

## ADVANCED NEGOTIATION AND MEDIATION (LL300)

**Course duration:** 54 hours lecture and class time (Over three weeks)

**LSE Teaching Department:** Department of Law

**Lead Faculty:** Professor Linda Mulcahy

**Pre-requisites:** Introduction to legal methods or equivalent.

### Course Introduction:

Welcome to the course! The course convenor is Linda Mulcahy and she can be contacted by email (l.mulcahy@lse.ac.uk). Her office is room 7.15 of the New Academic Building.

This course introduced students to a range of issues surrounding the dynamics of disputes and to advanced models of negotiation and mediation which will assist in their resolution. The focus of the course, which draws on insights from a range of academic disciplines including law, anthropology, psychology and economics, is on looking at contemporary dispute resolution across a range of settings such as commercial, family, community and personal injury disputes. An important feature of the course is the way in which it examines the interface between theory and practice. Academic staff will be joined by a practitioners in identifying a range of dispute resolution strategies as well as exposing students to the everyday realities of negotiation and mediation.

Teaching will be delivered through interactive lectures and small group classes. You will have a lecture and a class every day of the course except for Fridays when you will be given free time to study or enjoy London. The exception is the final Friday of the course when you will have an exam. You will normally be asked to read one academic article and one book chapter for each day.

At the end of the course, students should be able to:

- Critically evaluate on-going developments in law relating to alternative dispute resolution
- Discuss the socio-legal dynamics of disputes and the reasons why people embark on and pursue grievances
- Understand the distinctions between different types of dispute resolution processes;
- Appreciate how negotiation and mediation theories offer insights to the analysis and resolution of disputes
- Explain how negotiation and mediation theories can be used in practical situations

The course is taught at 300 level which means that it is equivalent to the third year of undergraduate academic study in a UK university.

What do we expect of you?

- That you attend lectures and classes
- That you download the set texts and read them in advance of class
- That you bring the readings to the class

## About the core course team:

### Professor Linda Mulcahy

Professor Linda Mulcahy joined the Law Department in 2010. She has degrees in law, sociology and art history. Her research focuses on disputes and their resolution and she has researched disputes in a range of different settings including commercial, matrimonial, community and personal injury. Linda has received a number of grants from the Leverhulme Trust, Economic and Social Research Council, Arts and Humanities Research Council, Ministry of Justice, Department of Health, Nuffield Foundation and Lotteries Fund in support of her work. Her research on disputes between doctors and patients has resulted in a number of publications and in her appointment as an expert consultant on several NHS bodies including the Neale, Kerr Haslam and Ayling Inquiries, the Health Care Commission, The Commission for the Regulation of Healthcare Professions as well as The Public Law Project and Judicial Studies Board. More recently her interest in dispute resolution has led her to develop an interest in the relationship between the design of the law courts and due process. A former chair of the UK Socio-legal Studies Association and current editor of The International Journal of Social and Legal Studies Linda's work has a strong interdisciplinary flavour.

### Henrietta Zeffert

Henrietta is a PhD student at the LSE. She is a qualified barrister and solicitor of the Supreme Court of Victoria and the High Court of Australia. She studied arts and laws at the University of Melbourne. She then practised law at Ashurst before completing the Bachelor of Civil Law at the University of Oxford. Following this Henrietta worked as associate to the Honourable Justice Susan Crennan AO, High Court of Australia. Henrietta teaches in the LSE Summer School in Negotiation and Mediation, Contemporary Issues in International Law, and Introduction to Human Rights. Henrietta also teaches in the Melbourne Law School juris doctor program in Alternative Dispute Resolution and Legal Method and Reasoning. Henrietta's research interest is law in everyday life.

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## Books for the course

### Essential Reading:

Students must purchase the following books in advance of the course:

Henry Brown and Arthur Marriot, (2012) ADR: Principles and Practice, London: Sweet and Maxwell. This is written by practitioners but also makes reference to a number of seminal academic studies. It provides a good framework within which to position the more in-depth arguments contained in the academic articles set each week.

Genn, Hazel, (2009) Judging Civil Justice (The Hamlyn Lectures) Cambridge, Cambridge University Press. This book provides a really good overview of civil justice reforms across developed legal systems and will alert you to many of the academic and policy debates which have surrounded reform.

