Using Online Role-play to Assess Distance Learning Students in Construction Law

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Context

Discipline/Course/Subject area: Construction Law

Institution(s): University of Bath

Impact: The practice was introduced within a course/unit/module

Length of time project has been running: 12 months

No. of students: 20 - 40

Level/Year of students: Postgraduate

No. of staff involved: two

Summary of Case Study:

This case study describes the design and implementation of a learning & assessment activity that enables distance learning students to work together to develop and demonstrate skills such as conflict management and dispute resolution, and to apply their understanding of contract law to practice. The activity utilises Web 2.0 tools such as forums and wikis to facilitate asynchronous and synchronous communication and collaborative problem-solving, and exemplifies the alignment of assessment with the practical application that students are likely to experience in their professional lives.

Key Words: Role-play, Collaborative Learning, E-learning, Assessment, Construction Law
Key Points of Good Practice

This case study describes a learning and assessment activity that:

- Promotes the development of *reciprocity* and *co-operation* among students (Chickering & Gamson, 1987).
- Fosters *community centredness* (Bransford *et al.*, 1999), as students work together to achieve a goal.
- Is both *active* and *interactive*, and both *independent* and *collaborative* (Mentkowski & associates, 2000).
- Promotes *independence, control and active engagement* (Ramsden, 1992; Chickering & Gamson, 1987)
- Is *situated and transferable* (Mentkowski & associates 2000); it requires students to apply their understanding of contract law to practice.
- Allows individual development through informal peer feedback; it is *developmental and individual, transitional and transformative* (Mentkowski & associates 2000).
- Allows us, within the faculty, to *learn from our students* (Ramsden, 1992).

Description of Implementation

This group activity is based on a fictitious contractual dispute between four parties on a construction project (architect, main contractor and two sub-contractors); see Appendix A for full details of the scenario as presented to students. Groups of four students, with each playing one of the roles, are required to work together to resolve the dispute.

The task is structured in three stages over a total period of six weeks. These three stages act as interim checkpoints at which we can identify where certain students or groups may be struggling to keep up and offer appropriate support (we have found this a particularly good strategy for supporting distance learners as otherwise it is all too easy for them to go 'awol').

All the tools and resources the students need for completing the assignment are provided within a separate section in the Construction Law area on our Virtual Learning Environment (VLE). This comprises:

- Background information about the events leading up to the dispute
- A class wiki that students use to sign up to a working group
- A discussion forum for each group
- A wiki area for each group
- A chat room
- Guidance on using other text, voice and video conferencing tools.
The sign-up wiki (Appendix B) not only enables students to choose their own groups and gain some familiarity with the technical aspects of using the wiki; it also provides a hoop that students have to jump through before they can take part in the assessment. This allows us to identify students with particular support needs at an early stage, and makes it less likely that groups are affected by ‘no show’ students.

The three phases of the task are given in more detail in Appendix C, which shows exactly how each phase of the task was presented to the students. A brief description of each stage follows:

**Phase 1:** After signing up to a group, each student works individually, and in role, to construct a ‘position statement’. This sets out their hopes and expectations for the negotiation, the contractual position and their entitlements as they see it, and the key issues that they think need deciding upon. They post their statement up to their group’s discussion forum.

**Phase 2:** Having read each other’s position statements, the group works together to construct an agenda for a negotiation meeting on their group wiki, and (through the discussion forum) decide on the means by which the meeting will take place.

**Phase 3:** The group meets online (through text, voice or video conferencing), and records the outcomes of their meeting on their group wiki.

Appendix D (assessment criteria) and Appendix E (feedback template) show how the activity is assessed on an individual basis, according to each individual’s contribution towards the outcome of the task. This activity is currently assessed wholly by the tutor, although there is potential to incorporate peer assessment of the group and of the individuals within it.

