of reasoning and argument used by courts and tribunals in relation to professional legal issues;
4. identify the link between legal, psychological and cultural factors that underpin professional ethical decision making;
5. illustrate the use of ethical decision making models and justify decisions in particular legal contexts or dilemmas.

6. communicate professionally in a legal context by developing and defending a persuasive oral argument.

Content: Topics covered include:

- ethics and 'legal ethics';
- professionalism and the future;
- communication skills for lawyers;
- the psychology of ethical decision making and legal professional dilemmas;
- history and structure of the legal profession;
- admission to the legal profession;
- professional responsibility:
  - duty to court (eg fairness, candour, the administration of criminal justice);
  - duty to client (eg lawyer-client relationship, competence, confidentiality, loyalty);
  - duty to the law (eg the lawyer's role within the adversary system, fidelity to law, alternative dispute resolution, relations with other lawyers);
- professional misconduct;
- regulation of the profession (eg disciplinary apparatus and processes);
- cultural issues (eg women, ethnicity, and connections with indigenous people).

Assessment: viva voce examination (15 minutes), addressing learning outcomes 2, 3, 4 & 6 (35%); final examination (3 hrs), addressing learning outcomes 1-5 (65%)

<http://handbook.uws.edu.au/hbook/unit.aspx?unit=200007.1>

**200007 Law Foundation** (for course versions in 2009)

Normal enrolment pattern = First year, Semester 1

Credit Points: 10

Classes: 3-hour seminar per week

Corequisite: 200006.1 - Introduction to Law

Description: This unit gives students an introduction to a range of perspectives on the history and philosophy of the humanities, science and the social sciences and their relationship to law.

Learning outcomes: These include:

4. Discuss theories about the nature and function of law, including the relationship between law and politics;
5. Discuss the nature of ethics and ethical reasoning and their relationship to law;
6. Identify and discuss the influence of selected international human rights standards and the impact of globalization on the operation of Australian law;

7. Develop a persuasive written argument explaining and evaluating the influence of philosophical, political, social, economic, cultural and/or ethical considerations in the development and application of law.

Content: Topics covered include:

- Logical reasoning and Law;
- Science and Law;
- Ethics and Law;
- Social Theory and Law;
- Theories about the nature and function of law;
- International human rights standards and the impact of globalization on the operation of Australian law;
- Social Problems and Law;

Assessment (in relation to the ethics subject matter): 1500-word essay evaluating argument (40%); 3-hr final examination (50%)

#### UNIVERSITY OF WOLLONGONG

[https://sols.uow.edu.au/owa/sid/CAL.SUBJECTINFO?p\\_subcode=LLB+190&p\\_year=2008&p\\_source=WebCMS](https://sols.uow.edu.au/owa/sid/CAL.SUBJECTINFO?p_subcode=LLB+190&p_year=2008&p_source=WebCMS)

#### **LLB 190: Lawyers and Australian Society**

Normal enrolment pattern = First year, Sem 2

Credit Points: 8

Pre-Requisites: 30 cp of 100 level LLB Subjects

Co-Requisites: LLB 160 and LLB 170 and LLB 180 and LLB 140

Subject Description: The aim of this subject is to encourage an analytical and thoughtful approach to aspects of law, legal practice, ethics and values. This subject will develop an understanding of the role of lawyers in Australian society and an appreciation of the laws, rules and conventions that influence and govern legal practice. This subject falls into two parts. 1) the nature of professionalism and ethics; the 'legal profession', its regulation, and its rules of conduct; and how the law in practice [relates] to access to justice 2) a practical or clinical element, in which students can observe and participate in the practice and operation of the law, through the Professional Experience Placement Program. Each student must undertake 1 Placement of 20 working days of professional experience. The Placement is undertaken after the course work in the subject has been completed and in the final 2 years of the degree.

Generic Extra Information: All students are required to undertake ALL Autumn and Spring semester 100 level subjects concurrently. While it is recognised that not all law graduates intend to practice as barristers or solicitors, *this subject has been designed and accredited to meet the academic pre-requisite knowledge of "Professional Conduct" required by the Legal Practitioners' Admission Board for admission to practice in New South Wales.* It also provides a foundation for, and the placement program is given credit towards, the University of Wollongong Practical Legal Training Course, which is a qualification for admission to practice accredited by the Board. Before becoming eligible for a grade in this subject, a

candidate must complete the practical component of the subject to the satisfaction of the Faculty.

**Subject Objectives:** After completing this subject you should be able to 1) discuss and explain (i) the nature of the legal profession; (ii) the nature of the relations between lawyers and their clients. 2) Make informed, practical and critical judgements about (i) the ethics and conduct of the legal profession; (ii) the operation of the Australian legal system and the role of lawyers in that system; (iii) the influences of lawyers in society; (iv) the role of lawyers in promoting and contributing to access to justice. 3) Explain, discuss and apply (i) the rules of conduct of the legal profession; (ii) the law relating to legal practice. 4) Discuss and explain the practical operation of the law in practice and in the community.

**Assessment:** Research Essay or Project (20%); Class Participation (10%); Professional Experience Program (20%); On-line Quiz (10%); Examination (40%). While the Professional Experience Program does not attract marks, it must be completed to a satisfactory standard in order to complete LLB190 and hence the Bachelor of Laws program.

[https://sols.uow.edu.au/owa/sid/CAL.SUBJECTINFO?p\\_subcode=LLB+396&p\\_year=2008&p\\_source=WebCMS](https://sols.uow.edu.au/owa/sid/CAL.SUBJECTINFO?p_subcode=LLB+396&p_year=2008&p_source=WebCMS)

### **LLB 396 Professional Practice**

Normal enrolment pattern = Elective subject undertaken in towards end of degree

Credit Points: 8

Prerequisites: 48 credit points of LLB subjects, including LLB391, LLB392, LLB393, LLB394, LLB311 or LLB 260, LLB 150, LLB 250, LLB 140, LLB 190

Subject Description: This subject builds on the LLB core legal skills program. Provides an opportunity to further develop professional knowledge and skills. The subject contains nine modules: *Professional Responsibility and Competent Practice*; Problem Analysis; Dispute Resolution; Cross-Cultural Communication; Electronic Research; Writing and Drafting; Introduction to Conveyancing Practice; Introduction to Litigation Practice. Students who complete this subject will be given advanced standing towards LLB 843, a subject undertaken as part of the Graduate Diploma in Legal Practice.

## **NORTHERN TERRITORY**

### **CHARLES DARWIN UNIVERSITY**

[http://eagle.ntu.edu.au/NTU/Apps/Coursere.nsf/W\\_Courses\\_Interest/2F5E26929D571FA3692572DD004CA115?OpenDocument](http://eagle.ntu.edu.au/NTU/Apps/Coursere.nsf/W_Courses_Interest/2F5E26929D571FA3692572DD004CA115?OpenDocument)

[http://eagle.ntu.edu.au/NTU/Apps/Coursere.nsf/W\\_Courses\\_Interest/FDF11C74D978658C69257321000DC7DF?OpenDocument](http://eagle.ntu.edu.au/NTU/Apps/Coursere.nsf/W_Courses_Interest/FDF11C74D978658C69257321000DC7DF?OpenDocument)

<http://eagle.ntu.edu.au/NTU/APPS/unitre.nsf/w41/DC0E55EAC5A131D26925708900381863?openDocument>, but note it is part of the PLT program, not the standard degree (as Priestley11 mandates)

### **LLP410 Legal Ethics**

Normal enrolment pattern = part of the Graduate Diploma in Legal Practice practical legal training program, Semester 1 or 2

Credit points: 5

Teaching mode: external study over 8 weeks

Description: This unit builds on students' undergraduate studies to: enable students to recognise ethical duties and responsibilities as they arise in professional legal practice; and learn how to respond appropriately to ethical and professional conduct problems. This unit is only available to students enrolled in the Graduate Diploma in Legal Studies.

## QUEENSLAND

### BOND UNIVERSITY

[http://www.bond.edu.au/study/subjectoffer/subject-overview.asp?SubID=11101\\_3](http://www.bond.edu.au/study/subjectoffer/subject-overview.asp?SubID=11101_3)

#### **LAWS11-320 Legal Ethics and Professional Conduct**

Normal enrolment pattern = Final year

Credit Value: 5 credit points (1/2-unit subject: see Bookkeeping and Trust Accounts)

Class contact: Lectures 6 x 2 hrs + 5 weekly tutorials

Prior Knowledge: LAWS11-110 Australian Legal System

Synopsis: Covers the traditions and regulation of the legal profession; the functions, duties and privileges of barristers and solicitors; and rules of conduct and etiquette of the profession. Students will also consider the concept of a profession and the scope of professional responsibilities. The course includes practical application of the rules and underlying principles in modern legal practice.

Aims (from Course Outline): In this course you will consider: the state of the legal profession especially in Queensland and Australia; the functions, duties and privileges of barristers and solicitors; especially examining professional and personal conduct in respect of practitioner's duties: 1) to the law; 2) to the Courts; 3) to clients, and 4) to fellow practitioners; and the liabilities and regulation of barristers and solicitors.

Assessment: Tutorial participation (20%); Final examination (80%)

[http://www.bond.edu.au/study/subjectoffer/subject-overview.asp?SubID=11103\\_3](http://www.bond.edu.au/study/subjectoffer/subject-overview.asp?SubID=11103_3)

#### **LAWS11-321 Bookkeeping and Trust Accounts**

Normal enrolment pattern = Final year

Credit Value: 5 credit points (1/2-unit subject: see Legal Ethics and Professional Conduct)

Class contact: Lectures 6 x 2 hrs + 5 weekly tutorials

Prior Knowledge: LAWS11-110 Australian Legal System

Synopsis: Covers the statutory rules applicable to the running of trust accounts in a legal practice and provides practical training in basic bookkeeping for responsible legal practice.

### GRIFFITH UNIVERSITY

<http://www3.griffith.edu.au/03/STIP4/app?page=CourseEntry&service=external&sp=S5001LAW>

#### **5001LAW Legal Professional Practice**

Normal enrolment pattern = Final Year

Units: 10 Credit Points.

Classes: 2 hrs per week + 4 x 1-hr tutorials

Corequisites: 4021LAW Civil Procedure and 4031LAW Criminal Procedure & Sentencing

Introduction: Legal Professional Practice is being developed as a capstone course for some of the Vertical Subjects in the curriculum (see below). The main Vertical Subject considered within this course is Legal Ethics.

Description: Legal Professional Practice is a 10-credit point compulsory course intended for students in their final year of study. It describes and evaluates key aspects of lawyers' professional responsibility rules and their application, and also investigates complementary issues affecting legal practice.

Course Aims: Legal Professional Practice is a 10-credit point compulsory course intended for students in their final year of study. It describes and evaluates key aspects of lawyers' professional responsibilities and explores the notion of "ethical legal practice". It also examines collateral features of the legal practice environment. A principal focus of this course is on key aspects of Australian lawyers' professional responsibilities and some of the typical situations in which they apply. This part of the course is also designed (1) to encourage some critical evaluation of the content of professional responsibility and (2) to develop an appreciation of the extent to which ethical decision-making in legal practice involves more than a technical knowledge of the formal duties of lawyering. An understanding of professional responsibility and the capacity to make professional, ethical decisions will be assessed to the extent that this is possible in the final examination. Another part of the course considers solicitors' professional responsibilities in relation to client monies and trust accounting. An understanding of this material will be separately assessed in an assignment. The remainder of the course complements the focus on professional and ethical responsibility. It includes, first, selected sociological insights and understandings about lawyers' work and lawyer-client relationships and, second, the current regulatory arrangements that affect lawyers. These parts of the course may also be assessed in the examination.

