

UNSW LAW SOCIETY INC BEGINNERS, INTERMEDIATE AND SENIOR MOOTING COMPETITION RULES

As at 10 March 2018

Passed by UNSW Law Society Cabinet on **12 March 2018**

Version	Date	Author	Approval	§ amended	Details
1.0	26/02/18	VP (Mooting)	Cabinet	All	New Policy
1.1	10/03/18	VP (Mooting)	Cabinet	44–5, 50, 60, 70	New r 44–5 to cover LLM and exchange students. Amended eligibility rules in r 50, 60, 70. Minor typographical and formatting changes.

PREAMBLE

This rules document covers the administration of and participation in the Ashurst Beginners Mooting Competition, the Ashurst Intermediate Mooting Competition, and the Allens Linklaters Senior Mooting Competition.

Part I contains rules that apply across each of the competitions. Parts II, III and IV contain rules that apply only to each of Beginners, Intermediate and Senior Mooting respectively.

A reference to ‘the Competition’ is a reference to the applicable competition.

A reference to ‘the Directors’ is a reference to the applicable competition directors. Each competition is administered by two directors appointed by the UNSW Law Society.

A reference to a competitor is a reference to an eligible student who has registered in the Competition.

PART I: GENERAL RULES

1. By entering the Competition, competitors agree to be bound by these rules.

Registration and Teams

2. Competitors must register for each round by the date advertised by the Directors. Late registrations may be accepted at the discretion of the Directors.
3. Each team comprises two competitors. Students may register for each round as a team, or they may register individually, in which case the Directors will form teams where possible.
4. Teams will be randomly allocated the roles of appellant or respondent in all rounds of the Competition.
5. The Directors will attempt to ensure that two teams will not meet more than once in the preliminary rounds. This rule does not apply if the composition of either team changes.
6. The Directors may reconfigure the Competition draw at any time after its release to ensure the smooth functioning of the competition, eg, to fill vacancies caused by forfeitures.

Release of problem questions

7. The problem question for each round will be sent to the registered email address of each competitor in advance of each round as specified in cl 8 to 10. This email will also notify competitors whether they will be acting as appellant or respondent.
8. For all preliminary rounds, problem questions will be distributed by email at 9 pm, 6 days prior to the day of the competitor's scheduled moot. Eg, if the moot takes place on Monday, the question will be released at 9 pm on the preceding Tuesday.
9. For quarter final and semi-final rounds, problem questions will be distributed at 9 pm, 7 days prior to the moot.
10. For the grand final, problem questions will be distributed at 6 pm, 10 days prior to the moot.
11. No questions will include potentially triggering content, particularly any content which relates to sexual assault or self-harm, without an appropriate trigger warning.

Written submissions

12. Written submissions must include:
 - (a) a cover page specifying the court in which the case is heard, the parties' names and the competitors' names, described as senior counsel or junior counsel;
 - (b) an outline of the issues for determination;
 - (c) details of each argument being made; and
 - (d) a list of authorities relied on.
13. Authorities should be cited according to the most recent edition of the *Australian Guide to Legal Citation*. Competitors should provide pinpoint references.
14. The problem question represents the facts as agreed between the parties. The correctness of the facts may not be disputed in argument, but inferences may be drawn from them in accordance with law. The jurisdiction of the court to hear and determine the case will be assumed and may not be challenged.

Submission of written submissions

15. To avoid penalty, written submissions must be emailed to the Directors, the judges and each competitor on the opposing team on or before:
 - (a) 11:59 pm two days before the moot, for all rounds other than the grand final;
 - (b) 11:59 pm three days before the moot, for the grand final.
16. Once submitted, a team's written submissions are final and may not be altered, subject to cl 17.
17. A competitor may make a minor change to their team's written submissions without penalty, such as to correct a typographical error, if they:
 - (a) notify the Directors, judges and competitors by email as soon as possible after submission of written submissions; and
 - (b) during their team's opening appearance, seek and obtain leave from the judges to make that change.

A competitor may not make substantive changes to their written submissions (eg, to introduce new arguments or to change important aspects of existing arguments).

