

LAWS50061 Evidence and Proof

Credit Points:	12.50
Level:	5 (Graduate/Postgraduate)
Dates & Locations:	2010, Parkville This subject commences in the following study period/s: June, Parkville - Taught on campus.
Time Commitment:	Contact Hours: Intensive (Winter). Total Time Commitment: Not available
Prerequisites:	733-510 Legal Method and Reasoning; 733-511 Principles of Public Law; 733-512 Torts; 733-513 Obligations; 733-514 Dispute Resolution.
Corequisites:	None.
Recommended Background Knowledge:	None.
Non Allowed Subjects:	None.
Core Participation Requirements:	For the purposes of considering requests for Reasonable Adjustments under the Disability Standards for Education (Cwth 2005), and Students Experiencing Academic Disadvantage Policy, academic requirements for this subject are articulated in the Subject Description, Subject Objectives, Generic Skills, and Assessment Requirements of this entry. The University is dedicated to providing support to those with special requirements. Further details on the disability support scheme can be found at the Disability Liaison Unit website: http://www.services.unimelb.edu.au/disability/ .
Coordinator:	Assoc Prof Jeremy Gans
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Subject Overview:	<p>Evidence and Proof offers a detailed exploration of how facts are analysed in legal settings, giving equal attention to the way that lawyers think about and communicate factual issues and the rules that regulate how courts resolve factual disputes. The subject provides a foundation for understanding both the rules that regulate the curial resolution of factual disagreements and the way that facts are approached in legal practice and in everyday life.</p> <p>The core of the subject is the study of mental processes used to explore and resolve factual issues. Specific topics addressed are the development of a theory of the case and a description of inferences that can be used to reason from the evidence to the case. A number of methods for communicating factual analysis, including the use of software, will be studied, with an emphasis on both technical accuracy and the production of useful, readable analysis.</p> <p>The subject will also explore the main rules that regulate (or purport to regulate) these mental processes (and related physical processes, such as the testimony of witnesses and the admission of documents and real evidence) when factual disputes are resolved by courts. The regulatory topics, comprising the central components of the law of evidence, include relevance, discretionary exclusion; the hearsay rule and its exceptions; the opinion rule and the regulation of expert evidence; and the credibility rule. The subject will also consider the rules that impact on the proof of criminal charges, including the rules on evidence of the defendant's character and other misconduct; the admissibility of admissions; and the law of criminal investigations. The classes will emphasise the application of these rules to complex, realistic facts and the development of skills to describe the impact of legal regulation on factual arguments that would otherwise be available.</p> <p>Throughout, the subject will explore the rationales for the rules and practices that surround legal fact-finding, as well as the alternative approaches available from comparative jurisdictions or proposed as law reforms. Students will be challenged to consider not only the limits of legal regulation, but also the limits of logical fact-finding, as a means of providing justice (and, in</p>

	particular, avoiding miscarriages of justice) in a transparent, accountable, efficient and effective manner.
Objectives:	<p>Students completing this subject should:</p> <ul style="list-style-type: none"> # Understand the role played by facts in litigation; # Have developed skills in the analysis of facts; # Be familiar with the main sources, principles, techniques, terminology and concepts of the law of evidence in Australia and with the fundamental features of common law trials; # Have acquired a good working knowledge of the most important rules of evidence and an ability to apply those rules to diverse factual situations; and # Be able to demonstrate the achievement of these objectives through the completion of a take home examination requiring analysis of a brief of evidence.
Assessment:	Take Home Examination (5,000 words) (100%).
Prescribed Texts:	Gans & Palmer, Uniform Evidence, OUP, 2009 Palmer, Proof, Thomson, 2nd Edition
Breadth Options:	This subject is not available as a breadth subject.
Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees
Generic Skills:	<p>On completion of the subject students should have further developed the following generic skills:</p> <ul style="list-style-type: none"> # Skills in critical and creative thinking; # Skills to assist in the understanding of the scientific mode of argument and reasoning; # Skills in advocacy.
Notes:	<p>Evidence and Proof is offered in Semester 1 and the winter recess. Please ensure you choose the correct subject code for the enrolment period:</p> <p>Semester 1 - 733-531 (/view/2010/733-531) Winter Recess - 733-561 (/view/2010/733-561)</p> <p>Special Computer Requirements: Use of certain software as a means of communicating factual analysis will be discussed in class, and may – but only if that is an individual student's preference – be used in assessment.</p>
Related Course(s):	Juris Doctor