Learning outcomes: By the end of this course, students will:

1. have met the requirements of the Uniform Admission Rules concerning professional responsibility and trust accounting;
2. have developed an understanding of the nature of and standard justifications for the lawyer's role in contemporary society;
3. be able to identify and explain the main formal obligations that comprise lawyers' professional responsibility;
4. have developed an appreciation of the typical circumstances in which these standards need to be applied in legal practice contexts;
5. have encountered some opportunities to develop their own abilities to exercise ethical judgment in matters that raise ethical questions;
6. have developed an understanding of lawyers' obligations in the handling of trust monies;
7. have developed some understandings about lawyers' work from a sociological perspective, including specific issues relating to gender and indigeneity in Australian legal practice;
8. be able to describe and evaluate lawyers' regulatory structures in Queensland, including disciplinary arrangements;
9. be familiar with key provisions of the *Legal Profession Act 2007*, as identified during the course;

Assessment: Assignment (30%) – related to learning outcome #6 - designed to assess students' understandings of trust accounting responsibilities; Examination (70%) – related to all other learning outcomes

On Vertical Subjects, see also:

[http://www17.griffith.edu.au/cis/p\\_cat/admission.asp?ProgCode=1137&Type=overview](http://www17.griffith.edu.au/cis/p_cat/admission.asp?ProgCode=1137&Type=overview)

Skills assessment in the curriculum: The skills, knowledge, values and attitudes you learn will be incrementally developed through a series of courses, known as ‘vertical subjects’, that will cover the issues taught, engaged with or practised and assessed within the required curriculum so you can be admitted to practice. The vertical subjects are as follows: Legal Skills; **Legal Ethics**; Teamwork and Leadership; Understanding Indigenous Issues; and Legal Theory and Interdisciplinary Approaches to Law.

In the early years of these subjects you will be required to engage with the basic principles governing the subject matter and skills. In later years you will engage with more advanced principles and skills. At all stages of the program you will use and practise the principles and undertake assessment tasks in relation to the skills and/or subject matter.

Your achievement in the vertical subjects will be part of your assessment in compulsory courses.

*The Convener for the Legal Ethics Vertical Subject has provided the following further information:*

In summary, students will learn about different aspects of legal ethics in 11 core courses, with learning activities presented in such a way as to allow students to build upon and deepen their understandings. The course summarised above, Professional Legal Practice, is being developed as a capstone course that will aim to consolidate the ethics learning embedded in the degree.

Underpinning the Legal Ethics vertical subject approach is a 3-layered foundation: (i) sound knowledge of the rules and standards of professional responsibility; (ii) ability to apply the rules skilfully when confronted by legal practice ethical dilemmas, but at the same time recognising their limitations and the consequent need to understand that other norms may be applicable; (iii) appreciation of the inevitability that professional responsibility encompasses the need sometimes to make and justify difficult ethical choices through exercise of careful judgment based upon a full consideration of the interplay between legal norms, moral autonomy and the taking of personal responsibility.

Instruction in the vertical subject within the different core courses will occur in varied ways, which might include dedicated lectures, tailored learning materials, small group interactions, etc. Similarly, assessment typically will be incorporated within broader assessment tasks such as examinations, written assignments, oral discussion, etc, with student performance evaluated against 3 threshold criteria surrounding the extent to which the student has been able to:

- demonstrate a thorough appreciation of the nature and extent of the ethical dimensions of the particular task or problem and an understanding of why the issues are ethical ones;
- demonstrate careful and thoughtful consideration of the full extent of the ethical questions and issues so identified; and
- provide adequate justifications for the answers, responses or decisions given or reached.

JAMES COOK UNIVERSITY

<http://www.jcu.edu.au/app/studyfinder/?subject=LA4038>

**LA4038 - Legal Ethics and Trust Accounting**

Normal enrolment pattern = Final year *elective*, but with notation that students intending, at any time, to seek admission as a legal practitioner in Queensland must include it as a subject within their degree

Credit points: 3

Contact hours: 24 hours workshops/seminars; 16 hours Trust Accounts component

Prerequisites: {(LA2017 or LA1005) and (LA2018 or LA1004)] or LA1001} and (LA2020 or LA1012 or LA1003) and (LA3013 or LA3001)

Content: The subject covers the rules of ethics and professional conduct, including the statutory and other requirements for the maintenance of Trust Accounts, that are relevant and required for practice as a member of the legal profession in Queensland.

Learning Outcomes:

Demonstrate knowledge and understanding of the functions, duties and privileges of solicitors and barristers in democratic capitalist society; the structure of the legal profession in Queensland and in other Australian jurisdictions and of the regulatory scheme and specific parts of the scheme, enacted in *The Legal Profession Act 2007*;

Demonstrate knowledge and understanding of the meaning and nature of ethics and professionalism and how such forces interact with the practice of law and of the consequences of unethical and unprofessional behaviour;

Demonstrate knowledge and understanding of the responsibility of lawyers for outcomes based on the processes that they are empowered to initiate as professionals and of key concepts and organising principles which form the basis of ethical practice in law including its political framework, social and gender dynamics, business practices and cultural makeup;

Demonstrate an ability to communicate effectively an understanding of the complex legal and ethical solutions that can arise in the study and practice of law and other professions (generally); the appropriate steps that can and should be taken in advance to avoid these risks; and an understanding of the implications for law reform, policy and practice and the application of law to solve particular problems;

Demonstrate an ability to recognise and suggest solutions to trust account related problems which may arise in legal practice; knowledge and understanding of general accounting principles and the legislative requirements governing the operation of trust accounts in a legal practice setting and to accurately complete all documentation required for the proper operation of a trust account under the relevant legislative requirements.

Assessment: end of semester exam (60%); assignments (40%); Pass required in both Legal Ethics and Trust Accounts components [but this requirement is under review]

Also note advice from JCU that compulsory subject **LA3006 Administrative Law** now incorporates ethical component oriented around duty to communicate and disclose (embedded within subject's advocacy program); and ethical decision-making element forms part of Medical Jurisprudence elective.

In addition, advice on how the first-year program contributes to the embedding of an ethical dimension to the study and practice of law has been provided by Ms Kate Galloway (Lecturer in Law), as follows:

“JCU runs an aligned first year program in its LLB. As a suite of core first year subjects, students study:

- LA1101 Legal Institutions and Processes
- LA1102 Legal Research, Writing and Analysis
- LA1105 Contract Law I
- LA1103 Law Society and Change
- LA1104 Legal Concepts
- LA1106 Contract Law II

One important and deliberate aspect of the program is the embedding of ethics and aspects of professional conduct, promoting the students’ own construction of an ‘ethical literacy’ in the context of the study and practice of law. Indeed in first semester, all three subjects offered commence with a module entitled ‘An Ethical Introduction to the Law’.

While not all subjects explicitly state in the JCU Courses and Subjects Database that they deal with ‘ethical and professional conduct issues’, the core subjects make provision for examination of ethical and professional conduct issues.

- LA1101 provides an ‘introduction to the institutions and processes that influence the ongoing development of law in Australia, their history, context and contemporary relevance’. The legal profession is analysed in the subject as an institution of the law, and the processes of admission to and regulation of the profession are introduced. Cases involving admission to practice are discussed, providing the link between the study of law (and decisions made as a student) and practice of law.
- LA1102 is described as developing ‘legal, ethical and technological literacy and provides a range of skills and knowledge required for legal writing, research and problem solving.’ LA1102 affords students the chance to engage in role playing ‘ethical dilemmas’ as an introduction to the study of law and their own conceptualisation of ethics.
- Likewise, LA1103 describes its learning outcomes as including the ability to: ‘describe and analyse modern legal issues as a complex interplay of factors at the individual, community, national, and international level’. This subject ‘provides students with the tools to critique law’s outcomes and operations within the context of individuals, cultures and the environment as well as its position within domestic and international economic and political arrangements’. This incorporates a critique of the law as an instrument of power and analysis of access to justice issues, including the construction of individual identity by law and those who practise in it.
- LA1104 aims to ‘develop students’ conceptual and critical awareness of the role of law in regulation, social control, dispute settlement and for arranging economic, political, social, environmental and cultural relations’.

Each of these subjects therefore situates the study and practice of the law in an ethical context.

It is of note that LA1101 and LA1103 take an explicitly critical perspective of the law. The message to students is that studying and practising the law have an ethical dimension, reflected in choices made as a student or practitioner. The role of the student as student or as practitioner is identified as one that impacts on others, thus bringing responsibilities. This approach aims to contextualise professional conduct within the student’s own experiences. It also focusses on the role of the practitioner as an ethical one in a context broader than simply the rules of professional conduct. For example, examination of access to justice issues in semester I as a critique of the ‘upsides’ of the legal system, and semester II’s examination of law as power and how this impacts on diverse sections of the community, both seek a wider positioning of ethics and professional responsibility.”

QUEENSLAND UNIVERSITY OF TECHNOLOGY

<http://www.courses.qut.edu.au/cgi-bin/WebObjects/Courses.woa/wa/selectUnitFromCourseDetails?unitID=LWB433>

<http://www.courses.qut.edu.au/cgi-bin/WebObjects/Courses.woa/wa/selectUnitFromCourseDetails?idunit=18242&strUnitOutlineSelect=ucLWB433%7Cuv2%7Cov18%7Cct%7Csn%7Cui622172>

**LWB433 PROFESSIONAL RESPONSIBILITY**

Normal enrolment pattern = Final year, Sem 2

Credit points: 12

Contact: 3 hrs per week

Prerequisite(s): 192 credit points of LLB units

Synopsis: This unit includes the following: the ethical principles upon which the practice of all professions is based; the principles which underpin the discipline of law and the workings of the legal profession; the history, nature, organisation and operation of the legal profession; codes of conduct, trust accounts and professional legal ethics.

Rationale: The legal profession, like any other profession, is governed not only by a set of legal rules but also by a range of ethical principles that relate particularly to the practice of the profession. An education in law would be incomplete without an understanding of these rules and principles and an ability to apply them in practice. These rules and principles reflect not only the moral values of the individual practitioner but also those of society at large. While the legal profession shares rules and principles with other professions, it owes duties not only to itself but also to the legal system, the judicial system and to the public. It is within this framework of inter-related responsibilities that the lawyers' duties to the client must be accommodated. Although a number of these issues will have already been raised during your studies in law, this unit brings these issues together so that you will be able to respond confidently and ethically to any situations that are likely to arise in the future.

Aims: The aim of this unit is twofold: first to ensure that you understand the legal and ethical responsibilities of a professional lawyer and second to ensure that you have a framework of ethical analysis which will allow you to respond appropriately to ethical dilemmas that might arise in your professional life.

Objectives: On successful completion of this unit you should be able to demonstrate:

1. knowledge and understanding of the major approaches to ethical thought;
2. knowledge and understanding of what it is to be a professional;
3. knowledge and understanding of what it is to be a professional in the discipline of law;
4. knowledge and understanding of the legal and statutory standards that apply to the legal profession particularly in Queensland, together with an ability to analyse them critically;
5. knowledge and understanding of the ethical standards expected of the legal profession particularly in Queensland, together with an ability to analyse them reflectively and critically;
6. ability to apply these legal and ethical standards by identifying circumstances of legal and ethical risk; reflecting on your understanding of the ethical framework in which they arise; and developing appropriate strategies to avoid these risks;

7. knowledge and understanding of the requirements for trust accounts;
8. knowledge and understanding of how trust accounts are managed; and
9. the ability to communicate effectively an understanding of ethical standards and principles.

Content: The focus of this unit is on the responsibilities of the legal profession in Queensland. This requires an understanding of:

- what constitutes a profession;
- the particular attributes of the legal profession;
- the legal and ethical responsibilities of members of the legal profession;
- why ethical analysis is important in understanding the obligations associated with legal practice;
- the professional and ethical standards required of the profession;
- the disciplinary processes governing the profession and the institutional framework within which the profession is regulated; and
- the requirements for maintaining trust accounts.

