

LAWS4007: Professional Conduct

Newcastle City Precinct
Semester 1 - 2024



OVERVIEW

Course Description	Examines and critically reviews the role of the legal profession and the legal, ethical and professional conduct duties and responsibilities of lawyers. Students consider the structure and regulation of the legal profession before focusing on the admission requirements to the legal profession. The course considers in detail the duties and obligations of a lawyer to the courts, clients, other legal practitioners, the public and other parties. The course will analyse in detail the ethical and professional conduct issues and dilemmas that can arise for a lawyer in practice including in the area of law and technology. The course also focuses on the legal profession and its commitment to pro bono and social justice, considering a lawyer's role in assisting marginalised persons to access justice and pursue human rights.
Skills Focus	The course will focus on assisting students to develop the following skills: ethical decision making and professional conduct, adapting to changes in the legal sector, technological skill development.
Requisites	This course is only available to students enrolled in the Bachelor of Laws and associated combined degree programs or Bachelor of Laws (Honours) and associated combined degree programs.
Assumed Knowledge	LAWS1010, LAWS1011, LAWS1020, LAWS1021, LAWS2030, LAWS3040, and LAWS3041
Contact Hours	Newcastle City Precinct – NU Space Online Activity Online – Recorded Lecture and other materials 1 hour per Week for Full Term starting Week 1 Workshop (Seminar) Face to Face On Campus 2 hours per Week for 12 weeks
Unit Weighting Workload	10 Students are required to spend on average 120-140 hours of effort (contact and non-contact) including assessments per 10 unit course.

COURSE OUTLINE

CONTACTS

Course Coordinators and Teaching Staff

Newcastle City Precinct

Dr Shaun McCarthy
shaun.mccarthy@newcastle.edu.au
(02) 4921 8666

Consultation: 4pm-6pm on Thursdays during semester.

Please email Shaun to arrange an appointment. Shaun is the Course Co-Ordinator and Lecturer for weeks 1, 2, 3, 4 and 5.

Alanna Van der Veen

Alanna.VanDerVeen@newcastle.edu.au

(02) 4055 0917

Consultation: 10am-12pm on Thursdays during semester.

Please email Alanna to arrange an appointment. Alanna is the Course Co-Ordinator and Lecturer for weeks 6, 7, 8, 9, 10, 11, 12 and 13.

School Office

Newcastle School of Law and Justice

5th Floor
NU Space
409 Hunter Street
Newcastle
Law-School@newcastle.edu.au
+61 2 4921 8666

SYLLABUS

Course Content

1. Overview of Professional Regulation
2. Access to Justice, Legal Aid, Pro Bono Work, Human Rights and Social Justice
3. Regulation of Admission to the Legal Profession; Disclosure Requirements
4. Lawyers' Duty to the Client
5. Lawyers' Duty to the Court and to the Administration of Justice
6. Prosecutor and Defence Lawyers' Duties and Obligations
7. Conflict of Interest; Information Barriers
8. Witnesses
9. Lawyers' Duty to Other Lawyers, the Public and to Others
10. Discipline, Professional Misconduct and Unsatisfactory Professional Conduct
11. Retainer, Costs Disclosure and Agreement, Lien
12. Technology and the Law

Course Learning Outcomes

On successful completion of this course students will be able to:

1. Identify professional conduct issues and apply the relevant professional conduct rules, principles and case law and to take action which complies with those professional conduct rules and principles.
2. Identify and avoid any potential or actual conflict of interest and take action to deal with a conflict which has arisen.
3. Demonstrate thorough knowledge of the law and the regulatory framework governing lawyers in relation to ethical and professional conduct issues and their cost disclosure requirements.
4. Critically examine the role of the legal profession and its service to the public.

