



ACADEMIC SERVICES

MODULE SPECIFICATION

Part 1: Basic Data					
Module Title	Litigation and Advocacy				
Module Code	UJXTR4-30-M	Level	M	Version	3
UWE Credit Rating	30	ECTS Credit Rating	5	WBL module?	No
Owning Faculty	Business and Law	Field	Law Non-Modular		
Department	Law: BILP	Module Type	Professional Practice		
Contributes towards	Post Graduate Diploma in Legal Practice Masters in Advanced Legal Practice				
Pre-requisites	None	Co- requisites	None		
Excluded Combinations	None	Module Entry requirements	N/A		
First CAP Approval Date	2008	Valid from	2008		
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 (in the context of Civil Litigation):</p> <ul style="list-style-type: none"> - Advise on the funding options available and the costs consequences of winning or losing litigation. - Analyse the facts of a claim and present the analysis in a 6 level chart. - Critique a letter of claim in light of the requirements of the Civil Procedure Rules 1998 (as amended) in general and the Practice Direction on Pre-Action Conduct in particular. - Advise on alternatives to litigation. and the sanctions for breaching the Practice Direction on Pre-Action Conduct. - Draft a claim form and straight-forward particulars of claim in a debt claim. - Analyse the facts of a defence/ defence and counterclaim and present the analysis in a 6 level chart.

- Draft an application notice and witness statement in support of an application to set aside judgment.
- Advise on the likely outcome of an application to set aside judgment.
- Advise on the practical, procedural and ethical requirements and implications of disclosing documents and relying on expert and lay witnesses.
- Draft a List of Documents.
- Draft a Directions Questionnaire.
- Prepare and undertake a negotiation using arguments relating to merits of a claim and a defence of set off.
- Analyse case facts and present an application for or against summary judgment, including a suitable application for costs.
- Analyse case facts and advise on the implications of Part 36 offers to settle, including the likely outcomes as to costs.

On successful completion of this module students will be able to (in the context of **Criminal Litigation**):

- Advise on the progress of a case from arrest to trial and sentencing; the Criminal Procedure Rules 2005, their objectives and their application; the role of the courts in the litigation process.
 - Advise as to the investigative powers of the police: arrest; procedure on arrival at the police station; detention at the police station; rights of the suspect; interviews; identification evidence; charging the suspect; bail after charge.
 - Advise as to the role of the solicitor at the police station: information gathering; advising on the police interview; advising on identification procedures; advising on charge and bail after charge; the Police Station Representatives' Accreditation Scheme.
 - Advise as to initial hearings in the Magistrates' Court: the first hearing; funding the case; obtaining disclosure from the prosecution; advising on plea; plea before venue and mode of trial; advising on venue. Participate in a mode of trial hearing.
 - Advise as to the right to bail and exceptions thereto; applying for a remand in custody; applying for bail; conditions of bail; breaches of bail. Analyse case facts, prepare and present/ resist an application for bail.
 - Advise as to preparation for trial in the Magistrates' Court and the Crown Court: fact and case analysis; evidential issues; committal proceedings; pre-trial reviews and Plea and Case Management hearings; the trial process.
- Advise as to sentencing in practice; pleas in mitigation. Present a plea in mitigation.
- Advise as to the law of evidence: visual identification evidence; inferences from silence; hearsay evidence; confession evidence; exclusion of evidence; character evidence.

Syllabus Outline	<p><u>1 Civil Litigation Syllabus</u></p> <p>Introduction to the law of evidence, the skill of fact analysis, the main methods of funding civil litigation, the basic rules of awarding costs between the parties and an introduction to and overview of the main provisions of the Civil Procedure Rules 1998.</p> <p>Case Study 1</p> <p>Receiving instructions from a client and giving initial advice, including advice on funding and costs. Analysing the case, considering the requirements of the Practice Direction on Protocols and appropriate methods of dispute resolution.</p> <p>Drafting, issuing and serving Part 7 proceedings including Particulars of Claim.</p> <p>Requesting default judgment and analysing an application to set judgment aside. Considering evidence in support of the application and drafting evidence to oppose. Considering and analysing the application itself.</p> <p>Case analysis following receipt of a defence and counterclaim and service of a reply and defence to counterclaim. Further case analysis to ascertain the issues in dispute.</p> <p>Preparation for track allocation and considering directions.</p> <p>Considering and advising on disclosure and inspection of documents, expert evidence and witness evidence.</p> <p>Preparing for trial.</p> <p>Settlement.</p> <p>Case study 2</p> <p>Considering an application for summary judgment, preparing to act either as advocate for the applicant or for the respondent and acting as advocate in an opposed recorded role-play hearing before a tutor acting as District Judge. Considering enforcement procedures.</p> <p>Case study 3</p> <p>Considering issues relating to settlement of a dispute and costs, particularly CPR Part 36.</p> <p><u>1.1 Statement of Outcomes</u></p> <p>The LPC outcomes will be met by the students undertaking the type and range of tasks identified in the indicative teaching scheme set out below this statement.</p> <p>The elements of law and practice to be covered on the elective are primarily identified in the syllabus set out above as expanded upon in this statement and in the indicative teaching scheme set out below.</p> <p>Professional conduct and regulatory issues will pervade the teaching of this elective. For example, students will consider client care issues, responsibilities to the court, responsibilities to third parties and the rules relating to obtaining and handling of evidence from witnesses of fact and experts.</p> <p>The course skills which will pervade this elective as identified in the indicative teaching scheme set out below are advising, advocacy, drafting, practical legal research and writing.</p>
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1.2 Indicative Teaching Scheme