A number of the rules underpinning professional responsibility will have already been considered in other units: for example contractual and tortious obligations. Although there will be limited reference to these, the emphasis in this unit is on obligations arising under the legislation that applies to the legal profession and on the ethical principles themselves as they apply to the legal profession.

### Approaches to Teaching and Learning

#### *5.1 The Dissemination of Information*

The teaching and learning approaches for this unit aim to encourage and assist you to engage in the active and interactive learning of the requirements of professional responsibility. They are designed to foster and develop your abilities as self-directed independent learners, and aim to enhance your ability to be adaptable and open to unique, novel and untested legal scenarios - skills which will aid your transition to professional work. As a later year unit, you will be expected to bring earlier level capabilities to this unit, and to be equipped to engage with the expectations of this unit.

As there are only one introductory lecture in this unit, your knowledge of the relevant information and principles will be derived primarily from your own reading of the prescribed materials (including on-line resource materials) and completing a set of online activities. The four online activities will ask you to work through a series of multiple choice questions based on the prescribed reading, and will provide you with feedback about your understanding of the material you have read. Each of these activities will take about an hour to complete. Through these resources and online activities, you will familiarise yourself with the topics for the workshops and be prepared for the discussions in the workshops you undertake throughout the semester.

You will participate in 8 x 2 hour workshops throughout the semester. This amounts to a total of 16 hours face-to-face contact with your tutor. The workshops require your preparation through independent reading and the completion of the online activities.

In completing the reading, the online activities for this unit and discussions in the workshops, you will develop a structure which will serve as the basis for your own independent learning in this unit. In this way, you will acquire the knowledge and understanding of the underlying

concepts of ethical analysis, as well as knowledge and understanding of specific obligations affecting legal practitioners, including statutory obligations found in the *Trust Accounts Act 1973*, the *Queensland Law Society Act 1952*, the *Legal Profession Act 2004* and the specific rules affecting Barristers and Solicitors.

### *5.2 The Acquisition of Skills*

An understanding of the application of these rules and principles is acquired through your independent completion of the online activities, as well as participation as an internal student in a series of interactive workshops. These workshops highlight issues and problems arising from these rules and principles through a discussion of hypothetical cases and cases decided by the courts and other tribunals.

**Reflective journal:** This journal is based on your reflections on the online activities and the scenarios discussed in the workshops. The journal must be completed in four stages, the first three submitted electronically, and the final journal (of all four stages) submitted in hard copy at the end of semester.

### *5.3 Trust Accounts*

The practicalities of trust accounts (which is a component of part 7 of the unit) are approached differently. All students - both internal and external - must access (either in person or online) the lecture explaining the nature and structure of trust accounts by way of examples. The lecture is scheduled to take place during the External Attendance School. The lecture is split into a series of shorter sessions.

**Assessment:** The unit is assessed as follows.

#### *6.1 Formative Assessment*

Your completion of the online activities will provide you with feedback about how well you are understanding the resource materials.

Your participation during the workshops for internal students demonstrates your capacity to understand and apply the rules and principles relevant to professional responsibility. Your responses and the feedback you receive in the workshops will enable you to assess the adequacy of your learning and how to improve it where necessary.

If you are an external student, you will receive formative assessment from your external assignments, and through detailed general feedback on these external assignments posted on the QUT Blackboard site.

#### *6.2 Summative Assessment for Internal Students*

6.2.1: Your participation during the workshops will be formally assessed. This represents 20% of the assessment. This achieves objectives 5 and 9.

6.2.2: You will be required to submit a short outline (of no more than one A4 page single spaced in a minimum font size of Arial 10 pt) of a response to the set problem in one of the 8 workshops. You will be allocated to a particular workshop, and your outline will be assessed against criteria and standards set out in the Study Guide. This represents 20% of the assessment. This achieves objective 6.

6.2.3: Reflective journal

You will be required to maintain a reflective journal recording your experiences as you engaged with the set work for the semester. Your reflective journal provides you with the opportunity to reflect on your own development from an early to later stage of semester and across the range of issues raised in this unit.

Your journal will be submitted in four stages. The first three will be submitted electronically through the unit's On Line Teaching site. The completed journal will be submitted as an assignment, due at the last workshop.

This represents 10% of the assessment. This achieves objectives 4, 5 and 6.

#### 6.2.4: Final examination

The remaining 50% of assessment is in the form of an open book examination held at the end of semester during the normal examination period. This tests your knowledge and understanding of the rules and principles relevant to professional responsibility and your ability to apply these rules and principles to particular sets of circumstances. There will be a compulsory question relating to Trust Accounts. This achieves objectives 1 to 4, 7 and 8.

### 6.3 Summative Assessment for External Students

You are assessed in exactly the same way as internal students with one exception. In place of formal assessment of workshop performance and the outline (6.2.1 and 6.2.1 above), you will be assessed on the basis of two written assignments due in week 5 and week 10 of the semester. The topic of each assignment is the major topic prescribed for discussion in the workshop for that week. Each of these written assignments attracts 20%. Each written assignment must not exceed 1500 words in length. This achieves objective 5.

### 6.4 Summary of Summative Assessment

For internal students -

- Workshop performance 20%
- Workshop outline (allocated week) 20%
- Reflective journal 10%
- Examination (normal exam period) 50%

For external students -

- Two written assignments 20% each (weeks 5 and 10) 40%
- Reflective journal 10%
- Examination (normal exam period) 50%

See also:

<http://www.courses.qut.edu.au/cgi-bin/WebObjects/Courses.woa/wa/selectUnitFromCourseDetails?unitID=LWB142>

<http://www.courses.qut.edu.au/cgi-bin/WebObjects/Courses.woa/wa/selectUnitFromCourseDetails?idunit=17647&strUnitOutlineSelect=ucLWB142%7Cuv1%7Cov12%7CctSEM-1%7Csn2149%7Cui>

### **LWB142 LAW, SOCIETY AND JUSTICE**

Normal enrolment pattern = First year, Sem 1

Credit points: 12

Contact: 3 hrs per week

**Synopsis:** This unit examines the basic tenets of our democratic liberal legal system, particularly the central concept, the rule of law. The unit begins with an historical development of rights and the rule of law. It looks at how law and values intertwine and how society at a particular time shapes notions of legal personality, the recognition of 'family' and human rights in law. It finally addresses the limitations of democratic liberalism and the rule of law by examining the reality of equality before the law in relation to such topics as gender and cultural neutrality, equal access to justice, and lawyers and the adversarial system.

**Rationale:** The practice of law requires an understanding and appreciation of the historical origins of the concepts of 'rights' and 'justice' and how such concepts continue to be influenced by changing values within our society. In order to become *effective legal practitioners*, law graduates need to understand that society is rapidly changing and the law is also evolving, although often at a much slower pace. As a consequence, some groups within our society may be disadvantaged in the legal system. These notions guide the development of the policies underlying the law, and inform changes to law through legislative and judicial action. The unit is placed at the outset of the course to commence your training in legal thought processes such as the ability to think critically about the law and to introduce you to various skills important to legal practice such as oral communication.

**Aims:** This unit aims to assist you in developing your own values about whether our legal system is currently capable, and is capable in the future, of achieving justice for all Australians.

**Objectives:** At the completion of this unit, you should have:

1. A sound knowledge of what law is and an awareness of some examples of legal rules;
2. An understanding of the historical basis for our system of government and legal system, together with a basic knowledge of the working of our Australian form of government and legal system;
3. A sound understanding of the concepts of human rights and 'the Rule of Law';
4. A basic understanding of legal dispute resolution options
5. An understanding of how law and social values are intertwined through a consideration of concepts such as human rights, access to justice and equality before the law;
6. A basic understanding of and an ability to critically think about some **ethical issues** surrounding our legal system and the practice of law, in particular, the extent to which all Australians regardless of cultural background, gender and socio-economic means have access to justice and equality before the law;
7. Commenced to acquire the following attitudinal skills:
  - **Ethical orientation**
  - **Inclusive perspective**
  - **Social justice orientation**
8. Commenced to acquire the following cognitive skills:
  - Critical thinking and legal analysis
9. Commenced to acquire the following communication skills:
  - Oral communication
  - Ability to deliver an effective oral presentation; and

10. Commenced to acquire the following relational skills:

- The ability to work independently
- Teamwork
- An appreciation of race, gender, culture and socio-economic differences specifically and of diversity generally

Content:

1. An introduction to what law is and some examples of legal rules
2. The historical background to our form of government, legal system, and acknowledgement of human rights
3. A basic introduction to our form of government and legal system
4. How our legal system operates, and an introduction to the concept 'The Rule of Law'
5. What dispute resolution systems are available to resolve legal conflict
6. The concepts of 'justice' and 'access to justice'
7. The concept of 'equality before the law' and that some groups of people are disadvantaged by our legal system and how the law is evolving to address this

Approaches to Teaching and Learning: The teaching and learning strategy in this unit will comprise an integrated program of an interactive workbook, weekly one-hour lecture and a weekly tutorial.

*Interactive Workbook* The workbook is central to your learning in this unit. It guides you through the readings for each week and provides you with interactive activities to assist in your understanding of the 'key concepts' of the unit. These readings and activities should be completed prior to the lecture and tutorial each week as they will then form the basis for interactive discussion. The aim of the workbook is to assist you in adapting to studying law at university.

*Weekly one hour lecture* This unit embraces the concept of flexible delivery. Teaching staff in the unit are responsive to the varying needs of students and offer a variety of ways that students can access the weekly lecture.

Internal students: You have the choice of either: 1) Attending a one hour 'in-person' lecture in weeks 1-13 of semester; OR 2). Listening to the one hour lecture tape of the same lecture available via audio streaming on the unit Blackboard site

External students: You are able to listen to a one hour lecture tape available via audio streaming on the unit Blackboard site. Note that the lecture does not aim to deliver information; this is contained in your readings and workbook. The lecture will summarise the 'key concepts' of the week that you need to understand.

*Weekly Tutorial - Thirteen 'in-person' tutorials* There are thirteen, 90 minute weekly tutorials in a small group which are central to your studies in this unit. Prior to the tutorials you should complete the readings and activities set out in your workbook. These will be conducted in every week. These tutorials aim to assist you to study the material and to achieve a deeper level of learning by discussion of the relevant topics and issues with your fellow students and tutor; and assist you to commence to develop the skills set out in 7-10 of the unit objectives.

Assessment internal students:

*Summative*

1 Tutorial performance: Your tutorial performance is assessed according to the assessment criteria set out in your workbook. Relates to unit objectives 1-10. Weight: 15%

2. Assignment: You will complete a 1000 word assignment on a topic to be advised. Your performance will be assessed on the criteria set out in your Workbook. Relates to unit objectives 3 and 8. Weight: 15%

3 Oral presentation: You will present an oral presentation as part of a group on a topic and in a week to be advised by your tutor. Your performance will be assessed on the criteria set out in your workbook. Relates to unit objectives 4-10. Weight: 20%.

4 Exam: The exam is designed to assess your understanding of the unit material. Relates to unit objectives 1-10. This is an open book examination. Weight: 50%

*Formative*

Tutorial performance: Formative feedback will be provided by the tutor in your tutorials each week.

Assessment external students:

*Summative*

1 Assignment: You will complete a 1000 word assignment on a topic to be advised. Your performance will be assessed on the criteria set out in your Workbook. Relates to unit objectives 3 and 8. Weight: 15%

2 Assignment: You will complete a 1500 word assignment on a topic to be advised. Your performance will be assessed on the criteria set out in your Workbook. Relates to unit objectives 1-3 and 8. Weight: 25%.