In terms of preparation and skills required to set up the activity, the most onerous task has been the writing and refining of the scenario itself. In Construction Law we need our students to demonstrate that they are capable of unpicking a multi-party dispute. It is likely that scenarios for management, strategy or procurement, for example, may be less complex.

In this case, a subject expert - the module tutor - wrote the scenario and basic details of the task, and an e-learning developer set out the content within the VLE and set up the wikis and other tools. A similar collaboration takes place during the activity each time it is run, with the tutor providing feedback on legal issues and the negotiation itself, and the e-learning developer identifying student support needs, administering the student groups and providing guidance on the use of the tools. An e-learning developer was required in our case, as the time our part-time tutors can spare for development and training is severely limited. An activity like this could be implemented by a single person provided they are familiar with the use of the VLE and have the time to set up and facilitate the activity. An estimate of the total amount of time required to run this activity would be in the region of 30 hours of design and set-
up, and 15 hours of facilitation and administration for around 30 students. The set-up time is greatly reduced when the activity is run for subsequent cohorts.

**Perceived Benefits**

**For Students…**
- This activity appears to impact positively on student engagement, and subsequently on academic achievement. We are seeing an exceptionally high rate of participation and completion (100% over the first two cohorts), a high standard of attainment from this assessment (all students receiving marks of 55% and above) and good engagement with the module overall (all students receiving 50% and above in the second module assignment).
- The comments received on the student feedback surveys give an indication of the reasons for this success. Students reported finding the activity "engaging", with "clear intentions", "useful" and "practical". One student felt it was "the best part of this course". This supports our idea that the primary strength of this activity is the social and collaborative learning it promotes, and the authentic nature of the assessment that allows students to see the relevance of the theory and apply it in a practical way.
- The basic lesson here is that the use of social and collaborative learning tools such as wikis and forums allow students to discuss and negotiate synchronously or asynchronously, and to work together to record the outcomes of the activity. As this is independent of geographical location it impacts significantly on the possibilities for groupwork with distance learners, although it would also benefit campus-based students.

**For Teaching/Support Staff…**
- If the tools are situated within a VLE it is extremely easy to monitor student participation and group progress, and to maintain records of communication with groups or individuals. With some additional co-ordination it would also be possible to administer the activity independently of a VLE using freely available web 2.0 tools.

**Issues/Challenges**

**For Students…**
- The pilot version of the activity we ran with the first cohort highlighted some issues for further development. Initially we only advised students to use the Chat tool within the VLE (Moodle) for their Phase 3 meetings. The Moodle Chat tool is considerably less ‘Instant’ than other instant messaging tools and students found the time delay frustrating. In order to address this issue, and also to give students greater choice and a more authentic experience, we now
provide advice on a range of text, voice and video conference options (see Appendix C).

- Apart from this, the only other challenges were technical issues around the use of the Moodle wiki, some aspects of which are not particularly intuitive; for example, the attachment of files and the editing of tables. However, the students were particularly good at raising such issues and enjoyed working together to find solutions; we now have a bank of information primarily constructed by previous students, much of which we have incorporated into the instructions and guidelines we provide for participants.

For Teaching/Support Staff...

- This activity requires fairly rigorous moderation to ensure that groups are on track within each phase and that they are recording and presenting their conversations and outcomes in a way that facilitates assessment by the tutor.

- It should be borne in mind that the more choice that is given to students in how they present the process and outcome of their negotiations, the less straightforward it may be to assess the exercise, as groups may present the various elements of their work in different formats and in different locations within their group wiki and forum.

- When we carried out this activity with a slightly larger cohort (37 students), we decided to provide the module tutor with a signposting document with links to the locations where the various elements of the task were evidenced for each group. This task was not as onerous as it sounds (it took one member of support staff between one-two hours' work), and it enabled the module tutor to assess the students' work with much greater efficiency.

Enablers that helped the project to work

We have found that initial and ongoing input from the tutor and developer is essential in gaining high rates of participation and completion with distance learners. With campus-based students the pattern of this input may differ, but the essential principles of facilitation still apply; non-participants need to be identified early and access problems resolved quickly. Progress on solving technical problems needs to be reported openly. Students will be encouraged by prompt reassurance and constructive feedback.