Foundation

A mix of electronic, written and other material and exercises (some of which will be delivered as pre-course preparation) to provide students with a foundation for the teaching units outlined below. These will comprise an introduction to the law of evidence, the skill of fact analysis, the main methods of funding civil litigation, the basic rules on awarding costs between the parties and an introduction to and overview of the main provisions of the Civil Procedure Rules 1998.

Unit 1: Early Action on the Case

Preparatory Work

In addition to the foundation work outlined above:

Preparatory reading on introduction to civil litigation, the first interview and funding, early action on the case and dispute resolution;

Lecture or electronic equivalent on the skill of Fact Analysis;

Online test or equivalent to check understanding of elements of the preparatory reading;

Researching the Practice Direction on Protocols;

Considering outline instructions from a business client concerning an unpaid invoice and prepare a fact analysis of the claim.

Workshop

Introduction to the litigation course generally and to the civil litigation course in particular;

Discussion of any issues arising from the workshop reading and online test;

Presentation of answers to prepared questions relating to funding of civil disputes;

Feedback on fact analysis of the claim;

Preparing a fact analysis of the opponent's cross claim, identifying the legal and evidential issues;

Considering the requirements of the Practice Direction on Protocols and give initial advice.

Review/consolidation

Writing a letter to the client to consolidate understanding of issues from the workshop, for example to confirm advice on the requirements of the Practice Direction on Protocols and on appropriate method(s) of ADR on the case study facts.

Unit 2 Drafting, issue and service of Claim Form and Particulars of Claim and entry of judgment in default.

Preparatory Work

Preparatory reading on drafting, issue and service of Part 7 proceedings and on statements of case;

Lecture or electronic equivalent on drafting statements of case;
Online test or equivalent to check understanding of aspects of the preparatory reading and lecture/lecture equivalent;
Reading further case papers to progress case study to drafting and issue of proceedings;
Drafting Claim Form and title of Particulars of Claim;
Research to find appropriate court fee and fixed costs.

Workshop

Feedback on consolidation task from Unit 1.

Discussion of instructions received from client to issue proceedings so as to ensure understanding of both the legal and commercial issues involved.

Feedback on students' draft Claim Forms and discussion of the relevant requirements of the CPR.

Drafting Particulars of Claim using fact analysis from Unit 1.

Exercise on service of proceedings, calculation of dates for filing acknowledgment of service and defence and on entry of default judgment, to include research in the White Book.

Review/Consolidation

Research task from White Book to consolidate aspects of the unit learning and requiring answers to focused questions, for example on aspects of issue and service of proceedings and setting aside default judgments.

Unit 3 Interim applications, setting aside judgment, drafting and service of further statements of case, amendment and applying for further information.

Preparatory Work

Preparatory reading on set off, counterclaims and other additional claims, interim applications and evidence. Online test or equivalent to check understanding of aspects of the preparatory reading.

Reviewing fact analysis of defendant's case and considering further case papers, including request for consent to set aside default judgment, client's further instructions and application from the defendant to set aside judgment entered in default.

Workshop

Feedback on consolidation task from Unit 2.

Review and discussion of events in the case study since the last workshop including the defendant's application to set aside judgment so as to ensure understanding of the legal and commercial issues involved.

Considering proof of evidence from client's in-house expert and part drafting a witness statement to oppose the defendant's application to set aside judgment.

Review/Consolidation

Reading on advocacy before a District Judge followed by viewing a recording of the application to set aside judgment. Preparing a written attendance note of arguments

presented at the hearing and the judge's decision.

Unit 4 Case analysis; track allocation; case management; i; preparing the issues for trial: expert evidence and evidence from witnesses of fact.