Oral submissions

Procedure for oral submissions

18. Appearances will be given by the senior counsel of the appellant team and then the senior counsel of the respondent team before each team's submissions are heard. Appearances are not counted towards a team's time limit.
19. Competitors will be heard in the following order: senior counsel for the appellant, junior counsel for the appellant; senior counsel for the respondent, and junior counsel for the respondent.
20. Each team will have 40 minutes to present its arguments and answer questions from the judges. The time must be divided between senior and junior counsel 20 minutes each.
21. The judges may grant an extension of time of up to five minutes per competitor. Judges are encouraged, but not required, to grant extensions evenly between speakers.
22. Responsibility for official timekeeping rests with the judges, but competitors must monitor their adherence to time limits. For the avoidance of doubt, competitors may use a mobile phone on silent and airplane mode to keep time, but only for that purpose.
23. There is no formal dress requirement. Competitors are advised to dress in a professional manner appropriate to a courtroom atmosphere.

Bench books

24. Competitors are strongly encouraged, but are not required, to print any important legislative provisions and the relevant parts of cases that are cited in a team's written submissions, and hand up one copy per judge to the bench prior to the moot.
 - (a) Relevant parts of a case should ordinarily include the headnote and the most important facts or passages relied on.
 - (b) Competitors may coordinate with the opposing team before the moot to organise the production of a shared bench book.
 - (c) No marks will be granted merely for providing bench books. No marks will be deducted for not providing bench books.

Judging

25. Judges must have relevant mooting, academic or professional experience.
26. In relation to student judges' qualifications:
 - (a) see also cll 56, 66 and 77 below.
 - (b) Judges may include the Directors and the Vice-President (Mooting).
27. Each moot will be presided over by at least two judges, unless exceptional circumstances, as determined by the Directors in consultation with the Vice-President (Mooting), require otherwise.
28. In the semi-finals of the Competition:
 - (a) at least one judge should, where possible, be a person who is not a student at UNSW;
 - (b) at least one judge should, where possible, preside over both semi-final moots.
29. In the grand final, the presiding judges will determine the winner and runner up of the Competition based on their performance in that moot.

Bias

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.
 - (a) A petition of bias must be raised, with reasons given, within 48 hours of the competitors' being informed of the identity of the judges for the relevant moot. The petition must be sent to the Directors.
 - (b) The Directors will confer with the Vice-President (Mooting) and the relevant judge before making a decision.
 - (c) The Directors may decide to retain or remove the judge, or to oversee the moot, or to adopt any other reasonable course of action.
 - (d) If the Directors decide to remove that judge from the moot, they will make every reasonable effort to find a replacement judge.
31. 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 procedure specified in cl 30(b) to (d) will then be followed.

Scoring

32. Each judge will complete a separate scoresheet. On their scoresheet, judges:
 - (a) will award each competitor marks allocated according to the categories on the scoresheet;
 - (b) will assign each competitor a rank from 1–4, where 1 signifies the strongest competitor;
 - (c) will make comments about each competitor's performance, according to the categories on the scoresheet; and
 - (d) may also make comments on any other matters that they deem relevant.

Note: The Competition scoresheet is available for competitors and judges to download at <https://www.unswlawsoc.org/competition-resources/>.
33. At the end of the moot, the judges must announce the winning individual (as determined by a majority of judges), but must not reveal any of the scores to the competitors.
34. Judges may adjourn to consider their decision at the conclusion of the moot. Judges may deliberate for no longer than 20 minutes after the conclusion of the final speaker's argument.
35. Judges are encouraged to give oral feedback. Judges' oral feedback must be consistent with the comments written on their scoresheet.

Appeals

36. An appeal relating to the judging or result of an individual moot must be referred to the Directors within 24 hours of the beginning of that moot.
 - (a) If either Director served as a judge in that moot, the appeal will be heard by the Vice-President (Mooting).
 - (b) If either Director and the Vice-President (Mooting) served as judges in that moot, the appeal will be heard by the Vice-President (Skills) or under the UNSW Law Society Grievance Policy.
37. An appeal relating to a decision about the progression of a competitor to a round beyond the preliminary rounds must be referred to the Vice-President (Mooting).
38. No other decisions are reviewable.

Forfeiture

39. A competitor does not forfeit a round merely by requesting to change their scheduled competition time *before* 5pm on the day that their problem question is scheduled to be released. Competitors must make such requests to the Directors and in accordance with the Competitions Misconduct and Withdrawal Policy.
40. A competitor forfeits a round where, *after* 5pm on the day that their problem question is scheduled to be released, they are unable to moot at the scheduled time.
41. A forfeiting competitor must notify the Directors, judges and each competitor in their moot, as soon as practically possible.
42. A forfeiting competitor:
 - (a) will be prohibited from progressing to any finals rounds;
 - (b) may be penalised under the Competitions Misconduct and Withdrawal Policy, particularly in the case of cancellations without reasonable notice; and
 - (c) who forfeits the first preliminary round may compete in the second preliminary round.
43. If a competitor forfeits a round:
 - (a) that competitor's teammate will moot alone, or will be placed into a new team if circumstances permit. In any case, the competitor's teammate is only expected to prepare and present submissions as either senior counsel or junior counsel; they will be judged and may progress as normal.
 - (b) The opposing team will moot at the scheduled time; they will be judged and may progress as normal.