Details of project evaluation

We ask each cohort to complete an anonymous survey to feed back on the entire module. The survey asks for specific feedback on the activity both as a learning experience and as a means of assessment. We also encourage them to use the module forum as an alternative or additional feedback method by posting a specific request for feedback on the activity with two or three key questions to respond to. This allows for a high quality of feedback as students (and staff) can respond to
comments with alternative perspectives or to show agreement and/or disagreement (resulting in a useful picture of how the cohort as a whole felt about the activity), and ambiguous or obscure responses can be explored. Students often tend to provide more constructive feedback within an open forum.

Students are also asked to respond to the feedback they receive from the tutor on completion of the activity; specifically to identify how they will use their feedback, and also to ask for clarification on any aspect of their feedback that they don’t understand. This is also a good source of evaluative data about the activity, the feedback they received from it, and what they took away from the process.

The work on this particular activity has been presented internally to groups of e-learning practitioners at the University of Bath, and also formed the basis for a presentation at the Fourth International Blended Learning Conference (University of Hertfordshire) in June 2009.

Possible improvements/enhancements

We are continually reviewing this activity in terms of its effectiveness as a learning and assessment tool. With previous cohorts we have made minor adjustments to the scenario, the nature of the task, and the content of the advice and guidelines provided for participants. We have also incorporated the use of external chat tools and the potential for voice and video conferencing.

Other possible enhancements that we are considering (and that others might consider), are the introduction of peer assessment, and a facility for students to have input into the criteria on which their work will be assessed.

Points of advice for others who may wish to replicate the techniques used

This type of activity could be replicated or adapted for any practical scenario that requires students to work together to present a solution to a problem, whether or not it requires them to act in a particular role. However, it has been suggested that working ‘in role’ has particular benefits for learning; that it frees individuals to ‘take risks’ and try out inventive methods or potential solutions that they wouldn’t normally have considered. As Lindstrom (2006, p. 63) writes: “Experiments that always succeed involve no risk; they teach us nothing that we did not know already”.

In the Built Environment subject area, other contexts for a scenario-based role-play activity might include management, strategy and procurement, among others. The role-play element is particularly useful for the practice and assessment of skills involving multi-player negotiation or conflict.
Key tips for running an activity of this nature are as follows. Some of these are particularly crucial when working with distance learners but are also relevant for other modes of study:

- Pilot the activity first to highlight problem areas and gain a clearer picture of the key challenges and benefits.
- Consider whether the activity is to be summatively assessed (it is easier to gain high participation rates for credit-bearing activities).
- If the pilot run is to be summatively assessed, it should be low-stakes if possible.
- Plan who will be responsible for facilitating the activity, and use the pilot to identify points at which staff input needs to be concentrated.
- Ensure all students are aware of the different stages of the task and their respective deadlines from the outset.
- Identify non-active students at an early stage and offer appropriate support and guidance. Try to ensure students don’t sign up to the activity unless they know exactly what it involves and are confident that they will be able to complete it.

**FURTHER READING**


Appendix A: The scenario as presented to students

Background information about the scenario & the task:

The Four Parties Involved:

<table>
<thead>
<tr>
<th>Architect</th>
<th>Capitol Designs (&quot;C&quot;) represented by Architect/Contract Administrator Mr/Ms Chana</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Contractor</td>
<td>Mitchell Construction Limited (&quot;M&quot;) represented by Mr/Ms Mitchell – Managing Director</td>
</tr>
<tr>
<td>Cladding sub-contractor</td>
<td>Southview Cladders Limited (&quot;S&quot;) represented by Mr/Ms South</td>
</tr>
<tr>
<td>Steel sub-contractor</td>
<td>Ferris Steel Limited (&quot;F&quot;) represented by Mr/Ms Ferris</td>
</tr>
</tbody>
</table>

The Facts

First World Leisure PLC (FWL) appointed C and M as its choices for delivering the construction of a Leisure Centre (including Swimming Pool) in Columbo, Sri Lanka ("The Project"). The contract price was $8 million. The procurement route used was traditional contracting with sub-contractor's design responsibility (steelwork). The contract between FWL and M was a FIDIC short form contract (form attached). The sub-contracts were NEC sub-contracts (form attached).