3 Exam: The exam is designed to assess your understanding of the unit material. Relates to unit objectives 1-10. This is an open book examination. Weight: 60%

*Formative*

Tutorial performance: Formative feedback will be provided by the tutor in the tutorials at the External Attendance School.

In addition, QUT Law School advises of a revised curriculum from 2009 and of a proposal to embed ethics and professionalism more pervasively in the course:

Ethics will be integrated into the 2009 curriculum in a way that reflects the sort of graduate the new curriculum purports to produce: a 'real world' practitioner with a strong awareness of the relationship between client needs and expectations, and compliance with the industry regulator, the Legal Services Commission (LSC).

While the focus will be on what students need to know to avoid being investigated by the LSC and brought before the Tribunal, rather than on high theory or philosophical considerations, students will be expected to develop a critical understanding of the underlying rationales for ethical rules.

The emphasis throughout the undergraduate curriculum will be on:

- How to identify an ethical dilemma;

- How to avoid ethical dilemmas arising; and
- How to solve an ethical dilemma when it does arise.

A Law Ethics website has been established. It contains materials online that LLB students may use throughout their undergraduate studies

Ethics will be integrated into doctrinal content of units in the following ways.

### **FIRST YEAR**

#### **Two hour lecture and a tutorial in LWB145 Legal Foundations A**

Students will be given a brief introduction to the *Legal Profession Act 2007 (Qld)* (LPA) and the meaning of the new conduct standards; the nature of the fiduciary duty owed to the client; what it means to be an officer of the Court and the overriding duty to the administration of justice.

#### **Two hour lecture and a tutorial in LWB146 Legal Foundations B**

Students will be given an understanding of what it means to be a legal professional in Australia what it means to be a fit and proper person to practise law.

Even before students have a detailed knowledge of the regulatory environment, they will be asked to consider some common ethical and professional dilemmas that may face modern practitioners and asked to consider how different actors within the legal services market might view different scenarios. Thus:

#### **LWB147 Torts A**

Highlight ethics linking it with the solicitor's duty of care in negligence and a tutorial.

and

#### **LWB148 Torts B**

Highlight ethics linking with the solicitor's duty to court and client in settlement negotiations and a tutorial.

### **MIDDLE YEARS**

In each **core unit** in the LLB curriculum

A stronger focus on the impact of ethical and professional obligations on the work of the lawyer in *particular areas of practice* – e.g. the requirements to avoid conflicts of interest in family law and commercial law, or the duty of confidentiality in tax and commercial matters, duties not to mislead the court in criminal practice and in litigation. The nature of the fiduciary relationship between lawyer and client will be examined more closely and how that duty is subsidiary to the lawyer's duty to the administration of justice.

In each **elective unit** in the LLB curriculum

An ethical dimension will be added to substantive problem solving exercises in elective units.

### **FINAL YEAR**

#### **LWB 433 Professional Responsibility** (see further above)

This compulsory unit will contain a detailed examination of the LPA and the statutory codes, including analysis and common law interpretation and application of the statutory conduct standards. Trust accounting and the requirements of the LPA in relation to trust money, controlled money, received money and investment money. Ethical problem-solving techniques and strategies will be taught at a more advanced level. Students will be expected to recognise whether there is an element of professional ethics or professional responsibility in a given situation, strategies for resolving the issue and how to seek guidance and help. Students will

be expected to understand a variety of risk management techniques to avoid ethical dilemmas arising in practice.

## UNIVERSITY OF QUEENSLAND

[http://www.uq.edu.au/study/course.html?course\\_code=LAWS5217](http://www.uq.edu.au/study/course.html?course_code=LAWS5217)

[https://www.courses.uq.edu.au/student\\_section\\_loader.php?section=1&profileId=17087](https://www.courses.uq.edu.au/student_section_loader.php?section=1&profileId=17087)

### **LAWS5217 The Legal Profession**

Normal enrolment pattern = Final year, Semester 1 *elective*, but notation that students who wish to satisfy the academic requirements for admission to the legal profession in Queensland must include it as part of the 18 elective courses studied.

Units: 2

Class Contact: 2 hrs lectures per week; 5 hrs tutorials per semester

Prerequisite: 24 LAWS courses

Assumed Background: Students are expected to have a knowledge of the law of tort, contract and fiduciary duties.

Content: A study of the law relating to the conduct of legal practitioners, including: qualifications for practising as a lawyer; the lawyer's relationship with the law; lawyer-client relationships (including trust accounting processes); the duty to the court and other lawyers; discipline and other regulation. Students seeking admission to the legal profession must complete this course or its equivalent. The course provides an introduction to the development and structure of the legal profession, admission as a lawyer, moral frameworks of legal practice, duties to clients (including managing and accounting for client money), duties of advocacy and representation, competence, loyalty and confidentiality, and professional discipline.

Aims: The broad aims of the course are to:

1. Introduce students to various philosophies of applied ethics;
2. Critically examine the various law, rules, professional guidelines and regulatory processes which govern legal practice in Queensland; and
3. Sensitise students to legal and ethical issues which may arise in practice and equip students with strategies to deal with those issues.

Learning outcomes: After successfully completing this course you should be able to:

1. Demonstrate advanced knowledge of the law and regulatory processes applicable to the legal profession (with particular reference to Queensland), its structures and its rules of conduct.
2. Demonstrate knowledge of the legal requirements applicable to lawyers for dealing with client money, and the acquisition of competence in and understanding of the recording requirements for handling client money.
3. Demonstrate advanced knowledge about how to act ethically as a lawyer, prominent philosophies and models of ethics applied to lawyers, and the moral and societal importance of ethical conduct by lawyers.
4. Know how your personal ethical framework relates to and impacts on important aspects of legal practice and professional rules.

5. Demonstrate advanced skills in the recognition of ethical problems and dilemmas, the application of professional rules and personal standards to ethical problems and dilemmas, and the expression of moral and ethical reasoning.

Assessment: Take-Home Exam on Client Money Management (30%) – learning outcomes 1, 2, 3, 5; Exam (70%) – learning outcomes 1, 3, 5

Note: course coordinator advises that format of assessment is subject to review, and may change to on-line quiz (trust accounting); essay (ethical theory); final exam

Further note: advice from course coordinator regarding **LAWS1112 Law & Society**, a first year compulsory course, that has one of its 12 topics devoted to *an introduction to legal ethics* <http://www.law.uq.edu.au/bachelor-of-laws-compulsory-course-list>; and **LAWS5212 Alternative Dispute Resolution**, an elective course that looks at models of adversarial vs collaborative conduct, theories of access to justice, and at obligations to advise a client on non-litigious options <http://www.law.uq.edu.au/bachelor-of-laws-elective-course-list-2008>

UNIVERSITY OF SOUTHERN QUEENSLAND

<http://www.usq.edu.au/handbook/current/bus/BLAW.html#programcore.courses>

**LAW3211 Legal Professional Practice and Ethics**

Normal enrolment pattern = Final year, Semester 1

Prerequisite: LAW1201 Legal Process and Research

No further significant information available as USQ law course recently established.

## **SOUTH AUSTRALIA**

### **FLINDERS UNIVERSITY**

<http://stusyswww.flinders.edu.au/topic.taf?subj=LLAW&numb=1106&year=2008&type=Calendar&aims=Y&fees=Y>

#### **LLAW1106 Lawyering: Procedures and Ethics**

Normal enrolment pattern = First year, Semester 2

Units: 4.5

Class contact: 2 hours lectures weekly; 1 or 2 hours tutorials weekly

Corequisites: LLAW1105 Contract

Syllabus: Areas covered are: the legal profession, including the judiciary; ethics and professional responsibility, including duties to the client, the court, the profession and society; access to justice and equality before the law; lawyer's roles in dispute resolution processes including civil litigation and ADR; an introduction to practical skills, including listening, interviewing, negotiation, drafting, oral advocacy and group work activities. The areas covered will provide knowledge and perspectives of immediate use and a basis for greater development in later years.

Educational aims: This topic will enable students to understand and critically evaluate the Australian legal system and the role of the legal profession in the legal system and in society as a whole. It introduces students to the basic skills of interviewing, negotiation, drafting and oral advocacy, and links these to the applied practical skills taught later in the curriculum and will provide knowledge and perspectives of immediate use and a basis for greater development in later years.

Learning outcomes: Students who successfully complete this topic should be able to:

- describe and evaluate key principles, concepts and practices which shape and direct the resolution of disputes within or outside the Australian legal system, with special attention to the legal profession;
- demonstrate a very basic level of competence at specific skills of interviewing, negotiation and oral advocacy;
- identify situations which require ethical decisions and actions and to identify appropriate conduct;
- begin to reflect maturely on the role and work of lawyers.

Assessment: tutorial contribution (20%); interview reflective report (13%); negotiation reflective report (23%); examination: 40%

<http://stusyswww.flinders.edu.au/topic.taf?subj=LLAW&numb=4103&year=2008&type=Calendar&aims=Y&fees=Y>

#### **LLAW4103 Civil Litigation**

Normal enrolment pattern = Final year, Semester 1

Units: 6

Class contact: 2 hours lectures weekly; 8 x 2-hour workshops per semester; 1 x 40-min practical

Prerequisites: LLAW2106 Issues in Torts; LLAW2107 Administrative Law [Interviewing]; LLAW3104 Trusts & Assignments; LLAW3102 Corporate Law [Drafting]; LLAW3101 Real Property Law

Syllabus: Students will learn about the civil justice system and how to conduct civil litigation within it. The range of available dispute resolution methods are examined along with their advantages and disadvantages. In that context pre-trial procedural rules governing use of the civil justice system will be studied and practised along with roles of lawyers and their ethical implications.

Educational aims: These are to:

- enable students to develop their knowledge of procedural principles and pre-trial steps in the conduct of civil litigation;
- encourage students to think about the **role and functioning of the civil justice system**;
- develop student understanding of the **roles of lawyers within the civil justice system along with the ethical implications** of those roles;
- provide students with the opportunity to put their procedural knowledge into practice.

Learning outcomes: Students who successfully complete this topic should be able to:

- apply procedural principles to a civil dispute and undertake the necessary pre-trial procedural steps in civil litigation;
- evaluate the major issues in civil justice reform;
- describe the civil justice system and analyse what it does;
- recognise the ethical obligations required of lawyers engaged in civil litigation.

In addition, one-half of the Workshop component comprises a specific **“legal skills & ethics” program**, which is described, in part, as follows:

We will also look at ethical issues and the concept of professional responsibility. By the time you complete this topic, you will know how to act ethically and demonstrate professional responsibility and professional courtesy in all dealings with clients, the courts, other lawyers, the community, and other professionals. You will also have learned to identify situations of conflict, recognise your ethical responsibilities as lawyers and to analyse and reflect upon your duties to the Court, your clients, the profession and to society.

Assessment: practical exercises (50%); examination (50%)

[See also **LLAW 4103A Principles of Civil Litigation**

<http://stusyswww.flinders.edu.au/topic.taf?subj=LLAW&numb=4103A&title=&type=Calendar&year=&aims=&fees=Y>]

<http://stusyswww.flinders.edu.au/topic.taf?subj=LLAW&numb=4104&year=2008&type=Calendar&aims=Y&fees=Y>

**LLAW4104 Advanced Civil Litigation**

Normal enrolment pattern = Final year, Semester 2

Units: 3

Class Contact: 22 hours lectures per semester; 4 x 1-hour workshops per semester

Prerequisites: LLAW4103 Civil Litigation

Syllabus: Students will continue to learn about the civil justice system and how to conduct civil litigation within it. The range of available dispute resolution methods are further examined along with their advantages and disadvantages. In that context procedures for resolving civil litigation and post-trial procedural rules will be studied and practised along with **roles of lawyers and their ethical implications**.

