

### 3.14 Module 30 Arbitration

#### 3.14.1 Headline information about the module

<b>Module title</b>	Arbitration
<b>Module NFQ level (only if an NFQ level can be demonstrated)</b>	8
<b>Module number/reference</b>	Module 30
<b>Parent programme(s) the plural arises if there are embedded programmes to be validated.</b>	LLB (Hons)
<b>Stage of parent programme</b>	3
<b>Semester (semester1/semester2 if applicable)</b>	Semester 1 or Semester 2
<b>Module credit units (FET/HET/ECTS)</b>	ECTS
<b>Module credit number of units</b>	5
<b>List the teaching and learning modes</b>	Full time, Part Time
<b>Entry requirements (statement of knowledge, skill and competence)</b>	Successful completion of Stages 1 and 2 of the programme
<b>Pre-requisite module titles</b>	None
<b>Co-requisite module titles</b>	None
<b>Is this a capstone module? (Yes or No)</b>	No
<b>Specification of the qualifications (academic, pedagogical and professional/occupational) and experience required of staff (staff includes workplace personnel who are responsible for learners such as apprentices, trainees and learners in clinical placements)</b>	Lecturers expected to hold at least a level 8 legal qualification, preferably with a professional legal qualification. It is an advantage to have completed the Certificate in Training and Education provided by Griffith College.
<b>Maximum number of learners per centre (or instance of the module)</b>	60
<b>Duration of the module</b>	One Semester, 12 weeks
<b>Average (over the duration of the module) of the contact hours per week</b>	2
<b>Module-specific physical resources and support required per centre (or instance of the module)</b>	Lecture room with internet access and digital projector.

Analysis of required learning effort										
Effort while in contact with staff										
Classroom and demonstrations		Mentoring and small-group tutoring		Other (specify)		Directed e-learning (hours)	Independent learning (hours)	Other hours (specify)	Work-based learning hours of learning effort	Total effort (hours)
Hours	Minimum ratio teacher/learner	Hours	Minimum ratio teacher/learner	Hours	Minimum ratio teacher/learner					
24	1:60						101			125
Allocation of marks (within the module)										
				Continuous assessment	Supervised project	Proctored practical examination	Proctored written examination	Total		
Percentage contribution				100				100%		

### 3.14.2 Module aims and objectives

This module aims to provide learners with the ability to identify the fundamentals of Arbitration and where it sits in the dispute resolution spectrum. Learners develop both an understanding of the primary aim of arbitration, being dispute resolution as well an ethos of facilitation of arbitration by encouraging the removal of obstacles. Learners are enabled to understand both the theory and practice underpinning the United National Commission on International Trade Law and the Arbitration Act 2010.

### 3.14.3 Minimum intended module learning outcomes

On successful completion of this module, learners will be able to:

- (i) Apply theoretical knowledge and critical thinking to suggest credible and creative solutions to current legal issues within the field of arbitration.
- (ii) Communicate a critical awareness of current legal problems pertaining to arbitration in Ireland and Internationally.
- (iii) Critically analyse arbitration law and the philosophical, political and economic structures underpinning it.
- (iv) Research and develop reasoned arguments to produce informed solutions to arbitration problems.
- (v) Exercise sophisticated skill and judgment in evaluating legal problems in arbitration.

- (vi) Act with autonomy, responsibility and team-working skills through cooperation on case studies.
- (vii) Manage and participate constructively in complex team environments.

#### **3.14.4 Rationale for inclusion of the module in the programme and its contribution to the overall MIPLOs**

Arbitration is an elective module where learners become familiar with the principles and legislation relating to this area of practice and its practical application within the Irish legal system. The module learning outcomes are aligned to a number of the Programme Learning Outcomes, including to develop a critical awareness of the international legal environment in which the Irish legal system operates, to critically evaluate own academic performance and take responsibility for self-directed learning and to demonstrate independent critical judgment and analytical skills supporting personal and career development.