The contract period was to run from 1 January 2008 and be (practically) completed by 31 November 2008. The Project is the second of three such projects being built by FWL worldwide. FWL likes to protect its interests with a high retention percentage of 7%. FWL insists that no retention is made by its main contractor on any sub-contractor account.

The construction of the leisure centre is to a modern style with the exterior consisting of cladding units hung on a steel frame. Exposed steelwork is a design feature of the interior of the leisure centre.

First World Leisure had been pleased with the performance of the team on the first of the three leisure centres recently completed in Alexandra, Egypt. M re-hires F and S as domestic sub-contractors. The orders for both the cladding and steel erection packages are each in the region of $850,000, and both use the NEC Form of Sub-Contract.

The programme of works agreed during a pre-let meeting on site was that:

- F would erect the steel in sections
- M would sign off the steelwork sections
S would proceed to clad the signed off steelwork.

The above procedure was recorded in the pre-contract minutes, which are one of the contract documents. Each section of each elevation was entered on an agreed programme (also a contract document) with separate commencement and completion dates.

Just before work starts there is a change in FWL personnel and a new client’s representative is appointed who has never used the NEC before and only trusts FIDIC contracts. However, the sub-contract documents have already been signed and it is too late to change them. Despite everyone’s protests that the sub-contracts are already in place, FWL insist that a traditional lump sum contract FIDIC is used as the Main Contract. A FIDIC Short Form Main Contract is then signed between FWL and M (as provided). C and M had no choice but to comply making sure that their protest is properly noted. The contract between C and FWL is a Professional Services Agreement (not supplied).

Work on site commences promptly on 2 January 2008 and practical completion is achieved on 30 November 2008. A grand opening is planned for 5 December 2008 when Sri Lanka’s cricket team and visiting dignitaries will attend the ribbon-cutting ceremony.

Although the project ran smoothly there was known to be a problem with the cladding which required S to accelerate the work on the western elevation. On a number of occasions S informed M that it was using more than the programmed resources on the fitting including extra materials and labour - both in terms of number of operatives and extending the working week into weekends. M merely reminded S that complying with the programme was imperative.

The opening ceremony was a disaster. A large 5m x 5m cladding panel fell off the western elevation of the sports centre during the ceremony. No-one was hurt and the press who were present did not notice the problem. However, FWL representatives were hopping mad and have demanded that C and M attend a meeting with FWL.

C was responsible for the design and contract administration. C did not attend the site as often as would have been ideal, as preparatory work was needed on the third FWL site in Jakarta. Signing off practical completion of the site now appears to have been a poor decision in light of what has happened. C is a local architect with cover through its personal indemnity insurance limited to $1 million per claim.

M spotted there was an issue with the western elevation but just considered the problem to be one of aesthetics – a few of the panels jutted out and this would be picked up as a snagging item during the Defects Liability Period which has now started.

F now discovers and confesses that it used the wrong plans to design and order its steelwork. The Alexandra plans were used and the projects are slightly different –
crucially in relation to the west elevation. The Alexandra plans had been given to F by C during a four week period at the start of the project when M delayed in forwarding the plans in its possession. F is in financial trouble due to unrelated problems.

It was immediately apparent to S, upon commencing the cladding work on the west elevation, that the steel was not correctly aligned. S decided that as it had no design input to merely continue with job notwithstanding the obvious resulting short-comings on the project.