This subject continues into the post-trial phases the learning commenced in LLAW4103 Civil Litigation. It includes the aim of “develop[ing] student understanding of the roles of lawyers within the civil justice system along with the ethical implications of those roles in settling disputes through to post-trial phases”, along with an associated learning outcome of “recognis[ing] the ethical obligations required of lawyers engaged in resolving litigation through to post-trial phases”.

[See also LLAW 4104A Advanced Principles of Civil Litigation <http://stusyswww.flinders.edu.au/topic.taf?type=Calendar&subj=LLAW&numb=4104A&year=2008&aims=&fees=Y>]

<http://stusyswww.flinders.edu.au/topic.taf?subj=LLAW&numb=5901&year=2008&type=Calendar&aims=Y&fees=Y>

### **LLAW5901 Legal Practice Management [Placement]**

Normal enrolment pattern: Final year + (this is, technically, part of the Practical Legal Training component of an integrated Bachelor of Laws and Legal Practice degree)

Units: 6

Syllabus: Students will study office systems, work and file management, client relations, **trust and office accounting**. They will also cover the **statutory requirements governing the professional conduct of practitioners and the ethical obligations of legal practitioners**. Risk management strategies will also be studied. Students will also participate in a 6 week placement in a legal office.

Educational aims: The aim of this topic is to provide students with a broad insight into the realities of the practice of law, with a **focus on the concept of professional responsibility**. There are three components: Law Practice 1, Law Practice 2 and a 6 week Work Experience Placement. Law Practice 1 focuses on 5 main areas: work management; taxation and stamp duties; costs; **office and trust accounting; ethics and professional responsibility**. Law Practice 2 is a Risk Management workshop. Students will focus on the professional skills required to meet client expectations including effective communication and good client service. The Work Experience Placement consists of 225 hours in a legal office. Students are required to complete specified tasks and conduct themselves in an appropriate manner during the Placement.

Learning outcomes: It is expected that as a result of participation in this topic, students will have a “hands-on” understanding of legal practice and be equipped with the ability to participate effectively in the profession upon being admitted to practice. On completion of the topic, students will have an **appreciation of what it means to belong to a profession** as well as having knowledge and skills in effective communication with clients, peers, supervisors and the judiciary. Students must demonstrate their competence in their ability to manage

office systems, their understanding of how taxation and stamp duties affect legal transactions, **basic book-keeping principles**, and the **rules of professional conduct and their duties as a practitioner to the court, to their clients, to the profession and to society**.

UNIVERSITY OF ADELAIDE

<http://access.adelaide.edu.au/courses/details.asp?year=2008&course=005432+1+2820+1>

### **LAW 3004 - Legal Ethics**

*For 2008 & 2009:*

Normal enrolment pattern = Year 3, Sem 2

Units: 2

Contact: 26 hours

Prerequisite: LAW 1001

Assumed Knowledge: LAW 2001 , LAW 2002

Syllabus: The course considers the duties owed by lawyers to the court, clients, other lawyers and the community. The Legal Practitioners Act and the Law Society's Professional Conduct Rules are considered and the concept of professional misconduct is examined. Specific matters addressed include confidentiality and client privilege; duties with respect to the handling of client's money; frankness and integrity towards the court and other lawyers; and adherence to undertakings. The nature of disciplinary systems and public access thereto and wider questions of personal ethics and conflicting duties and values also are considered.

Assessment: exam 100% or 50%, 2000 word research essay 50%

From 2010: **Professionalism and Legal Ethics** will be taught in 3 subjects at different year levels in the degree, as follows:

#### **A. Foundations of Law**

Normal enrolment pattern = Year 1, Sem 1 or 2

Units: 3

Contact: 6 hours (2 weeks)

Syllabus: Week 9 – Introduction to the legal profession. Week 10 – Introduction to legal and professional ethics.

#### **B. Criminal Law and Procedure**

Normal enrolment pattern = Year 2

Units: 6

Contact: 8 hours (2 weeks)

Prerequisite: LAW 1001

Syllabus: In the context of criminal law, the course considers the duties owed by lawyers to the court, clients, other lawyers and the community. The Legal Practitioners Act and the Law Society's Professional Conduct Rules are considered and the concept of professional misconduct is examined. Specific matters addressed include confidentiality and client privilege; duties with respect to the handling of client's money; frankness and integrity towards the court and other lawyers; and adherence to undertakings. The nature of

disciplinary systems and public access thereto and wider questions of personal ethics and conflicting duties and values also are considered.

### **C. Dispute Resolution and Ethics**

Normal enrolment pattern - Year 3

Units: 3

Contact: 12 hours (4 weeks)

Syllabus: In the context of litigation practice and dispute resolution in and out of court, the course considers the duties owed by lawyers to the court, clients, other lawyers and the community. The Legal Practitioners Act and the Law Society's Professional Conduct Rules are considered and the concept of professional misconduct is examined. Specific matters addressed include confidentiality and client privilege; duties with respect to the handling of client's money; frankness and integrity towards the court and other lawyers; and adherence to undertakings. The nature of disciplinary systems and public access thereto and wider questions of personal ethics and conflicting duties and values also are considered.

## UNIVERSITY OF SOUTH AUSTRALIA

<http://www.unisanet.unisa.edu.au/courses/course.asp?Course=LAWS4006>

### **LAWS 4006 Professional Conduct**

Normal enrolment pattern = 6<sup>th</sup> trimester (out of 8); ie penultimate year; not compulsory except for students intending to seek admission to practice

Unit value: 4.5

Prerequisite(s): Nil Corequisite(s): Nil

Content: The focus of this course is on the responsibilities of the legal profession in South Australia. This requires an understanding of:

- What constitutes a profession;
- The particular attributes of the legal profession;
- The legal and equitable responsibilities of members of the legal profession;
- Why ethical analysis is important in understanding the obligations associated with legal practice;
- The professional and ethical standards required of the profession; and
- The disciplinary processes governing the profession and the institutional framework within which the profession is regulated.

These questions need to be understood in the context of the legal profession in Australia generally and of its origins in England. A number of the rules in underpinning professional responsibility will have already been considered in other courses: for example contractual and tortious obligations. Although there will be limited reference to these, the emphasis in this course is upon obligations arising under the legislation that applies to the legal profession and upon the ethical principles applicable to the legal profession in general.

The content of this course is divided into seven parts as follows:

### *Part 1*

- What is a profession?
- The responsibilities of a professional person
- The responsibilities of a professional lawyer:
  - Legal;
  - Professional;
  - Ethical;
- The source of these responsibilities:
  - Legislation, including:
    - Legal Profession (Barristers) Rule 2004;
    - Legal Profession (Solicitors) Rule 2005 (currently in draft form);
  - The common law; and
  - The personal morality of the practitioner

### *Part 2*

- The legal profession:
  - Its history in England;
  - Its history in Australia and South Australia;
  - A divided or a unified profession;
  - The structure of the legal profession in South Australia

### *Part 3*

- The regulation of the legal profession in South Australia.
- The institutions regulating the legal profession in South Australia:
  - The Supreme Court
  - The Bar Association;
  - The South Australia Law Society;
  - The Legal Services Commission;
- Admission into the legal profession; eligibility and qualifications.
- Procedures for making complaints about lawyers.
- Disciplinary proceedings.
- Removal from the profession.

### *Part 4*

- The required standards of professional conduct
- The common law and professional negligence
- Statutory standards:
  - Trusts Accounts Act 1973

- Queensland Law Society Act 1952;
- Legal Profession Act 2004
- Ethical standards of the profession

*Part 5*

- Duties owed to the client:
  - Confidentiality and privilege;
  - Conflict of interest;
  - Diligence and competence;
  - Clients money

*Part 6*

- Duties to the administration of justice:
  - The adversary system;
  - Fairness and candour in respect of the Court

*Part 7*

- Accounting for clients money:
  - The purpose of trust accounts;
  - The requirements of trust accounts;
  - The practicalities of trust accounts

Assessment: “career development” (ie experiential learning component) (15%); policy-based written assignment (25%); examination (60%)

## TASMANIA

### UNIVERSITY OF TASMANIA

[http://courses.utas.edu.au/portal/page?\\_pageid=53,33239&\\_dad=portal&\\_schema=PORTAL&P\\_UNIT\\_CODE=LAW696&P\\_YEAR=2008](http://courses.utas.edu.au/portal/page?_pageid=53,33239&_dad=portal&_schema=PORTAL&P_UNIT_CODE=LAW696&P_YEAR=2008)

### **LAW696 Professional Conduct**

Normal enrolment pattern = Final year, Sem 1

Weight: 12.5%

Contact: 2-hour lecture weekly + optional tutorial/seminar classes towards end of semester

Prerequisite: Completion of first-year core units

Description: Conveys to students the onerous responsibilities that are cast on lawyers by virtue of their position and role in society. The unit deals with the lawyer's duty to her or his clients, to the administration of justice, and to the community as a whole. It also addresses issues relating to lawyers' costs and lawyers' discipline.

The unit seeks to engender in students an appreciation of the unique function that lawyers play in modern Australian society, and how that function is essential to the administration of justice. Although it is unrealistic to assume that a university course will necessarily generate ethical behaviour in practice, or “convert” an unethical person into an ethical one, at least the course attempts to convey to students:

- what ethical or professional behaviour may require in a given circumstance (or circumstances).
- a framework within which to resolve ethical issues.

In addition, the unit aims to enable students to effectively analyse and resolve problems in respect to the above, and to develop a critical appreciation of issues facing the legal profession.

Learning outcomes: Students are expected to display:

1. A thorough understanding of the principles of law and ethics that govern lawyers' practice.
2. A refined analytical and conceptual ability to solve factual problems in relation to the foregoing.
3. An appreciation of the policy issues that underlie the current law, professional rules and ethics.
4. An appreciation of the political and historical factors that have shaped and continue to shape, the current law, professional rules and ethics.

Assessment: assignment (25%, completed in pairs); examination (75%)

## **VICTORIA**

### **DEAKIN UNIVERSITY**

[http://www.deakin.edu.au/future-students/courses/unit.php?unit=MLL335&return\\_to=%2Ffuture-students%2Fcourses%2Fcourse.php%3Fcourse%3DM312%26stutype%3Dlocal%26keywords%3Dlaw](http://www.deakin.edu.au/future-students/courses/unit.php?unit=MLL335&return_to=%2Ffuture-students%2Fcourses%2Fcourse.php%3Fcourse%3DM312%26stutype%3Dlocal%26keywords%3Dlaw)

### **MLL335 Legal Practice and Ethics**

Normal enrolment pattern = Penultimate or final year, Sem 2 or summer semester

Credit points: 1

Contact hours: 4 x 1 hour lectures per week

Prerequisite: MLL110, MLL111, MLL213 and MLL214

Content: The unit introduces students to the practice of law and to the ethical obligations they will assume upon becoming lawyers. Topics include: the history and organisation of the Victorian legal profession; current trends in professional practice; professional responsibility and liability; introduction to ethics and ethical concepts; legal ethics and the duties owed by lawyers to the law, to their clients, to the Court and to each other; statutory regulation of the legal profession; and trust accounting.

1. Introduction
2. Legal Profession Act 2004
3. Admission to Practice
4. Trust-account obligations
5. Trust account procedures
6. Responsibility to the client
7. Duty of loyalty
8. Costs
9. Professional conduct rules
10. Disputes and discipline
11. Responsibility to the court, the law and the profession
12. Confidentiality and Privilege

Nature of the unit: MLL335 Legal Practice & Ethics introduces students to a comprehensive analysis of the philosophical and practical aspects of legal practice. Whilst ethical issues would have arisen from time to time in other subjects, this subject is a concentrated analysis of ethical issues that arise in the practice of law.

