



Agenda

1. What is AHEGS?
2. How to judge: by Dr Rosemary Howell
3. Unconscious Bias
4. How to judge moots



What is AHEGS?

What is AHEGS?

- Australian Higher Education Graduate Statement: essentially your academic transcript and co-curricular statement
- UNSW Advantage recognises over 450 volunteering/professional development opportunities to be put onto AHEGS
 - E.g. LawPLUS peer mentoring, SLEG, UNSW Law Journal, UNSW Lawsoc Exec
- This is the first year that Lawsoc student judges/volunteers will be recognised for their work.

How do I become AHEGS recognised?

- You must have sufficient training (hence the workshop) and have met the minimum 20 hour requirement.
 - Must take place during 2018. You can be recognised for multiple years in the future.

This equates to approximately 6 skills competitions or 5 moots

We will recognise:

- Preparation Hours - by default
 - 1 hr skills competition prep
 - 2 hrs mooting competition prep

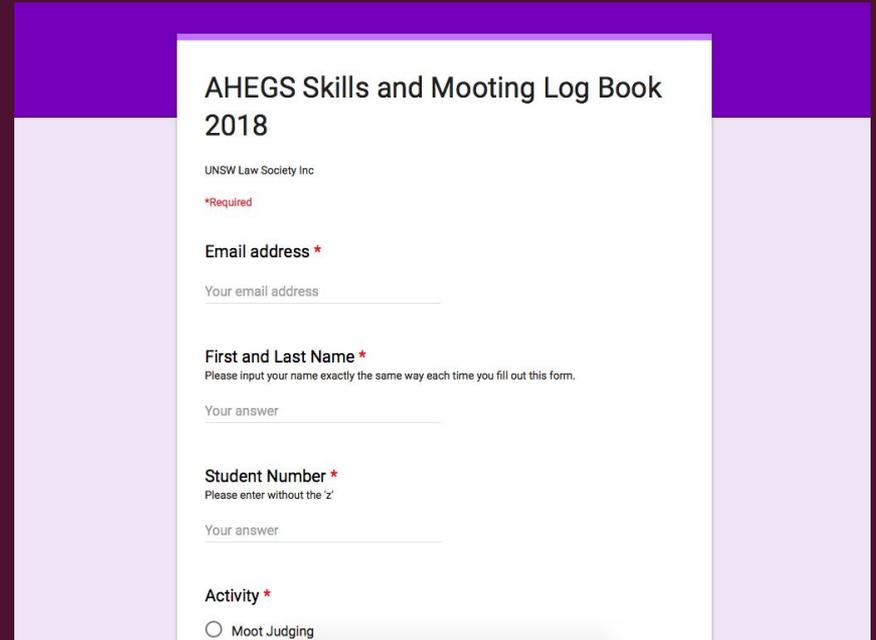
- Judging Hours
 - You will enter the exact hours yourself
 - This may depend on the number of competitors in the moot and how long it took to deliberate and give feedback

Bonuses

- We will also recognise:
 - Acting as a client in Client Interviewing or Witness Examination
 - Acting as a bailiff in a an external moot (Private Law Moot)
 - Participating in a demonstration moot/negotiation
- If you reach the 20 hour requirement, you will also receive an invitation to the end of year **Skills and Mooting Thank You Social!**

Logging the 20 hours

- You will personally log the hours via google sheet, which will be emailed to you.
- After every time you judge, log your hours.
- Please be truthful when logging your hours.
- Link: <https://goo.gl/T29gvG>



AHEGS Skills and Mooting Log Book
2018

UNSW Law Society Inc

***Required**

Email address *

Your email address _____

First and Last Name *

Please input your name exactly the same way each time you fill out this form.

Your answer _____

Student Number *

Please enter without the 'z'

Your answer _____

Activity *

Moot Judging



How to Judge: Dr Rosemary Howell



Unconscious Bias

Roughly how many pieces of information do you think our brains are exposed to every second?

A 110

B 110 thousand

C 11 million

Roughly how many pieces of information do you think our brains consciously process every second?

A 40

B 40 thousand

C 4 million

Unconscious bias

Therefore, our brains use patterns or shortcuts when processing information.

It channels and filters information to get us through our day to day lives.

Whenever it recognises a pattern, it uses these patterns to tell us the full story, based on the limited information it has.

This is an essential brain function for survival, but it also embeds stereotypes, which can lead to unconscious biases in judging.