This module will familiarise the learner with the fundamentals of Arbitration. It provides knowledge of the principles of Arbitration and the Arbitration process.

This module will also give learners an awareness of the impact of conflict behaviour on Arbitrator, both from the perspective of the Arbitrator themselves, and also from the parties to the Arbitration. The module emphasises the necessity of inherent emotional intelligence on the part of the Arbitrator in this regard. It is sought to achieve this by introducing the learner to both academic reading and self-reflection on the area.

This module serves to directly underpin programme learning outcomes 1, 3, 7, 8, 9.

#### **3.14.5 Information provided to learners about the module**

Learners will receive the following resources and materials in advance of commencement including:

- Learner Handbook;
- Module descriptor;
- Module learning outcomes;
- Assessment strategy;
- Reading materials;
- Class Notes (on a weekly basis).

Additionally, this material will be made available through Moodle, the College Virtual Learning Environment, along with other relevant resources and activities.

#### **3.14.6 Module content, organisation and structure**

##### **Topic 1 - Introduction to Arbitration**

- Introduction to Arbitration
- Definition of Arbitration

## **Topic 2 - Arbitration and the Law**

- Overview of the Arbitration Act 2010
- UNCITRAL Model Law
- Jurisdiction

## **Topic 3 - Arbitration Process**

- Arbitrability
- The Agreement to Arbitrate
- Interim Measures and Preliminary Orders
- Discovery and Security for Costs
- The Process of an Arbitration
- Setting Aside an Award
- Enforcement of an Award
- Defences to the enforcement of an award including Public Policy

## **Topic 4 - Role of the Arbitrator**

- Role of the Arbitrator

### **3.14.7 Module teaching and learning (including formative assessment) strategy**

The module uses participative lectures, which consist of tutorial-style discussions, group work sessions and exercises. The lectures are supplemented by structured on-line resources and directed reading. Formative assessment is provided in the form of interactive exercises such as directed class discussion topics which reference current affairs pertaining to Arbitration at the time of instruction. Formative assessment is also provided through tutorial-style discussions, group work and exercises. These focus on specific case law and problem-based learning requiring learners to analyse the law and apply it to practical arbitration disputes or issues.

Learners also engage in collaborative work in pairs or small groups to brainstorm what learning has been achieved at the end of lectures. In order to support learners through the examination process, they engage in the answering of sample examination questions and correction of their own or peer's papers, thereby familiarising themselves with the marking criteria. Learners also engage in activities where they draft their own exam questions in order to recap and consolidate a particular topic.

Learners undertaking the course via blended learning benefit from varied and additional options for engagement to compensate their reduced attendance of campus. These include webinars, screencasts (recorded lectures), discussion fora, and increased use of the College's VLE (Virtual Learning Environment), Moodle.

In addition to what has been stated, classroom assessment and benchmarking techniques are deployed to encourage learners to develop more agency in terms of their own learning including in-class presentations, group work, peer-review exercises and reflective practice. The variety of teaching, learning and assessment techniques reflect an enhanced emphasis on skills acquisition to deepen practical knowledge. Finally, the attention of learners is drawn

to current industry practice and technology used in the specific area of law to add a further dimension to learning, tracking the actual practice of legal professionals.

#### **3.14.8 Work-based learning and practice-placement**

Arbitration is a class based 5 ECTS credit module and does not require work-based learning and practice placement. The Learning Outcomes are articulated using the *Quality and Qualifications Ireland (QQI) Awards Standards for Honours Bachelor of Laws and Master of Laws (July 2014) and for Generic Higher Education and Training (July 2014)*.

#### **3.14.9 E-learning**

Moodle is used to disseminate notes, advice, and online resources to support the learners. Moodle can be accessed in the learner's home, various open labs on campus and in the library. The learners are also given access to Lynda.com as a resource for reference.