Learning objectives: On completion of this unit students should be able to:

1. Demonstrate an understanding and knowledge of the rules of ethics and professional responsibilities that govern their relationship with their clients, the court, the legal profession and other persons with whom they will come into contact.
2. Conduct effective interviews with clients, showing an awareness of social and cultural differences, and advise clients appropriately in relation to relevant substantive and procedural law.
3. Understand the requirements and operation of trust account rules, and demonstrate that understanding by completing an exercise in accounting.
4. Critically evaluate the operation of the Legal Practice Act and the Rules made pursuant to the Act.

5. Work co-operatively and productively as a member of a team.
6. Prioritise, administer, organise and manage professional commitments.
7. Demonstrate an understanding of the nature of conflict and resolution.
8. Consider the requirements of admission to practice and the ongoing obligations of practice, in particular the requirement of ongoing legal education.
9. Discuss and apply the various strict duties which a lawyer owes to a client – duty of representation; inform advise and act on instructions; duty to continue to act; duty of competence and diligence; and the duty of confidence

Assessment: Compulsory assignment (30%); examination (70%)

Also note advice from Deakin that the first-year introductory unit **MLL110 Law, Society and Civil Rights** devotes 4 lecture hours to an introduction to legal ethics. In addition, during their course of study, students must undertake 4 dispute resolution practical legal skills exercises – **MLL0100 Moot**; **MLL020 Mediation**; **MLL030 Arbitration**; and **MLL040 Witness Examination** – that implicate, in part, the proper conduct of a professional lawyer. Instruction occurs on-line and assessment is via oral performance.

## LA TROBE UNIVERSITY

[http://udb-iasprd.latrobe.edu.au/udb1subprd\\_public/publicview\\$P\\_subjects.queryview?P\\_SUBJECT\\_CODE=LAW4LPC&P\\_SUBJECT\\_OFFER\\_YEAR=2008&Z\\_CHK=65224&P\\_SUBJECT\\_CODE\\_1=LAW4LPC&P\\_SUBJECT\\_NAME=&P\\_SEMESTER=&P\\_YEAR\\_LEVEL=&P\\_FACULTY=&P\\_CAMPUS=&P\\_DISCIPLINE\\_CODE=&P\\_SUBJECT\\_OFFER\\_YEAR\\_1=2008&Z\\_START=&Z\\_ACTION=NEXTLAW4LPC](http://udb-iasprd.latrobe.edu.au/udb1subprd_public/publicview$P_subjects.queryview?P_SUBJECT_CODE=LAW4LPC&P_SUBJECT_OFFER_YEAR=2008&Z_CHK=65224&P_SUBJECT_CODE_1=LAW4LPC&P_SUBJECT_NAME=&P_SEMESTER=&P_YEAR_LEVEL=&P_FACULTY=&P_CAMPUS=&P_DISCIPLINE_CODE=&P_SUBJECT_OFFER_YEAR_1=2008&Z_START=&Z_ACTION=NEXTLAW4LPC) **LEGAL PRACTICE AND CONDUCT**

### **LAW4LPC Legal Practice and Conduct**

Normal enrolment pattern = penultimate or final year (Sem 2) “desirable”

Credit Points: 15.0

Contact: one 1-hour lecture and one 2-hour seminar per week

Prerequisites: Completion of this unit in the penultimate or final year of the law programme is desirable.

Unit Description: Ethical legal practice and conduct are the primary focus of this unit. This includes examining the legal practitioner's duty to the administration of law, the courts, clients and fellow practitioners, issues of personal and professional conduct and basic trust accounting. The context for this study is the issue of access to justice and recent reforms in the legal profession. Students are encouraged to reflect on how a legal practitioner's duties and ethics are relevant to daily legal practice, as well as on the efficacy of law, the legal system, the legal profession and the nature of justice. This unit meets the requirements of the Council of Legal Education for admission to practice in Victoria in the area Professional Conduct.

Assessment: 2,000-word assignment (40%); 2,500-word take-home exam (60%)

<[http://udb-iasprd.latrobe.edu.au/udb1subprd\\_public/publicview\\$P\\_subjects.queryview?P\\_SUBJECT\\_CODE=LAW1LIM&P\\_SUBJECT\\_OFFER\\_YEAR=2008&Z\\_CHK=4789&P\\_SUBJECT\\_CO](http://udb-iasprd.latrobe.edu.au/udb1subprd_public/publicview$P_subjects.queryview?P_SUBJECT_CODE=LAW1LIM&P_SUBJECT_OFFER_YEAR=2008&Z_CHK=4789&P_SUBJECT_CO)

[DE 1=LAW1LIM&P SUBJECT NAME=&P SEMESTER=&P YEAR LEVEL=&P FACULTY=&P CAMPUS=&P DISCIPLINE\\_CODE=&P SUBJECT OFFER\\_YEAR\\_1=2008 &Z\\_START=&Z ACTION=NEXT>](#)

### **LAW1LIM Legal Institutions and Methods**

Normal enrolment pattern = First year, Sem 1

Credit Points: 15.0

Contact: one 1-hour lecture and one 2-hour seminar per week

Prerequisites: Completion of this unit in the penultimate or final year of the law programme is desirable.

Unit Description: Basic legal concepts and skills are examined. The institutions of law - the court and parliament structures - are examined, along with introductions to concepts such as International Law, Corporate Law and Access to Justice. The main skills examined are the conduct of legal research, the use of primary sources of law, and the employment of legal modes of analysis, especially problem solving. The tasks which students are assigned include: finding primary and secondary sources in the library, analysing and assessing cases, examining court structures through a court visit exercise, preparing case briefs, interpreting legislation and legal writing. *Ethical aspects of legal advising are also examined.*

### MONASH UNIVERSITY

<http://www.monash.edu.au/pubs/handbooks/units/LAW5125.html>

### **LAW5125 - Lawyers ethics and society**

Normal enrolment pattern = Year 2+, offered three times per annum, “quasi-compulsory” unit (not required in order for a student to graduate with a Bachelor of Laws; however required to be eligible for admission to practice as a solicitor in Victoria).

Credit points: 6

Contact hours: Three hours of lectures per week and two-hour workshop every four weeks

Prerequisites: LAW1100 or LAW1101 and LAW1102; LAW2100 or LAW2101 and LAW2102; LAW2200 or LAW2201 and LAW2202

Synopsis: Topics include: history, organisation, education, functions and regulation of lawyers in Victoria and elsewhere; reform issues; nature and significance of a profession; independence of courts and lawyers; changing face of dispute resolution; the cost of justice and different modes of legal service delivery; standards of professional conduct including basic trust accounting, complaints and disciplinary procedures; ethical rules and moral values, with a particular emphasis on identifying and resolving ethical issues. The unit meets the requirements of the Council of Legal Education for admission to practice in Victoria in the area of “professional conduct”.

Objectives: Students successfully completing this unit should:

- have an understanding of the legal profession in its historical and societal contexts and issues surrounding the regulation of the profession;
- be able to analyse critically the role of the lawyer in the Australian legal system with reference to questions such as the independence of courts and lawyers, the adversarial

nature of the system, dispute resolution, the cost of justice and different modes of legal service delivery;

- have examined and understood the concept of trust in the lawyer-client relationship;
- have developed skills in recognising and distinguishing types of professional and personal conduct and questions of moral, ethical and legal obligation;
- have been exposed to the concepts of individual values as a factor in critical decisions involving choice in relation to complex ethical decision-making;
- have been exposed to the concepts of ethical methods, moral philosophy and “lawyer types” as tools to assist in the analysis of ethical complexity;
- have developed skills in applying the law of contract and torts in relation to lawyer-client duties, breaches and remedies; and
- have enhanced skills in critical analysis and presentation of argument.

Learning outcomes: On successfully completing *Lawyers, Ethics & Society*, students should:

1. understand the nature of a profession and the privileges and obligations of being a member of a profession;
2. understand legal practitioners’ obligations as trustees of client money and the basic principles of trust accounting;
3. appreciate some current issues and future challenges confronting the legal profession and have reasoned opinions about them;
4. understand how the legal profession is organised and regulated in Victoria and implications of current reforms;
5. understand the ethical and professional obligations of lawyers with respect to clients, the courts, other practitioners, third parties and the community generally;
6. be able to identify ethical issues that arise in the context of legal practice;
7. understand how to resolve ethical issues in accordance with the principles and rules of professional conduct;
8. appreciate the role of personal moral values in professional conduct;
9. understand practitioners’ obligations to provide information to clients and in charging legal costs appreciate the role of lawyers in the Australian state and society.

Assessment:

*Semesters 1 and 2*

- Two half-hour group discussions on scenarios involving ethical methods, communication and costing (10%)
- Research assignment (compulsory) (2400 words) (30%)
- Take home Examination (2,000 word) (60%)

*Summer Semester:*

- Research assignment (compulsory) (2400 words): (30%)
- Take home examination (2,000 words) (70%)

## UNIVERSITY OF MELBOURNE

The Melbourne Law School has 2 degrees leading to admission to practice: the Melbourne JD and the LLB. Aspects of legal ethics and professional conduct are introduced to students in both degrees early in the program through the compulsory subject Legal Theory; all students complete the compulsory subject Legal Ethics towards the end of the degree. The legal ethics subject draws together a number of perspectives on law (known as “cross-cutting influences”) that are developed in a coordinated way throughout the curriculum, including: theories of ethical responsibilities, comparative approaches, history of various kinds, indigenous culture, law and policy, and intercultural perspectives.

Students in both the JD and the LLB are also encouraged to reflect on their skill development through their degree via the WorkSkills website <http://workskills.law.unimelb.edu.au/>. This includes a module on Professionalism, defined as “the ability to demonstrate commitment to ethical and professional conduct. It includes the ability to:

- Appreciate and respond to the demands of different working environments
- Demonstrate sensitivity to clients and the issues affecting them
- Understand regulations and standards relating to professional conduct for lawyers, including client confidentiality
- Understand and apply the rules relating to legal privilege and conflict of interest
- Apply legal ethics in decision-making
- Understand external events, policies and issues affecting the practice of law
- Understand the potential for individuals to contribute to positive change in the profession and within the community through policy development, institutional change and legislative reform
- Engage in active, self-directed and reflective learning and professional development.

Handbook entries for the Legal Ethics subjects in the JD and LLB are provided below.

### Melbourne JD

<http://jd.law.unimelb.edu.au/index.cfm?objectid=8D2E733E-1422-207C-BAB07938AEBE04D9%20&view=overview&sid=4049>

### **733532 Legal Ethics**

Normal enrolment pattern = Final year, Sem 1

Credit points: 12.5

Contact hours: 2 x 2hr seminars each week (144 hours “estimated total time commitment”)

Prerequisites: In normal circumstances, satisfactory completion of Legal Method and Reasoning; Principles of Public Law; Torts; Obligations; Dispute Resolution; Contracts; Constitutional Law; Legal Theory; Property; Administrative Law; Trusts; Criminal Law; Remedies.

Description: As Legal Ethics is studied toward the end of the JD, it is able to consolidate the ethical dimension of other subjects, as well as critique ethical assumptions made in other subjects about the role of lawyers.

Legal Ethics is a practical and critical introduction to ethical decision-making for lawyers. It introduces different moral approaches, focusing on the justifications for and criticisms of the traditional adversarial advocate approach and alternatives to it. The course also critically examines the way that the legal profession has developed and is organised and how it is

currently regulated, including through admission and disciplinary processes. It also examines the law of lawyering that applies to lawyers including laws and professional conduct rules relating to conflicts of interest, confidentiality, privilege and the duties owed by the lawyer to the court, as well as circumstances in which lawyers have an immunity from civil liability (advocates immunity). Students will be expected to identify and resolve ethical issues that arise in legal practice by applying the law of lawyering as well as understand the rationales for, as well strengths and weaknesses of, the current law of lawyering. Students will also be expected to critically assess the way lawyers' ethics are regulated by these rules against different moral approaches to legal ethics.