Unconscious biases can occur based on a range of personal attributes e.g. gender, appearance, accent

Gender

Women make up 63% of people admitted to legal practice, and 60% of law graduates, yet only 10% of senior counsel. (<http://www.nswbar.asn.au/the-bar-association/statistics>)

Advocacy is a male dominated and gender normative pursuit in which women are structurally hindered and do not enjoy equal opportunity to develop and succeed.

“Unconscious” bias = automatic, preconditioned. Gender bias goes undetected unless we endeavour to make it conscious, reflect on it, and account for it.

Gender

Women are expected to conform to a certain set of norms which prescribe how women ought to behave e.g. they are expected to be humble, conciliatory or softly spoken. When they violate these norms by displaying more male identified traits, they are perceived negatively e.g. as shrill/aggressive/loud/hysterical.

It is important when judging not to automatically:

- credit masculine forms of dominance e.g. speaking loudly, speaking in a low pitch
- discredit females or males who are not seen as conforming to gender norms

Unconscious biases can affect men too. For example, a negotiation team of two men might be more likely to be perceived as aggressive

Feedback: Unconscious bias in mooting at UNSW

Feedback given by judges varies significantly depending on the competitors' gender. From comments received in round 1 2016:

- Women were half as likely to be perceived as “confident” by their judges (5% of women, v 10% of men)
- Women are twice as likely to be perceived as “nervous” (6% of women, v 3% of men)
- Certain terms such as “(too) emotive” were only used against women.
- Certain comments that expressed dissatisfaction with the tone and pitch of the speaker's voice were *only* noted against women competitors.

Statistics

Beginner's mooting (the crucial stage)

1. Drop out rates

- ○ In 2015 beginners mooting, only 15% of men who participated in Round 1 did not continue to Round 2; whereas 43% of women dropped out after round 1.
- ○ In 2016 beginners mooting, the dropout rate increased for women (to 65%) but additionally for men (to 56%)

2. 'Top ten speakers'

- ○ In 2015 beginners mooting, in round 1 6/10 of the top ten speakers were women, whereas in round 2, only 1/10 were women.
- ○ In 2016 beginners mooting, in round 1 7/10 of the top ten speakers were women, whereas in round 2, only 2/10 were women.

Language/Accent

Do not discredit people with accents, because you presume they have a lesser grasp of English or because you presume they have a lesser understanding of the subject matter. This includes people with strong Australian accents.

Do not automatically assign credit to presentations that are polished, full of rhetorical flourishes and legal language.

Appearance

Be aware of potential biases caused by wearing formal business wear vs someone who was unable to do so.

Other possible unconscious biases could arise on the basis of:

- Race
- Religious symbols/dress
- Physical ability and mobility

Why do we care about persuasive style?

Good manner is only important because it demonstrates and supports an advocate's knowledge and understanding of the law and the strength and credibility of their argument. In an event at UNSW, President Beazley offered some tips to prospective advocates. Her three tips were 'substance, substance and substance.'

It's worth bearing this in mind. One consequence of unconscious biases about 'good manner' ultimately means that sound arguments and valuable contributions aren't being fully recognised. Advocacy in general must seek to liberate itself from its masculinised and anglicised stylistic preconceptions if the quality of legal argument and the relevance of the profession is to improve in the 21st century.

Mooting and Skills at UNSW must seek to pioneer that shift in our own competitions.

Tips

1. **Recognise your biases and common biases others have**
2. **Interrogate your actions**
3. **Be consistent**
4. **Track your personal results**
5. **Be very wary of words often used only against certain individuals**

Password: Howell, unconscious bias, 20 hours

When judging, ask yourself:

1. What do I mean by 'good manner' - what is my impression of a 'persuasive style'?
2. To what extent can/does Q1 influence my assessment of a competitor on substantive criteria, when it comes to scoring?

If you're interested, take a look at Harvard's Implicit Association Test:

<https://implicit.harvard.edu/implicit/>

Actual/apprehended Bias and Recusal

From UNSW Mooting Rules (section 30):

Bias on the part of a judge arises where he or she is unlikely to bring an impartial mind to judging and scoring a particular competitor or competitors (actual bias), or appears unlikely to do so (apprehended bias). Apprehended bias will not ordinarily arise by a mere relationship of acquaintance or friendship.