The financial situation is:

- FWL has paid M the contract sum less $100,000 withheld in respect of missing anti-corrosion documentation and half of the retention of $280,000
- S has been paid its sub-contract sum less an abatement of $200,000 made by M for the unaesthetic appearance of the work. The correct contractual notices were served at the right time to allow M to make this deduction. S wishes to bring a claim for disruption of its works and uneconomical working. The value S puts on this is $100,000. NOTE: S should prepare a breakdown for this claim and appended it to his/her position statement as a second page.
- F has been paid its sub-contract sum less $100,000 retained by M for F’s failure to issue the certificates of galvanisation required by M to satisfy its anti-corrosion contractual obligations with FWL. C is anxious about the situation and in particular the damage that a claim on his insurance could have. In a tightening market for insurance he may struggle to be able to find insurance if a claim of any substantial size is made against his policy.
- M is very cross with everybody. M blames:
  - F for using the wrong plans and not issuing the galvanisation certificates
  - S for making matters worse by not reporting the problems
  - C for poor contract administration (M is however grateful for the practical completion certificate having been issued) and interfering and giving F the wrong plans.
  - FWL for insisting that FIDIC be used when the project was set up for NEC contracts

Assuming FWL allows access, the cost to the sub-contractors for the remedial works including re-mobilisation, taking off the cladding, cutting and re-aligning the steel and re-cladding with new units is $500,000 and will take six weeks. Getting alternative contractors to complete the works will cost in the region of $1,500,000.

The meeting with FWL is foremost in the minds of C and M. If a united front between C, M, S and F cannot be presented then there is a very real risk of litigation. Sums owing will not be paid and worse counter-claims will be made.
The Task

Acting in the roles of C, M, S and F, you need to explore whether a united front and plan of action can be presented at the meeting.

Within the constraints of the different phases of the task, you are free to adopt any negotiation style you think appropriate. The only rules of the negotiation are that you should not depart from the facts and that you should seek to act within the spirit of mutual trust and co-operation as included in the NEC contracts. You are only able to act within this spirit insofar as your self-interest allows!

Remember good negotiators: (1) listen (2) respect their opponent as spokesperson for their cause (3) don't give in straight away - strive for the best deal possible.

Can a deal be reached and a united proposal put to FWL? Over to you...!

Documents attached for reference:

Extract from FIDIC Short Form of Contract 1999 Edition
Extract from NEC3 Engineering and Construction Subcontract
Appendix B: Student sign-up wiki

Group Sign-up for Negotiation Assignment

For this assignment, you will be working in groups of four. Having read through the instructions for the three different stages of the task, you should type your name in the table below to sign up to one of the groups, bearing in mind the following points:

- Please aim to fill existing groups.
- Consider selecting a role that is different to that of the company you are currently working for.
- The collaborative parts of this task can be carried out asynchronously - you will not be disadvantaged by working with students in different time-zones.

You will need to select the 'edit' tab to add your name to the table.

You must sign up to a group by Wednesday 17th December.
The first part of the negotiation task, Phase 1, requires you to work individually, so you are free to start on this whenever you feel ready.
You must have posted your position statement by Monday 5th January.

<table>
<thead>
<tr>
<th>Role</th>
<th>Group A</th>
<th>Group B</th>
<th>Group C</th>
<th>Group D</th>
<th>Group E</th>
</tr>
</thead>
<tbody>
<tr>
<td>Architect</td>
<td>Sean Burke</td>
<td>Jeffery Tarter</td>
<td>David Forster</td>
<td>Jason Grimmett</td>
<td>Jesse Drew</td>
</tr>
<tr>
<td>Main Contractor</td>
<td>Alan Aubrey</td>
<td>Nathan Chang</td>
<td>Beulah McBride</td>
<td>Peggy Dickinson</td>
<td>Joseph Matthews</td>
</tr>
<tr>
<td>Cladding sub-contractor</td>
<td>Rodney Stocker</td>
<td>Jane Cortes</td>
<td>Debbie Durfee</td>
<td>Stephen Nester</td>
<td>Andrew Lombardo</td>
</tr>
<tr>
<td>Steel sub-contractor</td>
<td>Glenn Ley</td>
<td>Antonio Cosper</td>
<td>Abbot Kopp</td>
<td>Robyn Wasserman</td>
<td>Lawrence Beckett</td>
</tr>
</tbody>
</table>
Appendix C: Three phases of the task as presented to students