Legal Ethics builds on the knowledge and skills developed in a number of earlier subjects in the curriculum, including primarily Dispute Resolution (regarding the role of lawyers in relation to dispute handling, and duties to the client and the court), Obligations (contractual, equitable and statutory obligations to the client), Torts (lawyers' liability in negligence), and to a lesser degree, Principles of Public Law (regarding the regulation of lawyers), Constitutional Law (regarding arguments for and against self-regulation of lawyers, and regulation of lawyers at a State level) and Legal Theory (regarding perceptions of justice).

Legal Ethics will normally be taught simultaneously with Evidence & Proof. This allows for an integrated approach to issues such as Client Legal Privilege and the lawyer's obligations in regard to the admissibility and validity of evidence to be tendered in court.

Legal Ethics takes special responsibility for the development of skills in considering a range of options in response to a legal problem and in identifying those which are sound and principled, as well as skills in judgment and diplomacy.

Subject Objectives: On completion of this subject, students should:

- understand the main ethical theories relevant to legal ethics and be sensitive to considerations which are relevant to ethical thinking and decision-making.
- be able to apply different ethical approaches to legal ethics to various fact scenarios
- understand and critically analyse the way that lawyers' ethics and conduct are regulated in Australia (particularly Victoria), including through disciplinary processes
- know the professional conduct standards and general law that regulate lawyers, including those relating to conflicts of interest, confidentiality and duties owed to the client, and be able to apply them to fact scenarios
- be able to identify conduct and ethical issues that arise in legal practice in particular situations, be able to identify the different ways in which they could be resolved, and the arguments for and against those different resolutions
- be able to identify situations in which professional conduct standards and the general law conflict with one another or provide insufficient guidance about what the law expects or allows a lawyer to do
- be able to decide on, explain and justify the way in which they personally would resolve ethical issues in particular situations
- be able to identify and explain what practical actions they would need to take to carry out that resolution in a practical situation
- be respectful of other points of view as to how ethical issues should be resolved
- be able to critically evaluate aspects of the practice of law, including practice setting (eg large law firms, inhouse counsel), the lawyers' monopoly over legal practice, advocates'

immunity, admission requirements and the ban on contingency fees may impact on a lawyer's ethical approach and the legal profession's contribution to justice

- understand and be able to practise the principles of trust accounting
- have the capacity to engage in constructive professional and public discourse and to speak out against prejudice, injustice and the abuse of power

Generic Skills: On completion of the subject, students should have developed the following generic skills:

- skills in identifying and resolving a legal problem
- skills in considering a range of options in response to a legal problem and in identifying those which are sound, principled, and best meet the needs of the client or other audience
- judgment and diplomacy skills
- interpersonal skills in relating to a client or other audience (actual or hypothetical) and in providing advice attuned to that person's needs and interests
- skills in policy analysis
- skills in the avoidance, mediation and resolution of disputes
- skills in being open to new ideas and the perspectives of others
- skills in the critique of received wisdom
- skills in confronting unfamiliar problems
- skills in comprehending complex concepts and expressing them lucidly
- skills in speaking out against prejudice, injustice and abuse of power

Assessment: Practical Exercise (30%); Assignment (70%); Trust Accounting Examination (Pass/Fail; "hurdle requirement")

*Melbourne LLB*

<https://app.portal.unimelb.edu.au/CSCApplication/view/2008/730-454>

### **730-454 Legal Ethics**

Normal enrolment pattern = Fourth year of a combined degree, Sem 2

Credit points: 12.5

Contact hours: 2 x 2hr seminars each week (144 hours estimated total time commitment)

Prerequisites: In normal circumstances, satisfactory completion of Legal Method and Reasoning; Principles of Public Law; Torts; Dispute Resolution; Obligations or in each case their equivalents.

Description: Legal Ethics is a practical and critical introduction to ethical decision-making for lawyers. The subject has two main components. Firstly, it introduces different moral approaches to legal ethics, focusing on the justifications for and criticisms of the traditional adversarial advocate approach and alternatives to it. Students will be expected to be able to apply the different moral approaches to fact scenarios and to be able to articulate and explain which approach/es they find most convincing for each scenario and why. Secondly, the course examines the way that lawyers' ethics and conduct are regulated including the co-regulatory

disciplinary process, the professional conduct standards that regulate lawyers including those relating to conflicts of interest, confidentiality and duties owed to the court and the general law of lawyering, including obligations in equity, contract and tort as well as procedural obligations in litigation. Students will be expected to be able to identify and resolve ethical issues that arise in legal practice using the professional conduct rules and law of lawyering. Students will also be expected to be able to critically assess the way lawyers' ethics are regulated by these rules against different moral approaches to legal ethics. Finally, the principles of trust accounting are taught and assessed as part of this course.

Objectives: On completion of this subject, students should be able to:

- understand the reasons for studying legal ethics
- understand different moral approaches to legal ethics and be able to apply them to fact scenarios
- understand and critically analyse the way that lawyers' ethics and conduct are regulated in Australia (particularly in Victoria), including disciplinary process
- know the professional conduct standards that regulate lawyers including those relating to duties to the court and to the administration of justice, conflicts of interest and confidentiality, and be able to apply them to fact scenarios
- be able to identify conduct and ethical issues that arise in legal practice in particular situations, be able to identify the different ways in which they could be resolved, and the arguments for and against those different resolutions
- be able to decide on, explain and justify the way in which they personally would resolve conduct and ethical issues in particular situations in a way that is appropriately respectful of other points of view
- be able to identify and explain what practical actions they would need to take to carry out that resolution in a practical situation
- understand and be able to practise the principles of trust accounting

Generic Skills: On completion of the subject students should have developed the following generic skills:

- evaluation and synthesis of competing theories, rationales and ideas to resolve practical problems
- openness to new ideas and critiques of received wisdom;
- an ability and self-confidence to comprehend complex concepts, to express them lucidly, whether orally or in writing, and to confront unfamiliar problems
- capacity to engage in constructive professional and public discourse, to accept professional, social and civic responsibilities and to speak out against prejudice, injustice and the abuse of power

Assessment: Ethics Exercise (1500 words; 30%); Assignment (3500 words; 70%); Trust Accounting Examination (online, open book; marked on a pass/fail basis as a hurdle requirement)

VICTORIA UNIVERSITY

<http://wcf.vu.edu.au/Handbook/DisplaySubjectDetails.cfm?SubjectID=48680>

## **BLB3131 LAWYERS AND LEGAL ETHICS**

Normal enrolment pattern = *unclear from information available*

Credit points: 12

Class contact: Equivalent to three hours per week. Normally to be delivered as two hours of lectures and one hour of tutorials, workshops or modules or a delivery mode as approved by the Faculty of Business and Law.

Prerequisite: Nil

Content: This unit of study shall commence with an examination of the origins and the development of the legal profession within the Australian context and the professional divisions within the legal profession. This will be followed by an examination of the general ethical responsibilities of the lawyer; the duties owed by the legal professional to the law, the court and the client; the various types legal services provided by the profession; the role of non-lawyers within the system; the role of the judge; and finally, an examination of the future of the legal profession, including an examination of the ethical implications of the possible future acceptance of MDP's. This unit fulfils the COLE requirements for professional conduct including basic trust accounting.

Assessment: Assignment (40%); Final examination (60%)

However, note advice from Associate Dean (Teaching and Learning) as to current curriculum review in conjunction with university-wide move towards 25% “learning in the workplace and community” across all courses. A suite of subjects is in the process of development and some of these subjects will “foreground” professional conduct and ethics. It is anticipated that these subjects will be electives rather than compulsory, but final decision is yet to be made. The subjects will, variously, include consideration of matters such as:

- the responsibilities of professional practice including ethical duties;
- ethical professionalism and the role of reflective learning as a tool of professional development;
- appreciation of ethical duties including confidentiality, conflicts of interest, pro bono duties and understanding of social responsibilities such as recognition of economic disparity and appreciation of the importance of difference;
- ethical information-handling processes and management of resources;
- ability to negotiate ethically around issues arising in collaborative activities and sharing of workloads and resources;
- understanding of social networks and an ethical appreciation of how the experience of others impacts on individual professionalism;
- understanding of the role of leadership and ethical decision making in organisations and an ability to plan based on these foundations;
- trial strategy and ethical issues;
- complicated legal conflicts and associated ethical responsibilities;
- ethical obligations to contribute to reform of law.

RMIT

**LAW1037 Legal Practice Management and Professional Conduct**

Normal enrolment pattern = Final (?) year elective, Sem ? (note advice that “students seeking to practise as lawyers must undertake Legal Practice Management and Professional Conduct as one of their electives”)

Credit points: 12

Prerequisite: LAW1019 Introduction to the Australian Legal System and Legal Methods;  
LAW1021 Contract Law

In light of recent establishment of the law degree course, further information is unavailable at this time.

## WESTERN AUSTRALIA

### EDITH COWAN UNIVERSITY

<http://handbook.ecu.edu.au/CourseStructure.asp?disyear=2008&CID=0&USID=0&UCID=7599&UID=6977&Ver=2.01&HB=HB&SC=UG> (but included as an elective <http://www.business.ecu.edu.au/courses/blaws.htm> rather than as part of compulsory core and coded “CRI” rather than “LAW”)

### **CRI3101 Professional Ethics**

#### SCHOOL OF LAW AND JUSTICE

Normal enrolment pattern = later year enrolment?

Credit points: 15

Class contact: 2-hour lecture + 1-hour tutorial per week (with corresponding electronic versions for on-line students)

Description: This unit explores the issue of ethical conduct in professional practice. It will provide students with the skills to analyse and discuss codes of conduct and ethical behaviours in law, policing and justice. Students will be challenged by ethical dilemmas in both theoretical and practical contexts.

Content: The unit considers the following matters:

- What is ethical;
- The origins of ethical thought;
- The difference between morals and ethics;
- Codes of conduct and legislative requirements for professionals;
- Ethical challenges for legal professionals;
- Ethical challenges for police;
- Ethical challenges for the broader justice system;
- Misconduct : what should be done.

Learning outcomes: On successful completion of this unit students should be able to:

- Understand the virtues of ethics and morality;
- Recognise and debate ethical dilemmas;
- Understand the elements, the legislative requirements and codes of conduct for professionals in law, policing and justice;
- Understand ethical challenges for legal professionals;
- Understand the ethical challenges for the police;
- Understand the ethical challenges as they apply to the broader justice system;
- Evaluate the impact of misconduct and corruption in public office;
- Recognise and debate the consequences of unethical conduct.

Graduates Attributes: The following Graduate Attributes are intended to be developed:

### *Enterprise Initiative and Creativity*

In this unit students are required to apply a body of theoretical knowledge whilst resolving ethical dilemmas.

### *Awareness of Political, Social and Ethical Issues*

In this unit, students are required to develop an understanding of ethical conduct.

### *Communications*

In this unit, students are required to complete informal oral presentations during tutorials. Although not assessed, the presentation and discussion of ethical dilemmas facilitates the development of communication skills.

### *Teamwork*

In this unit, students are required to resolve ethical dilemmas in groups. They will present conclusions to the class during informal group presentations. This will enable students to learn how to collaborate as a team in order to produce an outcome.

Assessment: Journal Ethics Portfolio (30%); Essay Applied Theoretical Paper (30%); Examination (40%)

See also:

<http://handbook.ecu.edu.au/CourseStructure.asp?disyear=2008&CID=0&USID=0&UCID=21811&UID=21151&Ver=4&HB=HB&SC=UG> for the 15-credit point final year unit

**LAW4605 Commercial Practice, Conveyancing & Drafting I**, the Description of which includes examination of “lawyers' professional obligations ... in the context of the completion of documentary transactions” and indicates intended attainment of the Graduate Attribute “Awareness of Political, Social and Ethical Issues” in the form of “awareness of the broader ethical concerns which apply to documentary transactions, including conflict of interests when representing multiple parties, and duties to fellow legal practitioners.”