If a judge believes that he or she possesses actual or apprehended bias, the judge must raise this belief with the Directors within 48 hours of being informed of the identity of the mooters, regardless of whether a petition has been raised.

The competition directors will then make a decision on the appropriate course of action.



How to Judge Moots

What is the role of the judge?

Educate

Facilitate

Critique

Challenge

Mooting is about the competitors, not the judges

Preparation

In advance of the moot, you should:

- Print both sets of submissions;
- Download the score sheet;
- Read the submissions, note any problems, and note areas of potential questioning;
- Read the judging guide for the specific moot problem.

Please arrive 15 mins early if possible and let the competition directors and competitors know if you can no longer make it.

Preparation

4 key points regarding the problem question, judging guide, and submissions:

1. Yes you are a volunteer (thank you!) and time poor
2. Yes you still have to read these materials properly
3. If you haven't gone into them in as much depth as you would like, do not reveal this to the mooters - Remember how much work **they** have done
4. Your preparation, as much as theirs, can improve the quality and value of the moot

Marking written subs

This is **very** important. Do they make sense? Are they concise? Do they disclose the process of legal reasoning, or are there gaps? Citation? Consider each positive and negative, you are not giving a mark based on a 'vibe'

In the real world, the work of a barrister is increasingly with the laptop, not the larynx. *Further, writings are a substantial component of the scoring.*

During the moot

Good judging \neq hard judging

Asking good questions:

1. Target your questioning to the key points
2. Questions should be commensurate to each mooter's capabilities
3. Do your best to comprehend a point before asking for clarification
4. Acknowledge that impasses occur, and move on - make a note for feedback

Changes:

- Formal citation - removed requirement
- No allocation of submissions in appearances, just time division
- Announce a winner **only**

Types of Questions

You may ask a mix of fact-based, law-based, hypothetical and policy questions, and any others as appropriate. Judges' questions might include:

- Whether an objective or subjective test is being applied, and the elements of any test
- Questions about the cases cited: facts, ratio/judgment, similarity/distinction to problem scenario
- Where there is a case that is clearly analogous to the facts, there can be a more extensive line of questioning. However, it generally wastes time to ask the mooter to provide 'the facts of that case', unless the mooter is struggling and needs a relatively simple question.
- Testing the mooter's understanding of whether the case they cited is binding or persuasive.
- Questions about what appellate courts can overturn (findings of fact/law), and criteria for overturning findings of a trial judge
- Hypothetical scenarios that test the limitations of the mooter's argument and the matrix of facts within which the argument can be maintained
- Questions directed towards the weakness(es) of the mooter's case

Marking competitors

Marking to scores, not ranking scale.

- We are trying to improve the consistency and integrity of the scoring - we need your help to do this.
- You will use electronic scoresheets, emailed back to competition directors after the moot.
- Please complete one scoresheet per judge.
- You may apply some penalties (see competition rules)

Poor: < 20

Average: 20–29

Excellent: 30–39

Outstanding: 40+

Writing comments on the judging form is **essential** (see the judging handbook for examples). This year, competitors will be able to view their comments (but not their scores) on request.

Criteria

Argument and Structure (out of 20):

- Knowledge of relevant legal principles and problem question facts;
- Correct and persuasive use of legal authorities, without overstepping precedent;
- Ability to apply facts to the law (beyond mere factual arguments);
- Structured, thorough and sensible arguments

Questions and Answers (out of 10):

- Direct and persuasive answers to questions, without evasion;
- Citation of law and authorities in response to questions;
- Ability to deviate from, and seamlessly return to, submissions;
- Ability to comprehend and, where required, clarify questions

Criteria

Presentation and Speaking (out of 10):

- Clear, confident and engaging speech at a measured pace;
- Consistent eye contact and posture;
- Appropriate formality, respect and court etiquette;
- Appropriate time given to each submission and arguments concluded within time

Written Submissions (out of 10):

- Clear, logically structured and concise written submissions;
- Correct spelling, grammar, punctuation etc;
- Citation conforms with the Australian Guide to Legal Citation

Deliberation

Please do not spend longer than 15-20mins in total. Spend a couple of minutes thinking about your own ranking of the competitors before discussing.

Allow everyone to give their views. If you are judging than people more experience than you, don't be afraid to contribute. Be prepared to justify why you think a certain mooter should be ranked 1st, 2nd etc.

Try to come to a consensus on the winner so that you can announce them.