Preparatory Tasks

Preparatory reading on evidence, in particular on expert evidence, including consideration of aspects of the Protocol on Expert Evidence and research/directed reading from the White Book and also on evidence at trial of witnesses of fact. Completion of online test or equivalent to test understanding of aspects of the preparatory work.

Consideration of case-specific issues on obtaining expert evidence particularly instruction of a single joint expert or one expert for each party, the issues the expert should be asked to consider and liability for and payment of the expert's fee.

Workshop

Feedback on consolidation task from Unit 3.

Review and discussion of students' preparatory work on expert evidence in general and on case-specific matters relating to expert evidence.

Planning instructions to the expert.

Consideration of a proof of evidence from a witness of fact and discussion of issues relating to relevance and admissibility of evidence at trial.

Consolidation/Review

Drafting witness statement for a witness of fact to be exchanged in advance of trial.

Unit 5 Case analysis, track allocation, case management, directions, disclosure, inspection and privilege.

Preparatory Tasks

Preparatory reading on track allocation, case management, directions, disclosure and inspection. Completion of online test or equivalent to test student's understanding of aspects of the preparatory reading.

Reading and analysing further case papers including defence and counterclaim and reply and defence to counterclaim. Note the issues in both the claim and counterclaim. Considering directions likely to be required and possible case management conference and part preparation of draft allocation questionnaire.

Workshop

Feedback on consolidation task from Unit 4.

Reviewing and discussing the issues in the case to ensure understanding both of the issues themselves and of their relevance to the procedures required in order to prepare the case for trial.

Reviewing and discussing the directions questionnaire and directions in the case study.

Introductory exercise on disclosure and inspection, including application of the relevant law on privilege.

Consolidation/Review

Further case-specific task on disclosure and inspection requiring students to draft elements of the list of documents in the case.

Unit 6 Preparation for trial, appeals and settlement.

Preparatory Tasks

Preparatory reading on trial and preparation for trial, judgment, appeals and settlement.

Electronic test or equivalent to check understanding of aspects of the preparatory reading.

Receiving further evidence in the case study in compliance with directions order made.

Review of case study documents and analysis of evidence. Consideration of pre-trial checklist and confirming compliance with directions order made.

Workshop

Feedback on consolidation task from unit 5.

Review of pre-trial checklist and of matters necessary to prepare the case for trial.

Presentation and discussion of review of case study and analysis of evidence.

Consideration and discussion of settlement and review of Tomlin Order to settle the case.

Consolidation/Review

Practice assessment question(s), for example on expert evidence.

Advocacy Unit Summary judgment and enforcement: preparing for and presenting or opposing an application for summary judgment, including dealing with costs of the application. Consideration of enforcement procedures.

Preparatory Tasks

Preparatory reading on advocacy before a District Judge, summary judgment, costs in interim applications and enforcement.

Reading a new case study and, acting as solicitor for the claimant or the defendant, preparing submissions to apply for or oppose an application for summary judgment.

Reviewing the recorded application to set aside judgment first viewed after Unit 3.

Online test or equivalent on enforcement.

Workshop

Making or opposing an application for summary judgment before a tutor acting as District Judge, receiving outline judgment and making an application for costs.

Receiving individual feedback from the tutor.

Consolidation/Review

Reflective exercise where students review a recording of their application and reflect on the feedback received.

Unit 7 Part 36 and costs

Preparatory Tasks

Reading on CPR Part 36 and on costs.

Electronic lecture or equivalent on Part 36 and online test on general principles of the award of costs and matters relating to funding.

Reading and analysing the facts of a new case study and preparing answers to questions relating to Part 36 and costs.

Workshop Tasks

An unseen quiz on costs generally.

Presentation of answers to prepared questions on Part 36 and costs in the context of the Unit case study.

Consideration and discussion of further issues relating to Part 36 and costs in the context of the unit case study.

Review/overview of the civil litigation course.

Consolidation/Review

Online revision and consolidation questions.

Write a letter to a client advising on the implications of a Part 36 offer.

2 Criminal Litigation Syllabus

Introduction to the law of evidence, the skill of fact analysis, the main methods of funding civil litigation, the basic rules of awarding costs between the parties and an introduction to and overview of the main provisions of the Criminal Procedure Rules 2005.

Introduction to criminal procedure: how a case proceeds from arrest through to trial and sentencing; the Criminal Procedure Rules 2005, their objectives and their application; the role of the courts in the litigation process.

The investigative powers of the police: arrest; procedure on arrival at the police station; detention at the police station; rights of the suspect; interviews; identification evidence; charging the suspect; bail after charge.