5. Critically evaluate and reflectively engage with legal ethics and professional conduct issues including how technology is changing the legal sector and a lawyer's ethical duties in connection with the use of technology.
6. Identify and critically analyse the wider issues in legal practice including the importance of pro bono contributions by the legal profession, acting as an advocate for the just rule of law, critically evaluating the barriers that some people face in accessing justice and the legal system and respond to demands for reform in an analytical and public-spirited fashion. This includes the importance of social justice and the pursuit of human rights for marginalised persons.
7. Apply the legislation, rules and case law to professional conduct problems, including cost disclosure requirements in a problem-based learning context.
8. Conduct high-level research, explore primary and secondary materials, and provide critical analysis of problems and questions.

Course Materials

Legislation and Rules

Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 (Solicitors Rules):

<https://www.lawsociety.com.au/practising-law-in-NSW/rules-and-legislation/rules>

Legal Profession Uniform Conduct (Barristers) Rules 2015 (Barristers Rules):

<https://nswbar.asn.au/bar-standards/barristers-rules>

Legal Profession Uniform Law 2014 (NSW) and Legal Profession Uniform Law Application Act 2014 (NSW); Legal Profession Uniform Admission Rules 2015 (NSW)

Prescribed Text:

Ysaiah Ross, *Ethics in Law: Lawyers' Responsibility and Accountability in Australia*, 6th ed., Lexis Nexis Butterworths. The 5th edition released in 2009 will generally suffice. The book is available at Pro Quest Ebook Central on-line through the University library.

Recommended Texts/Readings:

G E Dal Pont, *Lawyers' Professional Responsibility in Australia*, Law Book Company, 6th ed., 2016, 7th ed., 2020.

Christine Parker and Adrian Evans, *Inside Lawyers' Ethics*, Cambridge University Press, 3rd ed., 2018.

NSW Law Society website: <https://www.lawsociety.com.au/practising-law-in-NSW>

NSW Office of the Legal Services Commissioner website: www.lawlink.nsw.gov.au/olsc

NSW Bar Association website: <https://nswbar.asn.au/>

NSW Civil and Administrative Tribunal, Occupational Division: <https://ncat.nsw.gov.au/how-ncat-works/ncat-divisions-and-appeal-panel/occupational-division.html>

Additional readings will be posted on Canvas. Seminar questions will be released one week prior to the seminar.

COMPULSORY REQUIREMENTS

In order to pass this course, a student must complete ALL of the following compulsory requirements:

Contact Hour Requirements:

Seminars/Workshops – In accordance with the School of Law and Justice policy there is a compulsory attendance requirement in this course. Attendance at all seminars will be monitored and records maintained by the Course Coordinator. In order to satisfy the “Attendance” requirement, students must be present at a minimum of 80% of scheduled classes (9 out of 12 classes and for the whole of the class) as set out in the course outline, unless they are able to demonstrate that their absence falls within the Adverse Circumstances policy. Unless this requirement is met, despite marks awarded in other assessment items, the student may receive a zero mark and an CF grade for the course.

Please note that if you miss more than 2 classes for reasons that fall within the University’s adverse circumstances policy you may be required to complete additional assessment items to ensure that you have completed the required volume of learning for this course.

Workshop times:

Workshops are on Thursdays 6pm-8pm (X202), Fridays 10am-12pm (X205), Fridays 1pm-3pm (X202) and Fridays 3pm-5pm (X202). Please check the University timetable as there may be a change in the allocated seminar room depending on the number of students enrolled in the seminar and the room capacity.

The Friday 10am-12pm seminar will be recorded and will be made available on Zoom recordings on Canvas.

Course Assessment Requirements:

- Assessment 1 - Essay: Pass Requirement - Students must pass this assessment item to pass the course. If a student has achieved overall marks greater than 50% in the course but has failed to satisfactorily complete the compulsory course component then a fail grade (FF) will be recorded on their transcript. Should a student not pass this assessment item they will have a further opportunity to submit an essay where the maximum mark that can be achieved is capped at 50% (15/30 marks).