Special rules concerning eligibility

44. Exchange students from other universities who are currently studying at UNSW must compete in the applicable Competition based on the number of years for which they have been studying law.
45. LLM students who have not previously completed a law degree must compete in the applicable Competition based on the number of years for which they have been studying law. However, LLM students who have previously completed a law degree are only eligible to compete in the Senior Mooting Competition.

Penalties

46. Penalties apply as follows.

Category	Rule
(a) Observing rounds	<p>Competitors may not observe, nor may they be briefed on, the proceedings of any round in which they are not competing.</p> <p>Penalty: disqualification.</p> <p>This rule does not apply to competitors who have already competed in that round, or have forfeited from the Competition, or have been knocked out of the Competition.</p>
(b) Late written submissions	<p>Competitors must submit their written submissions on time, in accordance with cl 15.</p> <p>Penalty: to be applied by the Directors as follows:</p> <ul style="list-style-type: none"> • One mark for submissions that are up to 10 minutes late; • Two marks for submissions that are between 11 and 30 minutes late, inclusive; • Three marks for submissions that are between 31 and 60 minutes late, inclusive; • Five marks for submissions that are more than 60 minutes late. <p>Where one competitor is responsible for late submission, the penalty will be applied to the competitor who accepts responsibility for the late submission. Otherwise, the penalty will be applied to each competitor.</p> <p>In determining the extent of the lateness of written submissions, the Competition coordinators may have regard to the email timestamp and the document metadata.</p> <p>The Directors, in consultation with the judges, may waive this penalty if appropriate in the circumstances, eg, if the late submission is caused by circumstances outside of a competitor's control such as illness.</p>
(c) Surprise submissions	<p>In oral submissions, competitors must not raise an argument that is not referred to in the written submissions – except in response to questioning.</p> <p>Penalty: the judges may apply a penalty of up to five marks to that competitor.</p>
(d) Speaking over time limits	<p>In oral submissions, competitors may not exceed their time limit (including any extensions granted by the judges).</p> <p>Penalty: the judges may apply a penalty of up to three marks to that competitor.</p>
(e) Collusion, plagiarism and external assistance	<p>Collusion, plagiarism or obtaining an unfair advantage by receiving external assistance or by any other means is prohibited.</p> <p>See the Competitions Misconduct and Withdrawal Policy.</p> <p>Penalty: disqualification.</p>

47. If any penalty in cl 46 is applied, details of the penalty and the reasons for the decision must be included in the scoresheet.

PART II: BEGINNERS MOOTING

Competition Structure and Topics

48. The Beginners Mooting Competition comprises two preliminary rounds and quarter, semi and grand finals rounds.
49. Problem questions will primarily involve intentional torts, nuisance and negligence.

Eligibility

50. The Beginners Mooting Competition is open to students in their first year of studying law.
 - (a) A student is in their first year of law if they are in their first 12 months of studying law on the first day of Round 1 of the Beginners Mooting Competition.
 - (b) Accordingly, the Beginners Mooting Competition is open to the following students:
 - i. First year undergraduate law students;
 - ii. First year transfer students;
 - iii. First year Juris Doctor students; and
 - iv. Juris Doctor students who commenced their studies in Semester 2 of the previous year.
 - (c) To avoid doubt, students who have completed 12 months of law study at any other university are not eligible for the Beginners Mooting Competition.

Use of materials

51. Competitors must not use legislation or secondary materials (eg, textbooks and legal dictionaries) in support of their arguments, unless the problem question specifies otherwise.

Progression

52. Quarter finalists will be announced during the break between semesters one and two.
53. The Directors will select 16–20 individuals who have competed in each preliminary round to progress to the quarter finals. This selection will be based on:
 - (a) individual speaker ranks and scores in each preliminary round; and
 - (b) comments by the judges in each preliminary round.
54. The Directors will select 8 individuals who have competed in each previous round to progress to the semi-finals. This selection will be based on:
 - (a) individual speaker ranks and scores in the quarter final and previous rounds; and
 - (b) comments by the judges in the quarter final and previous rounds.
55. The Directors will select 4 individuals who have competed in the semi-finals to progress to the grand final. This selection will be based on:
 - (a) individual speaker ranks and scores in the semi-final and previous rounds; and
 - (b) comments by the judges in the semi-final and previous rounds.

