

# LAWS 7051 ELDER LAW

**Credit Points** 10

**Legacy Code** 201066

**Coordinator** Richard McCullagh ([https://directory.westernsydney.edu.au/search/name/Richard McCullagh/](https://directory.westernsydney.edu.au/search/name/Richard%20McCullagh/))

**Description** Whilst Elder Law has been an acknowledged speciality for many years in countries such as Canada and the United States of America, it is only in the last two decades that it has gained recognition in Australia. This subject examines law, theories and issues relevant to an ageing community. The legal issues are examined in a broad social, cultural and ethical context. Issues of legal capacity relevant not only to the law of contracts but also to delegated decision making, medical treatment and end of life decisions are considered. Similarly, the law relating to areas of special importance to the elder community such as, pensions, retirement villages, wills and estate planning and equitable remedies for financial elder abuse are also discussed.

**School** Law

**Discipline** Law, Not Elsewhere Classified.

**Student Contribution Band** HECS Band 4 10cp

Check your fees via the Fees ([https://www.westernsydney.edu.au/currentstudents/current\\_students/fees/](https://www.westernsydney.edu.au/currentstudents/current_students/fees/)) page.

**Level** Postgraduate Coursework Level 7 subject

**Pre-requisite(s)** Students enrolled in 2826 Juris Doctor must have successfully completed subjects LAWS 7072 and LAWS 7047 and students enrolled in 2824 M Laws must have successfully completed LAWS 7078 before enrolling in this subject

**Restrictions**

Students must be enrolled in 2826 Juris Doctor or 2824 Master of Law.

## Learning Outcomes

On successful completion of this subject, students should be able to:

1. Critically evaluate the legal, policy, moral and practical issues concerning Substitute Decision Making for older persons.
2. Analyse the legal, policy, moral and practical issues related to accommodation, retirement finances, and estate planning for older persons, considering equitable remedies for financial elder abuse.
3. Provide advice in relation to elderly community interests and disputes.
4. Construct clear and logical arguments in responses addressing legal issues affecting older persons.
5. Assess ethical issues arising in Elder law and the lawyer's role in promoting justice and service to the community.

## Subject Content

1. Policymaking and the older person: social and philosophical factors
2. Sources of law affecting older persons
3. Financial decision-making agents
4. Health decision-making agencies
5. Fiduciary duties
6. Unconscionable conduct, undue influence and proprietary estoppel
7. Equitable remedies for financial elder abuse, including elder abuse of Indigenous people
8. Resulting trusts and constructive trusts

9. Inter vivos statutory property adjustment orders
10. Deceased estate statutory property adjustment orders
11. Staying home: Income support payments and subsidised care costs
12. Retirement villages and manufactured home parks
13. Granny flat arrangements
14. Residential aged care facilities

## Assessment

The following table summarises the standard assessment tasks for this subject. Please note this is a guide only. Assessment tasks are regularly updated, where there is a difference your Learning Guide takes precedence.

Type	Length	Percent	Threshold	Individual/ Group Task
Quiz	10 minutes per quiz	10	N	Individual
Essay	2,500 words	40	N	Individual
Professional Task	20 minutes	40	N	Individual
Participation	Ongoing	10	N	Individual

Prescribed Texts

- Richard McCullagh, *Australian Elder Law: Accommodation, Agency and Remedies in Australia* (Thomson Reuters, 2018)

Teaching Periods

## Spring (2024)

Online

Online

**Subject Contact** Richard McCullagh ([https://directory.westernsydney.edu.au/search/name/Richard McCullagh/](https://directory.westernsydney.edu.au/search/name/Richard%20McCullagh/))

View timetable ([https://classregistration.westernsydney.edu.au/even/timetable/?subject\\_code=LAWS7051\\_24-SPR\\_ON\\_2#subjects](https://classregistration.westernsydney.edu.au/even/timetable/?subject_code=LAWS7051_24-SPR_ON_2#subjects))