Roger Fisher and William Ury (2012) Getting to Yes: Negotiating an Agreement Without Giving In, Random House. This is a classic text in the field and very simple to read. You can purchase copies very cheaply on Amazon and for present purposes it does not matter if you buy an old edition. This book will also help you when we come to study mediation which is often described as a form of facilitated negotiation.

### Non-compulsory purchase

The following book may also be of interest as background reading. Simon Roberts and Michael Palmer's 2005 (second edition) Dispute Processes: ADR and the Primary Forms of Dispute Resolution, Cambridge, Cambridge University Press. This is the most theoretical book in this list but provides extracts from many of the seminal works in the field that we will be studying. It adopts a very inter-disciplinary approach.

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### Electronic Resources:

Updates and other announcements will be posted on the course Moodle page. This is also where you will find compulsory readings which are not readily available through LSE e-journals or in the course collection. The PowerPoint presentation for lectures will be loaded on to Moodle prior to the seminar so that you can make notes on a printed version should you wish.

The majority of articles which have been set for your course are available via the LSE e-journals system which can be accessed via the library website.

### Useful websites:

- ACAS: <http://www.acas.org.uk/index.aspx?articleid=1461>
- ADR Now: [http://www.asauk.org.uk/go/Section\\_15.html](http://www.asauk.org.uk/go/Section_15.html)
- Centre for Effective Dispute Resolution: <http://www.cedr.com/>
- Chartered Institute Arbitrators: <http://www.ciarb.org>
- Civil Justice Council: <http://www.judiciary.gov.uk/about-the-judiciary/advisory-bodies/cjc>
- International Chamber of Commerce: <http://www.iccwbo.org/>
- Judicial Statistics: <https://www.gov.uk/government/publications/judicial-and-court-statistics-annual>
- Marc Galanter: <http://www.marcgalanter.net/index.htm>

- National Family Mediation: <http://www.nfm.org.uk/>

**Assessment:**

Assessment is by one examination, one 2,000 word essay and one presentation. The title for your essay which is due in at the end of the lecture on the Thursday of week two is:

There are so many factors that one has to take into account when trying to understand and solve a dispute that knowing the law is only a very small part of the puzzle to be solved. Discuss

Please note that when you are asked to 'discuss' you should consider arguments for and against this proposition. When answering questions we expect students to refer to the readings they have been assigned for the course.

You can use any recognised referencing system you choose but you must be consistent throughout the text. The preferred referencing style is Harvard. For guidance on this system of referencing see: <http://www.library.dmu.ac.uk/Images/Selfstudy/Harvard.pdf>

Students are required to sit an exam at the end of the course. You will be informed in due course of the exact time of your exam.

## Overview of the teaching programme:

<i>Topic</i>	<i>Session</i>
The dynamics of disputes: What do you need to know to understand a dispute?	Week One: Monday Three hour interactive lecture One seminar
What forms of dispute resolution are available and how can they be distinguished?	Week One: Tuesday Three hour interactive lecture One seminar
Litigation, the trial and shifts towards negotiated settlement and mediation	Week One: Wednesday Three hour interactive lecture One seminar
Negotiating risk: How to determine the best choice of resolution system for your client	Week One: Thursday Three hour interactive lecture One seminar
Theories of negotiation	Week Two: Monday Three hour interactive lecture One seminar
Operationalising Theory: Getting to yes	Week Two: Tuesday Three hour interactive lecture One seminar
Mediation: A form of facilitated negotiation	Week Two: Wednesday Three hour interactive lecture One seminar
Anatomy of a mediation	Week Two: Thursday Three hour interactive lecture One seminar
Evaluative and transformative mediation	Week Three: Monday Three hour interactive lecture One seminar
Critiques of mediation	Week Three: Tuesday Three hour interactive lecture One seminar
The dispute resolution challenge	Week Three: Wednesday Three hour interactive lecture One seminar
Overview and revision	Week Three: Thursday Three hour interactive lecture One seminar
Exam	Week Three: Friday

**Credit Transfer:** If you are hoping to earn credit by taking this course, please ensure that you confirm it is eligible for credit transfer well in advance of the start date. Please discuss this directly with your home institution or Study Abroad Advisor.

As a guide, our LSE Summer School courses are typically eligible for three credits within the US system and 7.5 ECTS in Europe. Different institutions and countries can, and will, vary. You will receive a digital transcript and a printed certificate following your successful completion of the course in order to make arrangements for transfer of credit.

If you have any queries, please direct them to [summer.school@lse.ac.uk](mailto:summer.school@lse.ac.uk)