Phase 1 (individual)

Task: Prepare a ‘without prejudice’ position statement and post it to the negotiation forum (this activity is set up so that you will only see the forum for your own group, although your tutor will have access to all the forums). Your position statement should be no longer than 500 words and you should post it directly into the forum rather than adding as an attachment.

Suggested headings for the statement are:

- What I hope to achieve during the meeting
- The contractual position from where I see it
- My entitlements
- Key issues that need deciding in the negotiation

The phrase ‘without prejudice’ means that this statement is not a formal declaration that can be referred to should the negotiation be unsuccessful in resolving the issues. You are therefore able to make concessions and admissions in this statement which you would not necessarily make in court proceedings. This encourages parties to be frank and open and therefore facilitative for negotiation.

Timescale: You must post your position statement by Sunday 5th July. Once your fellow group members have posted their statements you can move on to Phase 2.

Phase 2 (collaborative)

Task: The issues raised in the four position statements need to be distilled into one document which will form the agenda for an online negotiation meeting between the four parties.

The issues to be covered should be set out in a table with each party's position stated briefly.

A single row of the table might look like this:

<table>
<thead>
<tr>
<th>Issue</th>
<th>C's position</th>
<th>M's position</th>
<th>S's position</th>
<th>F's position</th>
</tr>
</thead>
<tbody>
<tr>
<td>galvanisation</td>
<td>contractual entitlement as per clause XX</td>
<td>contractual entitlement as per clause YY</td>
<td>n/a</td>
<td>use as tool in negotiations</td>
</tr>
</tbody>
</table>

If necessary you should use a separate discussion thread in the negotiation forum to discuss the development of the agenda for your meeting.

The Agenda & Outcomes wiki is set up so that you will only see your own group's wiki, which will be preformatted with an empty table. Your completed agenda should also include a date and time for the meeting and how you will be running it (see below).
Options available to you for running your meeting

There are a number of possible methods for holding your meeting; each has their benefits and challenges. Your choice should be a group decision and will depend on the following:

- Access to hardware (e.g. webcams, microphones)
- Access to software downloads (e.g. Skype)
- Familiarity with various types of conferencing (text, voice, video)
- Willingness to experiment!

Here are four examples of how you might hold your meeting; if you think of any others, post your ideas to the Students' Forum.

1. The synchronous chat tool in Moodle (text conferencing)
   Benefits: a record of the chat is automatically saved in Moodle (only your tutor can access it); there is no need to separately record and upload evidence of the meeting.
   Challenges: There is a delay of several seconds on each transmission, which, if you are used to faster text conferencing software, can be quite frustrating.

2. External conference chat tools such as Skype and Windows Live Messenger that you can download free of charge
   Benefits: Instant transmission, very stable (i.e. doesn't easily break down or crash) and good functionality (transfer of files etc).
   Challenges: You will need to copy and paste the chat record into a Word document and upload to Moodle as evidence of your meeting.

3. Voice conferencing through Skype or other VoIP software.
   Benefits: You may find it more efficient to resolve your issues with voice (or you may not!).
   Challenges: Unless you are completely confident in these matters, the e-Learning Officer will need to be available to record the meeting so that we can ensure the recording is in a format we can use; so you'll have an extra person to liaise with! You will all need a fairly good quality microphone.