If there are any differences in the rankings, you can put your own rankings and comments in your individual scoresheet. This gives the competition directors as much information as possible when deciding the break.

Discuss what feedback you plan to give and allocate who will say what feedback.

Giving feedback

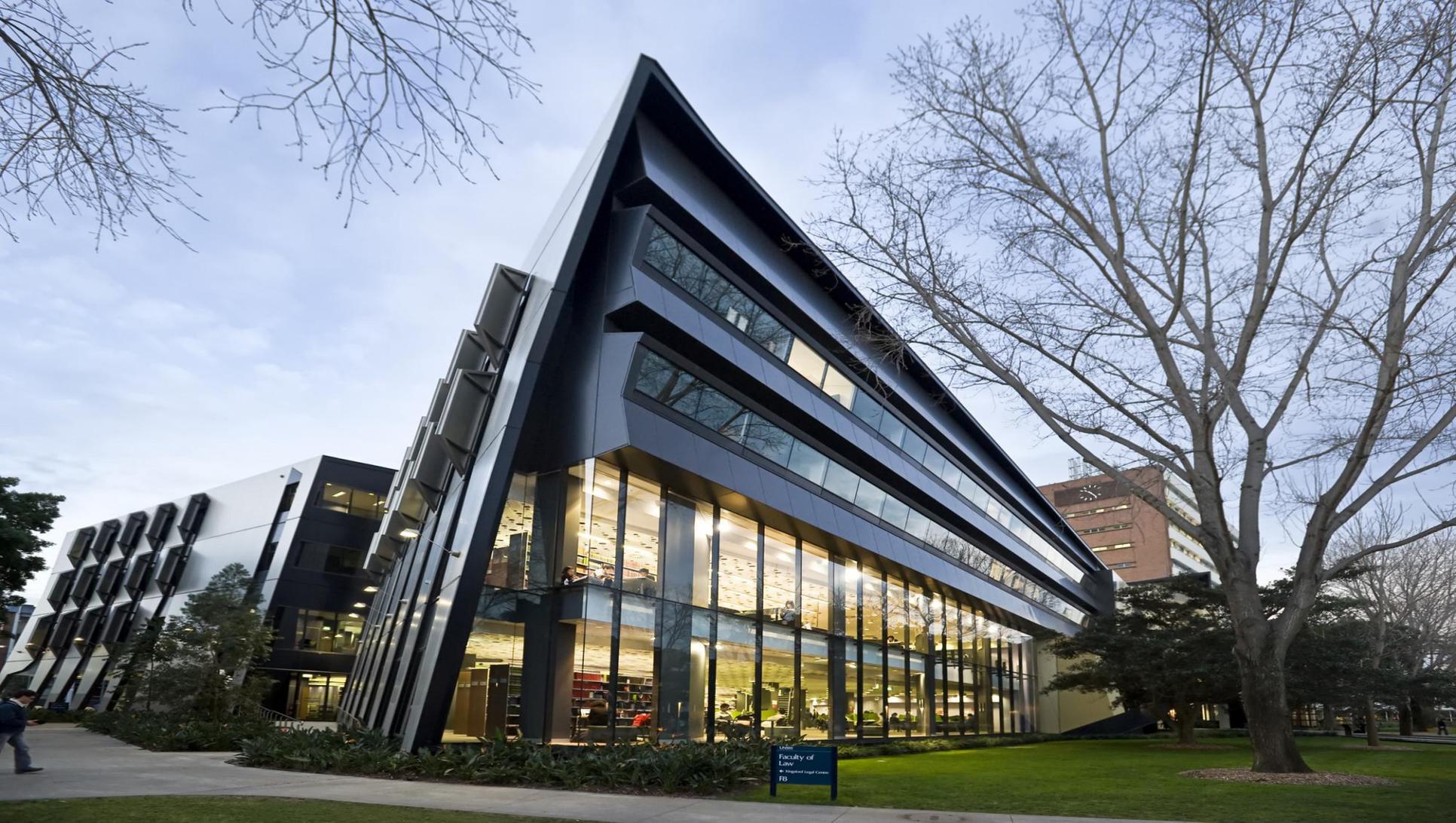
This is really the most important part of your job, because the principal role of the judges is as *educator*.

Only announce winning person - not runner up, not team, etc. Do not reveal scores.

Start with general feedback. Include positive feedback!

Focus on the three (max four) most important points of feedback

Allow time for them to ask questions of you



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