



ACADEMIC SERVICES

MODULE SPECIFICATION

| Part 1: Basic Data | | | | | |
|----------------------------|-------------------------------------|---------------------------|-----------------------|-------------|-----|
| Module Title | Resolution of Disputes Out of Court | | | | |
| Module Code | UJXUSC-5-M | Level | M | Version | 1.1 |
| UWE Credit Rating | 5 | ECTS Credit Rating | 2.5 | WBL module? | No |
| Owning Faculty | Business and Law | Field | Law Non-Modular | | |
| Department | Law: BILP | Module Type | Professional Practice | | |
| Contributes towards | Bar Professional Training Course | | | | |
| Pre-requisites | None | Co- requisites | None | | |
| Excluded Combinations | None | Module Entry requirements | N/A | | |
| First CAP Approval Date | QSC 28 April 2010 | Valid from | September 2010 | | |
| Revision CAP Approval Date | 1 June 2016 | Revised with effect from | September 2016 | | |

| Part 2: Learning and Teaching | |
|-------------------------------|---|
| Learning Outcomes | <p>On successful completion of this module students will be able to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of the importance of the range of methods of dispute resolution outside process in court, and an ability to select cases appropriate for each process together with an understanding of the appropriate stage at which to engage in each process 2. demonstrate an awareness and basic knowledge of the process and practice of mediation, including some of the techniques adopted by mediators, so as to be able effectively to advise professional and lay clients about, prepare them for, and represent them at mediation 3. have a working knowledge of the law and practice of arbitration and expert determination, and other methods of dispute resolution 4. be able to select strategies and methods for conducting a negotiation or representing the client at a mediation that will further the client's best interests including giving advice as to the steps that need to be taken and the preparations in terms of documents, evidence and where necessary invoking the aid of the court to assist the process 5. understand and demonstrate the skills needed in order to conduct a negotiation in their client's best interests 6. apply factual and legal issues in a case that is otherwise being resolved, in an effective way 7. demonstrate an understanding of the need to observe professional ethics when |

| | |
|------------------|---|
| | <p>conducting and concluding alternative methods of dispute resolution</p> <p>8. demonstrate a basic level of mediation advocacy skills</p> |
| Syllabus Outline | <p>1 General dispute resolution skills</p> <ul style="list-style-type: none"> • the importance of mediation, arbitration and negotiation as means of settling a case; • the importance of planning alternative ways of resolving a case. • the importance of giving clear, accurate, advice to a client about the potential advantages and disadvantages of ADR processes such as mediation; • selecting strategies and methods for involvement in mediation or conducting a negotiation that furthers the client's best interests; • the observation of professional ethics when involved in these processes <p>2 Planning</p> <ul style="list-style-type: none"> • identifying factual and legal issues and how they relate to each other; • identifying the objectives of the client and of the other side; • identifying any conflict in the objectives of both sides and identify means of resolving such conflicts; • prioritising objectives and controlling clients' expectations; • identifying the strengths and weaknesses of each side; • counteracting the perceived weakness of his/her own case, undermining the strengths of the other side's case, and exploiting weaknesses of the other side's case; • identifying the best alternative to a negotiated settlement ('BATNA') and bottom line as appropriate • identifying and dealing with practical issues such as choice of appropriate mediator, venue, documentation, and parties attending and authority to settle • identifying the requisite contents of the pre-mediation agreement <p>3 Conducting</p> <ul style="list-style-type: none"> • choosing and implementing a strategy or strategies for achieving the realistic objectives of the client; • modifying and/or changing the chosen strategy or strategies as appropriate; • constructing and working within a structure that allows the negotiation, mediation or other dispute resolution process, to proceed in a clear, logical and coherent fashion; • creating an environment that is 'safe' and conducive to settlement • presenting arguments clearly and in a confident and persuasive manner; • where appropriate presenting the case in a favourable light by emphasising its strengths and mitigating its weaknesses and in a way that is likely to achieve its desired ends; • picking up points made by the opponent and replying in a way that progresses the client's case; • advising upon offers and concessions where it is in the client's best interests to do so; • seeking to protect the client's position against the arguments of the opponent and responding in a way that is likely to achieve the desired ends; • demonstrating an understanding of the need throughout to observe professional ethics; • ensuring that the written heads of agreement or settlement agreement is clear, unambiguous and enforceable, and fully complies with the wishes and intent of the parties. <p>4 Compromise</p> |