Judging

56. All student judges must have previously competed in two rounds of a mooting competition and must have completed the subject Torts (LAWS1061/JURD7161).

PART III: INTERMEDIATE MOOTING

Competition Structure and Topics

57. The Intermediate Mooting Competition comprises two preliminary rounds and quarter, semi and grand finals rounds.
58. Despite cl 57, the Directors, in consultation with the Vice-President (Mooting), may decide not to hold quarter-finals rounds if there are not enough registered competitors to warrant holding such rounds.
59. Problem questions will primarily involve contract and criminal law.

Eligibility

60. The Intermediate Mooting Competition is open to students in their second year of studying law.
 - (a) A student is in their second year of law if they are in their first 24 months of studying law on the first day of Round 1 of the Intermediate Mooting Competition.
 - (b) Accordingly, the Competition is open to second year undergraduate law, transfer and Juris Doctor students.
 - (c) To avoid doubt, in determining years/months of studying law, law study at any university is included. Therefore, the Intermediate Mooting Competition is not open to students who have completed two years of law study at any university or combination of universities.

Use of materials

61. Competitors may use legislation and secondary materials (eg, textbooks and legal dictionaries) in support of their arguments.

Progression

62. Quarter finalists will be announced during the break between semesters one and two. If there is no quarter final, semi-finalists will be announced during the break between semesters one and two.
63. The Directors may select 16 individuals who have competed in each preliminary round to progress to the quarter-finals. This selection will be based on:
 - (a) individual speaker ranks and scores in each preliminary round; and
 - (b) comments by the judges in each preliminary round.
64. The Directors will select 8 individuals who have competed in each previous round to progress to the semi-finals. This selection will be based on:
 - (a) individual speaker ranks and scores in all previous rounds; and
 - (b) comments by the judges in all previous rounds.
65. The Directors will select 4 individuals who have competed in the semi-finals to progress to the grand final. This selection will be based on:
 - (a) individual speaker ranks and scores in the semi-final and previous rounds; and
 - (b) comments by the judges in the semi-final and previous rounds.

Judging

66. All student judges must have previously competed in two rounds of a mooting competition and must have completed Crime and the Criminal Process (LAWS1021/JURD7121), Criminal Laws (LAWS1022/JURD7122) and Principles of Private Law (LAWS1150/JURD7150).

PART IV: SENIOR MOOTING

Competition Structure and Topics

67. The Competition comprises two preliminary rounds and semi and grand finals rounds.
68. Problem questions may involve administrative law, constitutional law, equity, trusts, land law, corporations law and evidence law.
69. Despite cl 68, problem questions may also involve any area of law that the Directors, acting on the recommendation of the Vice-President (Mooting) and the Mooting (Training and Curriculum) Directors, deem fit.

Eligibility

70. The Senior Mooting Competition is open to students in their third or above year of studying law.
 - (a) A student is in their third or above year of law if they have studied law for 24 months or longer on the first day of Round 1 of the Senior Mooting Competition.
 - (b) Accordingly, the Competition is open to undergraduate law, transfer and Juris Doctor students in third year and above.
71. Previous competitors in the Senior Mooting Competition are not eligible to compete again if they were Champions of the Competition in any previous year.

Use of materials

72. Competitors may use legislation or secondary materials (eg, textbooks and legal dictionaries) in support of their arguments.

Progression

73. Semi-finalists will be announced during the break between semesters one and two.
74. The Directors will select 8 individuals who have competed in each previous round to progress to the semi-finals. This selection will be based on:
 - (a) individual speaker ranks and scores in all previous rounds; and
 - (b) comments by the judges in all previous rounds.
75. The Directors will select 4 individuals who have competed in the semi-finals to progress to the grand final. This selection will be based on:
 - (a) individual speaker ranks and scores in the semi-final and previous rounds; and
 - (b) comments by the judges in the semi-final and previous rounds.

Judging

76. In every moot, at least one judge should, where possible, be a person who is not a student at UNSW.
77. All student judges must have significant experience competing in mooting competitions.
 - (a) Significant experience is assessed on a case-by-case basis, and will ordinarily include experience representing UNSW in external mooting competitions.
 - (b) The threshold for significant experience is determined at the absolute discretion of the Directors and the Vice-President (Mooting).