SCHEDULE

Week	Week Begins	Topic	Learning Activity	Assessment Due
1	26 February	Introduction and Course Overview	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions Read Ross Chapters 2 and 3 (an overview only)	
2	4 March	Admission to the Legal Profession; Practising Law	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions Read Ross Chapter 6 (overview)	
3	11 March	Lawyers' Duty to the Client	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions Read Ross Chapters 8, 10 and 11 (general overview)	
4	18 March	Lawyers' Duty to the Court and to the Administration of Justice	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions Read Ross Chapters 13 and 14 (an overview only)	
5	25 March	Lawyers' Duty to the Court and to the Administration of Justice; Witnesses	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions Read Ross Chapters 13 and 14 (an overview only)	There are no seminars on 29 March (Good Friday Public Holiday). The seminar on 28 March will be recorded for students who attend the Friday seminars and listening to the recording will satisfy their attendance for week 5.
6	1 April	Prosecutor and Criminal Defence Lawyers' Duties and Obligations	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions Read Ross Chapter 15 (overview)	Quiz 1 released 8 am on Thursday 4 April 2024 and closes 11.59pm on Friday 5 April 2024 (45 mins quiz)
7	8 April	Lawyers' Duty to Other Lawyers, the Public and to Others	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions	
		Mid Semester Break: 15 April – 26 April		Essay due 11.59pm Friday 19 April 2024

8	29 April	Conflict of Interest	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions Read Ross Chapter 12 (overview)	
9	6 May	Discipline and Expulsion/Professional Misconduct	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions Read Ross Chapter 7 (overview)	
10	13 May	Costs Disclosure Costs Agreements	Listen to recorded lecture and review material posted on Canvas Workshop questions and discussions Readings will be posted on Canvas.	Quiz 2 to be held in the seminars on 16 May and 17 May in an invigilated format, 45 mins duration
11	20 May	Guest Lecture – Office of the Legal Services Commissioner	The Lecture will be delivered in one of the scheduled seminars and will be recorded and made available on Canvas. Further details to be advised.	The seminar will be recorded and made available to students who are scheduled to attend the other seminars. Listening to the seminar by those students will satisfy their attendance for week 11.
12	27 May	Exam Review	Discussed in Workshops	
Formal Invigilated Examination, 2 hours, scheduled during the formal exam period 10 June – 22 June 2024, date to be advised				

ASSESSMENTS

This course has 3 assessments together with the Compulsory Attendance Requirements. Each assessment is described in more detail in the sections below.

	Assessment Name	Due Date	Involvement	Weighting	Learning Outcomes
1	Essay*	11.59pm Friday 19 April 2024	Individual	30%	1, 4, 5, 6, 8
2	Formal Examination	Formal invigilated exam held during scheduled exam weeks 10 June – 22 June 2024, 2 hours	Individual	40%	1, 2, 3, 5, 7, 8
3	Quizzes x 2	Quiz 1 released at 8am on Thursday 4 April 2024 and closes 11.59pm on Friday 5 April 2024 (45 mins quiz) Quiz 2 to be held in the seminars on 16 May and 17 May in an invigilated format, 45 mins duration	Individual	15% each quiz totalling 30%	1, 2, 3, 5, 7, 8

* This assessment has a compulsory requirement.

Late Submissions.

The mark for an assessment item submitted after the designated time on the due date, without an approved extension of time, will be reduced by 10% of the possible maximum mark for that assessment item for each day or part day that the assessment item is late. This applies equally to week and weekend days. Should a student miss a quiz they will need to provide a satisfactory explanation to undertake a supplementary quiz and the mark may be capped.

Assessment 1 - Essay

Assessment Type Description

Essay

The purpose of the essay is to assess a student's capacity to identify and critically analyse the wider ethical issues in legal practice and for the legal profession. Students evaluate and critically reflect upon the interaction of law and society and the role of lawyers and the legal profession and access to justice.

Weighting Compulsory Requirements

30%

Pass Requirement – Students must pass this assessment item to pass the course.