The role of the solicitor at the police station: information gathering; advising on the police interview; advising on identification procedures; advising on charge and bail after charge; the Police Station Representatives' Accreditation Scheme.

Initial hearings in the Magistrates' Court: the first hearing; funding the case; obtaining disclosure from the prosecution; advising on plea; plea before venue and mode of trial; advising on venue.

Bail: the right to bail and exceptions thereto; applying for a remand in custody; applying for bail; conditions of bail; breaches of bail.

Preparation for trial in the Magistrates' Court and the Crown Court: fact and case analysis; evidential issues; committal proceedings; pre-trial reviews and Plea and Case Management hearings; the trial process.

Sentencing: the law; sentencing in practice; pleas in mitigation.

Introduction to the law of evidence: visual identification evidence; inferences from silence; hearsay evidence; confession evidence; exclusion of evidence; character evidence.

2.1 Statement of Outcomes

The LPC outcomes relevant to criminal litigation will be met by students undertaking the type and range of tasks identified in the indicative teaching scheme set out below this statement. The elements of law and practice to be covered are primarily identified in the syllabus set out above as expanded upon in this statement and in the indicative teaching scheme set out below.

Ethical and professional conduct issues will pervade the teaching of this subject. For example, students will consider conflicts of interest (e.g. those arising where a solicitor is asked to represent two or more suspects at a police station), responsibilities to the court (e.g. the overriding duty not to mislead the court), and responsibilities to the client (e.g. the duty of confidentiality).

The course skills which will pervade this subject as identified in the indicative teaching scheme set out below are interviewing, advocacy, practical legal research and writing.

2.2 Indicative teaching scheme

Unit 1: Advising a suspect at the police station – part 1

Preparatory work:

Preparatory reading

Online test on police powers, rights of the suspect and issues of professional conduct

Introduction to case study 1

Considering information to be obtained from the police prior to interview in case study 1

Workshop:

Group analysis of initial information obtained from the police in case study 1.

Group analysis of suspect's account.

Group discussion of options available to suspect at police interview.

Review/consolidation:

Writing out advice to suspect on how to deal with police interview.

Unit 2: Advising a suspect at the police station – part 2

Preparatory work:

Preparatory reading

Online test on adverse inferences from silence, legal privilege, identification procedures, bail after charge and representation orders.
Considering identification issues in case study 1

Workshop:

Group analysis of identification issues in case study 1
In sub-groups, considering advice to suspect in case study 1 on proposed identification procedure.
Role-play of negotiation between the solicitor and custody officer over charge and the grant/refusal of police bail in case study 1

Review/consolidation:

Online completion of an application for a representation order in the Magistrates' Court.

Unit 3: Initial hearings in the Magistrates' Court

Preparatory work:

Preparatory reading
Online test on classification of offences, plea, plea before venue and mode of trial
Considering plea before venue and mode of trial in case study 2 and preparing prosecution submission on venue

Workshop:

In sub-groups, considering advice to defendant on plea and venue (including discussion of mode of trial guidelines, sentencing guidelines and range of possible sentence)
Whole group role-play of plea before venue and mode of trial hearing

Review/consolidation

Exercise considering disclosure obligations of both prosecution and defence in case study 2.

Unit 4: Preparing a case for trial – part 1

Preparatory work:

Preparatory reading
Online test on evidential issues
Detailed consideration of statements and other evidence in case study 2
Preparing written advice to defendant in case study 2 in respect of a number of pre-trial issues

Workshop:

Group discussion of pre-prepared advice to client
In sub-groups, discussing further pre-trial issues, including disclosure of unused material, defence disclosure, interviewing & summoning of witnesses, and admissibility/exclusion of evidence

Review/consolidation:

Answering online short-form questions on case study 2

	<p>Unit 5: Preparing a case for trial – part 2</p> <p><u>Preparation:</u></p> <p>Preparatory reading Online test on further evidential issues Preparing written advice on further evidential issues (including bad character) in case study 2</p> <p><u>Workshop:</u></p> <p>Group discussion of pre-prepared advice on further evidential issues In sub-groups, exercise on procedural matters, with reference, inter alia, to Criminal Procedure Rules Group discussion on procedure if matter going to Crown Court</p> <p><u>Review/consolidation:</u></p> <p>Writing outline of argument to exclude potentially inadmissible evidence in case study 2.</p> <p>Unit 6: Sentencing</p> <p><u>Preparation:</u></p> <p>Preparatory reading Online test on sentencing Viewing of pre-recorded plea in mitigation Preparing plea in mitigation in respect of defendant in case study 2</p> <p><u>Workshop:</u></p> <p>Individually presenting a plea in mitigation Student and tutor critiques</p> <p><u>Review/consolidation:</u></p> <p>Viewing recorded student presentations of plea in mitigation</p>
Contact Hours	<p>Each Study Unit involves the student undertaking 11.5 Notional Learning Hours, of which (with the exception of the Self Study unit) 2.5 hours will be a Small Group Sessions</p>
Teaching and Learning Methods	<p>Self-study preparation and research in order to acquire knowledge and understanding;</p> <p>Large group sessions in order to consolidate and develop knowledge and understanding;</p> <p>A mixture of individual and group work centred on problem-based learning, involving management of information, analysis of complex facts and application of knowledge;</p> <p>Role play and oral presentations to demonstrate understanding and effective communication of complex areas of law applied to detailed factual scenarios;</p> <p>Preparation of written communications (primarily in the form of office memoranda and</p>

	<p>letters of advice to clients) to demonstrate understanding and effective communication of complex areas of law applied to detailed factual scenarios;</p> <p>Drafting and amending of legal documents, often involving the use of precedents, to demonstrate synthesis and application of knowledge, and the ability to reach autonomous, competent decisions;</p> <p>Reviews of topics in the form of both large group sessions (where ideas can be pooled and debated) and critical self-evaluation.</p> <p>The teaching and learning strategy pervading all modules on the Legal Practice Course is a student-centred approach through the provision of a stimulating educational environment.</p> <p>Face to face teaching and learning in a workshop environment is at the heart of the Teaching & Learning strategy, for students to participate fully in challenging activities, undertaking a wide variety of exercises as individuals and in groups. Full participation is encouraged and expected. Students are encouraged to ask questions during the workshops and to take responsibility for their own learning. Feedback will be given on these exercises both by students and tutors.</p> <p>Outside of the workshop students are required to take responsibility for their own learning undertaking a variety of preparatory tasks. These may be undertaken by students either as individuals or working in office groups, including include provision of information using recorded lectures, reading from course manuals and from practitioner texts, reading and research from primary source material, completion of electronic tests, preparing documents or presentations and attending large group sessions.</p> <p>The final component of each Study Unit will be a consolidation task or tasks designed to broaden and deepen students' understanding of an aspect or aspects of work covered in the relevant Study Unit.</p>
Reading Strategy	Students will undertake reading from the course manual, practitioner texts, and primary source material.
Indicative Reading List	Civil Litigation 2016/17, Susan Cunningham-Hill, Karen Elder (OUP) Criminal Litigation 2016/17, Deborah Sharpley (CLP)

Part 3: Assessment	
Assessment Strategy	<p>The Assessment Strategy pervading all modules on the LPC is rigorous in its approach to ensure the credibility of the course to ensure that</p> <ul style="list-style-type: none"> • Assessment arrangements will be robust, consistent, fair and secure, to ensure that academic standards will meet the threshold set by the SRA • Assessments will revolve around transactions of the type encountered in practice • Assessments will address depth and realism as well as coverage • Individual assessments cover a representative and robust selection of the relevant outcomes. Where an assessment does not include coverage of all of the outcomes for a particular subject, students will nevertheless be

	<p>prepared to be assessed on all outcomes and will not be informed of what (or will not) be assessed in any particular assessment.</p> <ul style="list-style-type: none"> • Student achievement will be measured appropriately in accordance with the LPC outcomes. • All diligent students have an opportunity to achieve and demonstrate the LPC learning outcomes. • The needs of disabled students will be taken into account ensuring equal accessibility of assessments to all students.
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% weighting between components A and B	A:	B:
	100%	
First Sit		
Component A (controlled conditions) Description of each element	Element weighting (as % of component)	
2 x 2 hour Open Book assessment comprising 25% MCQ/SAQ and 75% Long Form Questions with an overall pass mark of 50%	100%	
Component B Description of each element	Element weighting (as % of component)	
n/a		

First Resit (further attendance at taught classes is not required)		
Component A (controlled conditions) Description of each element	Element weighting (as % of component)	
2 x 2 hour Open Book assessment comprising 25% MCQ/SAQ and 75% Long Form Questions with an overall pass mark of 50%	100%	
Component B Description of each element	Element weighting (as % of component)	
n/a		

Second Resit (further attendance at taught classes is not required)		
Component A (controlled conditions) Description of each element	Element weighting (as % of component)	
2 x 2 hour Open Book assessment comprising 25% MCQ/SAQ and 75% Long Form Questions with an overall pass mark of 50%	100%	
Component B Description of each element	Element weighting (as % of component)	
n/a		