See also:

<http://handbook.ecu.edu.au/CourseStructure.asp?disyear=2008&CID=0&USID=0&UCID=21813&UID=21153&Ver=3&HB=HB&SC=UG> for the 15-credit point final year unit

**LAW4615 Commercial Practice, Conveyancing & Drafting II**, the Description of which includes “*continued*” examination of “lawyers' professional obligations ... in the context of the completion of documentary transactions” and indicates the same intended attainment, in the same form, of the Graduate Attribute “Awareness of Political, Social and Ethical Issues”.

## MURDOCH UNIVERSITY

<http://handbook.murdoch.edu.au/units/detail07.lasso?unit=LAW150>

### **LAW150 Australian Legal System**

Normal enrolment pattern = First year, Sem 1 or Sem 2

Points: 3

Class contact: 3 hrs total of lectures and workshops per week (with spring offering availability over 2 intensive weeks)

Description: Focuses on the institutions of the law and the way in which lawyers approach their work, looking at the range of legal institutions in Australia, including courts, legislative

bodies, the civil services and the legal profession. Topics: development of Australian legal system's "common law" characteristics; working with case-law and the doctrine of precedent; nature, operation and interpretation of statutes; alternative dispute resolution; **legal practice and ethics**; inclusion and exclusion in law; development of fundamental library research skills; exam techniques.

<http://handbook.murdoch.edu.au/units/detail.lasso?unit=LAW252>

### **LAW252 Evidence**

Normal enrolment pattern = Second or third year, Semester 1

Points: 4

Class contact: Lectures 4 hours per week + 5 tutorials

Prerequisites: L150/LEG150/LAW150 Australian Legal System. In addition students must have passed L120/LEG120/LAW120 Research and Writing, or be concurrently enrolled in LAW120 Research and Writing.

Description: This unit deals with the plethora of rules affecting the admissibility or exclusion of evidence and the examination of witnesses. These rules will be discussed within the framework of the trial process. The prime focus will be on the law of evidence in Western Australia. In addition, comparisons will be made with the Commonwealth Evidence Act.

Aims:

The primary aim of this unit is to provide you with both practical and theoretical understandings of the law of evidence as it pertains to civil and criminal matters. Procedural and substantive issues will be considered by way of examination of the common law and the relevant statutory provisions; the *Evidence Act 1906* (WA) and the *Evidence Act 1995* (Cth). In addition to introducing you to the law of evidence, this unit aims to familiarise you with the **Professional Conduct Rules** as compiled by the Western Australian Legal Practice Board.

The secondary aim of the unit is to provide you the opportunity to gain skills in communicating your legal knowledge in a manner appropriate to your target audience. You will develop these skills by completing a research memorandum in accordance with strict guidelines. In part, the aim of the research assignment is to increase your understanding of the importance of recognising and following instructions. You will also be given the opportunity to draft a letter to a client. That letter will cover the same substantive issues as the memorandum, but you will be expected to communicate your knowledge in layman's terms.

*Unit coordinator advises* that particular attention is paid to the basics of conflict and confidentiality and the duty to the courts.

Assessment: Unit coordinator advises that all assessment items include ethical dilemmas and 15-20% of the marks in each item are dependent upon recognition and sensible resolution of the ethical problems.

<http://handbook.murdoch.edu.au/units/detail.lasso?unit=LAW350>

### **LAW350 Civil Procedure**

Normal enrolment pattern = Final year, Semester 1

Points: 4

Class contact: 2 hours lectures + 2 hours workshops per week

Prerequisites: L120/LEG120/LAW120 Research & Writing; L150/LEG150/LAW150 Australian Legal System; L152/LAW152 Torts; L130/LAW130 Criminal Law and Procedure; L260/LAW260 Contract; L258/LAW258 Australian Administrative Law; L259/LAW259 Constitutional Law; L253/LAW253 Property; L252/LAW252 Evidence. Students are advised that this unit should be taken in the last year of enrolment.

Description: This unit covers the rules of civil procedure in Western Australia, including jurisdiction of Western Australian courts, commencement of proceedings and service of process, pleadings, discovery and other interlocutory proceedings, judgement (including enforcement), appeals, costs and alternatives to litigation.

Aims and objectives: These include:

- develop ability to work in a team, being an important part of working as a lawyer;
- encourage student to consider the ethical/professional conduct issues that arise in legal practice in a litigation context.

Learning outcomes: These include ability to:

- understand and, where relevant, display the skills necessary to work with others in legal practice, which involves teamwork and co-operation; tolerance of divergent points of view; compliance with deadlines; *adhering to appropriate standards of professional conduct*; and showing consideration for and empathy with your client;
- draft simple court documents in concise fashion, adhering to the rules of the court.

*Unit coordinator advises* that most lectures would include an outline of the relevant professional conduct rules or ethical issues that may arise in relation to that stage of the dispute resolution process.

Assessment: Group drafting exercise (30%); contribution to workshops (15%); reflection on groupwork process (10%); final test (45%)

UNIVERSITY OF NOTRE DAME AUSTRALIA

<http://www.nd.edu.au/units/lw.shtml>

**LW 104 Ethics and the Law – 25 credit points**

Normal enrolment pattern = First year, semester ?

Credit points: 25

Class contact: ?

Prerequisites: ?

Description: Ethics and the law is an “applied ethics” unit which both introduces students to theoretical foundations for living the moral life, and also exposes students to the opportunity to apply ethical theory in practice under supervision, and with the opportunity to reflect on their experience in a systematic and structured way. Students will be introduced to philosophers and ethicists with different theories about what it means to live an ethical life. Some of the competencies aimed at being developed are the ability to analyse complex ethical issues, and the ability to argue and defend ethical positions. Students will also be introduced to key elements of service learning and will develop the ability to reflect ethically on service experiences.

*Note: The Assistant Dean advises that the above unit is undertaken only at the Fremantle campus. Students studying Law at the Sydney campus undertake the general unit ET100 Ethics.*

### **LW1010 Legal Process - 30 credit points**

Normal enrolment pattern = First year, semester ?

Credit points: 30

Class contact: ?

Prerequisites: ?

Description: The purpose of this unit is to introduce students to a critical understanding of the institutions and practices that are basic to the law in Australia. The course will include components which educate the students to greater knowledge, skill and understanding of fundamental elements in the legal system. It will provide a basis for later courses, both in its content, and also in its method of teaching, which will set the subject matter of the course within the context of realistic legal transactions, and include discussion of the *ethical dimensions of legal process*.

By the end of the unit students should have gained a foundation of basic knowledge about the Australian legal system, including the sources of legal authority in the Australian legal system, the system of courts and tribunals, the roles of judges and lawyers, and basic distinctions, such as those between civil and criminal law, common law and equity.

Students will also have been introduced to the skills required in essential aspects of legal work, including the use of statutes and law reports, legal research and writing, and the elements of legal argument.

Throughout the unit, the students will be encouraged to reflect critically on aspects of the legal system, and this will include an introduction to the historical and philosophical sources of such elements as the adversarial system, the structure of courts and tribunals and the role of lawyers.

### **LW471 Commercial Practice & Ethics A – 20 credit points**

Normal enrolment pattern = Final year, semester 1

Credit points: 20

Class contact: ?

Prerequisites: ?

Description: The unit will continue to provide students with an overview of commercial legal practice and *ethics* in Western Australia and will cover topics such as: drafting of legal documents and correspondence; preparation of wills and understanding of probate practice; *lawyers' ethical and legal duties applicable to daily legal practice with a particular focus on the professional conduct rules*; and sale and settlement of land.

Specific skills of the unit include:

1. Writing clear, concise and effective legal letters in plain language;
2. Drafting and structuring documents in clear, concise terms appropriate to clients' needs and adapting and applying commercial precedents effectively;

3. Adopting techniques for taking complete instructions from clients and strategies for the effective conduct of a matter in the client's best interests;
4. Understanding and applying areas commonly arising in commercial legal practice, namely:
  - Wills & probate practice;
  - The different stages involved in buying and selling of land and parties' rights thereunder;
5. *Identifying and managing ethical issues which arise in daily legal practice with particular regard to the duties owed to clients and other parties.*

### **LW472 Commercial Practice & Ethics B – 25 credit points**

Normal enrolment pattern = Final year, semester 2

Credit points: 25

Class contact: ?

Prerequisites: ?

Description: The unit will continue to provide students with an overview of commercial legal practice and *ethics* in Western Australia and will cover topics such as: an overview of the different types of business structures (with particular focus on sole proprietorships, partnerships, companies and trusts) and the legal implications of each as well as a comparative analysis of same; steps involved in the sale and settlement of a business; advising on and preparation of commercial leases and the operation of the WA retail shops legislation; advising on and the preparation of security transactions with particular emphasis on guarantees and mortgages.

Specific skills of the unit include:

1. Understanding how legal services can be a prevention rather than a cure, that is *how correct legal advice and drafting early on can prevent or minimise problems likely to be encountered by clients* in their commercial activities;
2. Learning to draft a counsel's opinion on a complex commercial matter;
3. Learning how to identify the documents required for, and the main components of, common commercial transactions such as partnership agreements, business sale agreements, commercial leases, mortgages and guarantees;
4. Understanding and applying areas commonly arising in commercial legal practice, namely:
  - Business structures including partnerships, companies and trusts;
  - Sale and settlement of a business and the parties' rights thereunder;
  - Commercial leasing and the operation of WA retail shops legislation;
  - Security transactions including guarantees and mortgages;
5. *Identifying and managing ethical issues which arise in the above areas of legal practice with particular focus on the professional conduct rules.*

Also, the Assistant Dean has advised that the School has adopted means designed to allow ethics learning to permeate the law course more fully. A matrix has been drafted that maps the desired teaching of ethical values and behaviours into various other law units at various levels of study. Accordingly, *in addition to* the learning provided in the 4 units summarised above:

- understanding of and commitment to the rule of law is incorporated into the teaching of the first-year unit **Legal History**;
- promotion of access to justice is incorporated into the teaching of the first-year unit **Contemporary Legal Issues**;
- recognition of social justice issues is incorporated into the teaching of the first-year unit **Contemporary Legal Issues**; the second-year unit **Property Law**; and the third-year unit **International Law**;
- understanding of theories of justice is incorporated into the teaching of the first-year unit **Contemporary Legal Issues**; the second-year unit **Law of Equity**; and the third-year unit **Legal Philosophy**;
- understanding of ethical issues relating to the adversarial system is incorporated into the teaching of the first-year units on **Criminal Law** and **Criminal Procedure**; the third-year unit **Evidence**; and the final-year unit **Civil Procedure**.

Further advice has been provided to the effect that there are “a number of other units in which some ethical discussions are incorporated. In particular, Advocacy and ADR (compulsory units) and Trial Advocacy, Mining Law and Health Law (electives) currently have some of this content. No doubt other lecturers also incorporate some ethical considerations in their units”. For example, in Criminal Law, the role of prosecutors and defence counsel, including their obligations, is considered.

#### UNIVERSITY OF WESTERN AUSTRALIA

The Chair of the Law School’s Education Committee advises that “UWA’s proposed new curriculum will introduce a compulsory unit in Legal Theory and Legal Ethics. The unit will introduce students to basic jurisprudential terminology and concepts and to different theoretical frameworks for assessing the law. It will then deal with approaches to ethical decision making and the application of these principles to aspects of contemporary legal practice. Ethical issues will then be further developed and applied within the context of other substantive law units such as Criminal Law, Evidence and Corporations Law.”