Due Date Submission Method Assessment Criteria

11.59pm on Friday 19 April 2024

Turnitin on Canvas.

Demonstrated ability to write clearly, logically, concisely and persuasively including the effective use of an introduction and conclusion; the extent to which the views, suggestions, proposals, arguments and ideas are developed, reasoned and supported throughout the paper; demonstrated ability to analyse the relevant issues and arguments; demonstrated evidence of relevant and wide-ranging research on the topic including using and engaging with the sources in the paper and proper use of AGLC referencing. Further details about the criteria are listed in the Essay Assessment Matrix.

Word limit: 1,500 words with a 10% tolerance on the word limit so that the absolute maximum word limit is 1,650 words excluding footnotes. Headings may be used. A bibliography is not required. Footnotes containing detailed information and arguments will be included in the word limit. Words in excess of the word limit will not be read by the examiner and the mark will be based on the words counted from the beginning of the paper to when the word limit is reached.

Return Method Feedback Provided

On-line through Canvas.

Oon-line through Canvas.

Opportunity to

Students WILL be given the opportunity to reattempt this assessment on the following basis.

Reattempt	<p>If a student fails the research assessment, but has passed all other assessments in the course, the student may re-attempt the research assessment. The following rules will apply:</p> <ol style="list-style-type: none">Students will only be permitted one opportunity to re-attempt the research assessment;The re-attempt will be scheduled by the Course Coordinator;The maximum grade available for the research assessment on a re-attempt is 50% (however, students who pass on their re-attempt may achieve a higher overall grade in the course, depending on the results of their other assessments); andThe Course Coordinator will set a new research assessment question for any student entitled to re-attempt the assessment.
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Assessment 2 - Examination: Formal Examination

Assessment Type	Formal Invigilated Examination, 2 hours
Description	2 problem based questions
Weighting	40%
Due Date	During the scheduled exam weeks being 10 – 22 June 2024
Submission Method	To Invigilator
Assessment Criteria	Application of the professional conduct rules, legislation, principles and case law to problem based questions in relation to professional conduct issues and dilemmas.
Return Method	Not returned unless requested.
Feedback Provided	Not returned unless requested.

Assessment 3 - Quizzes

Assessment Type	Quizzes x 2
Description	<p>Two quizzes covering content in the course. Quiz 1 will cover the content in the course for weeks 1-5 inclusive. The quiz will consist of 10 multiple choice questions. Quiz 2 will cover the content in the course for weeks 6-9 inclusive. Quiz 2 will consist of 10 multiple choice questions.</p> <p>The quiz questions will involve a combination of knowledge based and problem based issues and scenarios.</p>
Weighting	Each quiz is worth 15 marks (1.5 mark each question) making a total of 30% for the course.
Due Date	<p>Quiz 1 released at 8 am on 4 April 2024 and closes at 11.59pm on Friday 5 April 2024. The quiz is timed to be open for 45 minutes from when the student commences the quiz during this period. Marks and answers will be released on Monday 8 April 2024.</p> <p>Quiz 2 is an invigilated quiz which will take place during the first 45 minutes of each seminar in week 10 (16 May and 17 May). Quiz 2 is an open book quiz. This means that students can use whatever resources they like, including both hard copy material and material on the internet. Students are NOT permitted to consult with other students or anyone else during the duration of the quiz, nor are they permitted to discuss the quiz questions with students who have not yet attempted the quiz. Such behaviour could constitute academic misconduct.</p>
Submission Method	Canvas
Assessment Criteria	Application of the professional conduct rules, legislation, principles and case law to knowledge and problem based questions.
Return Method	Answers will be released on 8 April 2024 and 20 May 2024.
Feedback Provided	As above.