#### **3.14.10 Module physical resource requirements**

Requirements are for a fully equipped classroom. The classroom is equipped with a PC and Microsoft Office; no other software is required for this module.

The College library has a dedicated law section and online legal research tools (Justice One, Westlaw, Hein Online).

#### **3.14.11 Reading lists and other information resources**

##### **Primary Reading:**

*Mansfield, B. (2012) Arbitration Act 2010 and Model Law: A Commentary. Dublin: Clarus Press*

*Born, G. (2012) International Arbitration: Law and Practice. Alphen aan den Rijn: Kluwer Law*

*Buhler, M.W. & Webster, T.H. (2008) Handbook of ICC Arbitration: Commentary, Precedents, Materials. London: Sweet & Maxwell*

##### **Secondary Reading:**

*Holtzmann, H.M. & Neuhaus, J.E. (1995) A Guide to the Uncitral Model Law on International Commercial Arbitration: Legislative History and Commentary. Alphen aan den Rijn: Kluwer Law*

*Hunter, M. & Redfern, A. (2009) Redfern and Hunter on International Arbitration. Oxford: OUP*

*Mair, P., Reilly, L., Cahill, G. (2019) International Commercial Arbitration Law, Bloomsbury Professional, 1<sup>st</sup> Edition*

#### **3.14.12 Specifications for module staffing requirements**

Lecturers qualified to the appropriate academic or professional level and preferably with a third level teaching qualification (e.g. Certificate in Training and Education).

Learners also benefit from the support of the Programme Director, Programme Administrator, Lecturers, Learner Representative, Students Union and Counselling Service.

### 3.14.13 Module summative assessment strategy

The module will be assessed by way of assignment and mock arbitration.

The first assessment is a 2,000 – 2,500-word assignment to include in-depth research. This is deemed the most appropriate assessment method for this module as the depth of research required lends itself best to an academic paper of this nature.

The assignment will assess the learner on their understanding of the impact of legislation on the principles of mediation; and their ability to critically dissect multiple codes of ethics and evidence deep understanding of ethical considerations in mediation. The scope of the assignment covers both legislation and a dissection of codes of ethics in order that a learner be given the opportunity to demonstrate knowledge of both the legislative environment in which the mediation industry exists, as well as a depth of understanding of the ethical considerations impacting upon an individual mediator.

The second assessment will take the form of a mock arbitration. Learners will be required to prepare written submissions which, are presented on opposing sides in an informal context before an examiner acting as arbitrator.

The assessed work breakdown can be seen in the table below.

No	Description	MIMLOs	Weighting
1	Assignment	i, ii,iii,iv,v,vi,vii	60%
2	Reflective Development Portfolio	i, ii,iii,iv,v,vi,vii	40%

### 3.14.14 Sample assessment materials

#### **Assignment**

Critically evaluate arbitration as a form of dispute resolution by reference to the means of enforcing arbitral awards both nationally and internationally.

#### **Sample Answer**

*Learners are required to demonstrate a critical awareness of current legal problems and new insights pertaining to arbitration nationally and internationally while considering both the Arbitration Act 2010 and the UNCITRAL Model Law. Learners are required to cite relevant case law.*

#### **Reflective Development Portfolio**

*Learners are required to prepare a reflective development portfolio which will reflect on all of your learning throughout the module. This should take the form of an in-depth self-reflective, structured work, and can be used as a tool in future study and practice/employment.*

#### **Sample Answer**

*Learners will be assessed on their ability to reflect on and evaluate their knowledge and understanding of mediation in the form of a reflective development portfolio.*

*At a minimum the portfolio will*

- *demonstrate the knowledge and understanding you have developed in the field of arbitration*
- *draw on your preparation for in class discussions and research carried out for your assignment*
- *reflect on the issues that arose for you in the module*
- *consider the impact of arbitration both nationally and internationally*

**Sample Marking Criteria / Rubric – See Appendix 1**