

## Module 9: The Law of Evidence

|  |                              |                 |                  |                          |                  |                         |                             |
|--|------------------------------|-----------------|------------------|--------------------------|------------------|-------------------------|-----------------------------|
| <b>Stage</b>                                   |                              | 2               |                  |                          |                  |                         |                             |
| <b>Semester</b>                                |                              | 1 or 2          |                  |                          |                  |                         |                             |
| <b>Module Title</b>                            |                              | LLBH - LE       |                  |                          |                  |                         |                             |
| <b>Module Number</b>                           |                              | 9               |                  |                          |                  |                         |                             |
| <b>Module Status</b>                           |                              | Elective        |                  |                          |                  |                         |                             |
| <b>Module ECTS Credits</b>                     |                              | 5               |                  |                          |                  |                         |                             |
| <b>Module NFQ level</b>                        |                              | 7               |                  |                          |                  |                         |                             |
| <b>Pre-Requisite Module Titles</b>             |                              | None            |                  |                          |                  |                         |                             |
| <b>Co-Requisite Module Titles</b>              |                              | None            |                  |                          |                  |                         |                             |
| <b>Capstone Module?</b>                        |                              | No              |                  |                          |                  |                         |                             |
| <b>List of Module Teaching Personnel</b>       |                              | Deirdre Clarkin |                  |                          |                  |                         |                             |
| <b>Contact Hours</b>                           |                              |                 |                  | <b>Non-contact Hours</b> |                  |                         | <b>Total Effort (hours)</b> |
| 24   |                              |                 |                  | 76                       |                  |                         | 100                         |
| <b>Lecture</b>                                 | <b>Practical</b>             | <b>Tutorial</b> | <b>Seminar</b>   | <b>Assignment</b>        | <b>Placement</b> | <b>Independent Work</b> |                             |
| 24   |                              |                 |                  |                          |                  | 76                      | 100                         |
| <b>Allocation of Marks (Within the Module)</b> |                              |                 |                  |                          |                  |                         |                             |
|  | <b>Continuous Assessment</b> | <b>Project</b>  | <b>Practical</b> | <b>Final Examination</b> | <b>Total</b>     |                         |                             |
| <b>Percentage Contribution</b>                 |                              |                 |                  | 100                      | 100              |                         |                             |

### Intended Module Learning Outcomes

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

1. Identify and explain the principles and rules underpinning the law of evidence;
2. Analyse and discuss categories of evidence where corroboration may be an issue;
3. Develop an understanding of the rationale behind the exclusion of

- improperly obtained evidence
- 4. Appraise and apply the relevance rules of evidence;
- 5. Apply the concepts of the rules of evidence relating to criminal trials and civil trials in different factual situations
  
- 6. Identify potential reforms in the law of evidence.
- 7. Communicate effectively in relation to the law of evidence

### Module Curriculum

- Burdens of proof and standards of proof
- The course of the evidence in a criminal trial
- Competence and Compellability
- Corroboration warnings
- The rule against hearsay and its exceptions
- Opinion evidence and expert evidence
- Improperly obtained evidence
- Confession evidence
- Character evidence and cross-examination of the accused under the Criminal Justice (Evidence) Act 1924
- Privilege
- The privilege against self-incrimination and the right to silence in criminal trials
- The right to legal representation

### Indicative Reading

#### Primary Reading:

- Fennell, C. (2009) *The Law of Evidence in Ireland*. Dublin: Bloomsbury
- Healy, J. (2004) *Irish Laws of Evidence*. Dublin: Round Hall
- Heffernan, L. & Ní Raifeartaigh, U. (2014) *Evidence in Criminal Trials*. Dublin: Bloomsbury
- McGrath, D. (2004) *Evidence*. Dublin: Thomson Round Hall

#### Secondary Reading:

- Childs and Ellison (2000) *Feminist Perspectives on Evidence*. London: Cavendish Publishing
- Heffernan, L. (2005) *Evidence: Cases and Materials*. Dublin: Round Hall
- Heffernan, L., Ryan, R. & Imwinkelried E.J. (2012) *Evidentiary Foundations*. Dublin; Tottel Publishing
- Heffernan, L. (2006) *Scientific Evidence: Fingerprints and DNA*. Dublin: First Law
- Ho, H.L. (2008) *A Philosophy of Evidence Law: justice in the search of truth*. Oxford: Oxford University Press
- Keane, A. (2012) *The Modern Law of Evidence*. Oxford: Oxford University Press
- May, R. & Powles, S. (2004) *Criminal Evidence*. London: Thomson Sweet and Maxwell
- Murphy, P. (2008) *Evidence*. Oxford: Oxford University Press
- Howard, M. (2005) *Phipson on Evidence*. London: Thomson Sweet and Maxwell
- Spencer, J. (2006) *Evidence of Bad Character*. Oxford: Hart Publishing
- Spencer, J. (2008) *Hearsay Evidence in Criminal Proceedings*. Oxford: Hart Publishing
- Tapper, C. (2010) *Cross and Tapper on Evidence*. Oxford: Oxford University Press

## **Module Learning Environment**

### **Accommodation**

Lectures and workshops take place in a classroom setting. Participants also have access to online teaching resources and Moodle

### **Library**

All learners have access to an extensive range of “physical” and “remote access” library resources. The library monitors and updates its resources on an on-going basis, in line with the College’s Library Acquisition Policy. Lecturers collaborate with the library in updating reading lists for this course on an annual basis as is the norm with all programmes run by Griffith College.

## **Module Teaching and Learning Strategy**

This module is delivered through a series of lectures which consist of tutorial-style discussions, group work sessions and exercises. The lectures are supplemented by structured on-line resources and reading. To consolidate learning each week learners have the opportunity, in a tutorial/workshop scenario, to either apply the law to factual scenarios or to discuss the current state of the law with a view to possible reform. In class discussions also make use of topical media reporting of evidence matters so as to relate learning to the day to day operation of the rules of evidence.

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

## **Module Assessment Strategies**

Knowledge and competencies are assessed through submission of a written assignment and a presentation worth 40% and by an end of module examination worth 60% of the total marks in this subject.

Formative assessment is provided in the form of interactive exercises such as directed class discussion topics and reference to current affairs pertaining to the rules of evidence at the time of instruction.

| Element No. | Weighting | Type | Description   | Module Learning outcomes |
|-------------|-----------|------|---|--------------------------|
| 1           | 100%      | Exam | The examination consists of a choice of both essay and problem style questions. Essay style questions place emphasis on the learners' demonstrating their understanding of the main principles of the law and their capacity to critique the law. Problem style questions enable learners to apply principles of the law to a factual scenario. | 1-7                      |

Sample Assessment with Rubrics - see Annex 2