ADDITIONAL INFORMATION

Grading Scheme

This course is graded as follows:

Range of Marks	Grade	Description
85-100	High Distinction (HD)	Outstanding standard indicating comprehensive knowledge and understanding of the relevant materials; demonstration of an outstanding level of academic achievement; mastery of skills*; and achievement of all assessment objectives.
75-84	Distinction (D)	Excellent standard indicating a very high level of knowledge and understanding of the relevant materials; demonstration of a very high level of academic ability; sound development of skills*; and achievement of all assessment objectives.
65-74	Credit (C)	Good standard indicating a high level of knowledge and understanding of the relevant materials; demonstration of a high level of academic achievement; reasonable development of skills*; and achievement of all learning outcomes.
50-64	Pass (P)	Satisfactory standard indicating an adequate knowledge and understanding of the relevant materials; demonstration of an adequate level of academic achievement; satisfactory development of skills*; and achievement of all learning outcomes.
0-49	Fail (FF)	Failure to satisfactorily achieve learning outcomes. If all compulsory course components are not completed the mark will be zero. A fail grade may also be awarded following disciplinary action.

*Skills are those identified for the purposes of assessment task(s).

To ensure that grades are fair both within and between courses and cohorts, the Law and Justice School has a rigorous policy of moderating and reviewing assessment. The School Assessment Board (SAB) reviews all final grades before they are released to students, and the SAB process may result in the overall marks of a class being moved up or down by a specific amount, thus impacting individual marks. This is consistent with grading practices in other Law Schools across the country and important to ensure the integrity of assessment. This means that the final grade you are awarded may not be the sum of marks you have received in all assessments.

Communication Methods

Communication methods used in this course include: Canvas. If you have specific questions or queries that would be relevant to students in the course please post them on the General Course Discussion Forum on Canvas.

Course Evaluation

Each year feedback is sought from students and other stakeholders about the courses offered in the University for the purposes of identifying areas of excellence and potential improvement.

Oral Interviews

As part of the evaluation process of any assessment item in this course an oral examination may be conducted. The purpose of the oral examination is to verify the authorship of the material submitted in response to the assessment task. The oral examination will be conducted in accordance with the principles set out in the Oral Examination Guidelines. In cases where the oral examination reveals the assessment item may not be the student's own work the case will be dealt with under the Student Conduct Rule.

Academic Misconduct

All students are required to meet the academic integrity standards of the University. These standards reinforce the importance of integrity and honesty in an academic environment. Academic Integrity policies apply to all students of the University in all modes of study and in all locations. For the Student Academic Integrity Policy, refer to

<https://policies.newcastle.edu.au/document/view-current.php?id=35>.

**Adverse
Circumstances**

The University acknowledges the right of students to seek consideration for the impact of allowable adverse circumstances that may affect their performance in assessment item(s). Applications for special consideration due to adverse circumstances will be made using the online Adverse Circumstances system where:

1. the assessment item is a major assessment item; or
2. the assessment item is a minor assessment item and the Course Co-Ordinator has specified in the Course Outline that students may apply the online Adverse Circumstances system;
3. you are requesting a change of placement; or
4. the course has a compulsory attendance requirement.

Before applying you must refer to the Adverse Circumstance Affecting Assessment Items Procedure available at:

<https://policies.newcastle.edu.au/document/view-current.php?id=236>

Wellbeing Resources

There are a variety of pressures on law students, and being able to perform well academically under pressure without excessive stress will contribute to enhanced outcomes in wellbeing and academic results. Reach out to support services and learn ways to maintain your mental health, deal with stress and common issues like procrastination and anxiety.

To access UON support:

<https://www.newcastle.edu.au/current-students/support/personal>

Ph: 4921 6622 or email: counselling@newcastle.edu.au

For support outside of office hours call the University Crisis

Support Line on 1300 653 007 or for chat sms 0488 884 165.

**Important Policy
Information**

The 'HELP for Students' tab in UoNline contains important information that all students should be familiar with, including various systems, policies and procedures.

This course outline was approved by the Head of School. No alteration of this course outline is permitted without Head of School approval. If a change is approved, students will be notified and an amended course outline will be provided in the same manner as the original.

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