| | |
|-------------------------------|---|
| | <ul style="list-style-type: none"> principles and procedures governing consent and Tomlin Orders. |
| Contact Hours | <ul style="list-style-type: none"> Teaching takes place over 6 Large Group Sessions and 4 Small Group Sessions. <p>LGS 1 – Introduction to the Course and Overview (1.5 hours) LGS 2 – Introduction to Negotiation (2 hours) LGS 3 – Introduction to Mediation (2 hours) LGS 4 – Introduction to Arbitration (1.5 hours) LGS 5 – Other Adjudicative Processes (2 hours) LGS 6 – Review of Practice Assessment and Revision (2 hours)</p> <p>SGS 1 – Negotiation (3 hours) SGS 2 – Mediation – The Lawyer’s Role (3 hours) SGS 3 – Mediation Advocacy (3 hours) SGS 4 – Mediation role play, Settlements and Ethics (3 hours0</p> <ul style="list-style-type: none"> Students also have access to online resources including DVD presentations, practice MCQs and SAQs and a past assessment paper. Students undertake a practice assessment in exam conditions (2 hours). They self-mark this assessment in LGS 6. |
| Teaching and Learning Methods | <p>Teaching Methods will include :</p> <ul style="list-style-type: none"> DVD presentations Small group discussions and presentations by students Role plays of short mediations and one more lengthy mediation A mock mediation demonstration: an inter-active session, with pauses to allow for moderated question and answer sessions Drafting exercises Practical / role-playing exercises Where appropriate (and particularly in relation to the part time course) material will be made available to students via online Study Units which may be remotely accessed |
| Reading Strategy | <p>Students will be encouraged to consult various websites as part of their research into different subject areas. They will also be expected to consult a balanced selection of textbooks on mediation and negotiation skills</p> |
| Indicative Reading List | <p>Recommended reading will include such works as :</p> <p>A Practical Approach to Alternative Dispute Resolution – Blake, Browne & Sime, Oxford, 4th Edition. ADR Principles & Practice, 2nd Edition, Sweet & Maxwell</p> |

Part 3: Assessment

| | |
|---------------------|---|
| Assessment Strategy | <p>Strategy:</p> <ul style="list-style-type: none"> The learning activities are specifically geared towards preparing the students for the assessment by requiring them to prepare and participate in role play activities, any part of which can be assessed. It is learning by doing. In addition, students are required to prepare answers to previous assessment MCQs and SAQs which are then discussed in class. A large part of ReDOC involves oral skills which are assessed by way of a knowledge assessment. Students prepare |
|---------------------|---|

| | |
|--|---|
| | <p>for this by a combination of role play exercises, directed reading and answering MCQs and SAQs. Students also engage in drafting as they are required to prepare written negotiation plans, opening statements for mediations and settlement agreements.</p> <ul style="list-style-type: none"> • Students take a practice assessment which replicates the final assessment. They mark this assessment in an LGS and so review the mark scheme for themselves. • Assessment criteria are given to the students in the Introductory materials together with an outline of the syllabus and the main topics covered. It is made clear to the students that they can be assessed on every aspect of the syllabus as covered in class and as included in the directed reading. <p>The Assessment:</p> <p>Summative assessment will take the form of one examination, 3.5 hours long, comprising Part B open book MCQs and open book SAQs, set and marked locally. There must be a pass in this component.</p> <p>Assessment will be such that a broad range of the syllabus is assessed and that any part of it may be assessed. No indication will be given to students as to which parts of the syllabus will or will not be assessed.</p> |
|--|---|

| | | |
|---|--|-----------|
| % weighting between components A and B | A: | B: |
| | 100% | |
| First Sit | | |
| Component A (controlled conditions) Description of each element | Element weighting (as % of component) | |
| 1. Examination (3.5 hours) comprising Part B MCQs and SAQs, set and marked locally. | 100% | |
| Component B Description of each element | Element weighting (as % of component) | |
| n/a | | |

| | | |
|---|--|--|
| Resit (further attendance at taught classes is not required) | | |
| Component A (controlled conditions) Description of each element | Element weighting (as % of component) | |
| 1. Examination (3.5 hours) comprising Part B open book MCQs and open book SAQs, set and marked locally. | 100% | |
| Component B Description of each element | Element weighting (as % of component) | |
| n/a | | |
| <p>If a student is permitted a retake of the module under the University Regulations and Procedures, the assessment will be that indicated by the Module Description at the time that retake commences.</p> | | |