4. Four-way video conferencing through Megameeting.
   Benefits: This is really good fun! And no-one in the entire University has used Megameeting with their students yet, so you would be the first and we would be famous (almost). No software download is needed; the e-Learning Officer sets up the meeting and you access it through a weblink.
   Challenges: the e-Learning Officer will need to be available to arrange, host and record the meeting. You will all need webcams with fairly good quality microphones.

If it transpires that it is absolutely impossible for you to meet synchronously online, you can choose to negotiate each issue as a separate discussion thread on your negotiation forum. You will need to plan this carefully to ensure your group completes the negotiation in time, and to make it clear on the forum which discussion topics are part of the 'meeting'.

Timescale: You should have planned your meeting and completed your agenda within your Agenda & Outcomes wiki by Sunday 19th July.
Phase 3 (collaborative)

This is the negotiation itself and where the fun really begins - hopefully you will have agreed a duration and format for the negotiation which is equitable to all parties. The Main Contractor and the Architect are becoming anxious as their meeting with the Client draws nearer.....

Remember that the aim of the meeting is to reach a resolution that is satisfactory to all parties and will allow the Architect and the Main Contractor to present a united front to the Client.

You may hold your meeting at any point before **Friday 31st July** - but please bear in mind that by this date the outcome(s) of your meeting must be displayed on your Agenda & Outcomes wiki.
Appendix D: Assessment Criteria

How your contribution to the negotiation will be assessed

You will receive an individual mark for your contribution to the negotiation task. A breakdown of how your tutor will assess your contribution is described below.

If you require clarification of any of the following criteria or performance indication statements, please contact your tutor or post a query to the Students' Forum.

Criterion 1: Position Statement - General

A. The statement is presented professionally in a format which is very pleasing on the eye.

B. The statement is put together very well with good balance between the sections and accessible for the reader.

C. The report is quite well presented although greater attention to the accessibility of the report to the writer ought to have been considered.

D. Your format for the statement is hard to follow and the clarity of the contents suffers slightly as a result.

E. The statement suffers from inappropriate formatting with either large chunks or virtually no text and a lack of attention to presentation skills.

Criterion 2: Position Statement - Content

A. An excellent summary of your position. You identify the key issues to be decided and demonstrate a good awareness of the contractual framework and/or basics of claim preparation and presentation. Impressive commercial awareness demonstrated.

B. A very good summary of your position. Good contractual/claims awareness backed up with correct contractual references. Even-handed tone taken demonstrating a willingness to do business.

C. A good summary of your position. You support your point of view forcefully and with good arguments/back up. Whilst covering the basis you might have been more conciliatory towards building bridges inside this statement.

D. A reasonable summary of where you are coming from and what you want. More detail on the contractual basis for the assertions/claims would have been beneficial.

E. This summary does not really give a feel for what you really want out of the negotiation and give the others limited insight into how to address your position statement.
Criterion 3: Planning & Collaboration Skills - Deciding on an agenda

A. Substantial contribution to planning of the meeting. If necessary you may have also used facilitation techniques to encourage other parties to participate equally. Points taken from position statements are pertinent and concise.

B. Good points taken from the position statement and an active and equal role in the planning of the meeting.

C. Good signal of intent to get on with things and attempt the negotiation.

D. Took a back seat in the planning of the meeting and relied on the others having read the position statement rather than using the opportunity to steer the meeting towards what you want out of it.

E. Virtually no participation in the planning of the meeting and the reviewing of positions. This gives the others little idea of what you want and how you will behave.

Criterion 4: Negotiation Skills - Early exchanges and getting your point across

A. Excellent example of taking a lead role in the negotiation without seeking to dominate proceedings and antagonise others. Good facilitation role for the negotiation making the others stakeholders in the process.

B. Positive opening to the session with good contributions being made right from the start. Good awareness shown of the others’ positions and contributions. More could be done to bring the others on board and build towards the possibility of settlement.

C. Ability shown to get your point across and solid contributions made to the negotiation. You tended to responded to and/or dominate the situation rather than proactively driving forward with the matters being discussed.

D. You tended to stick to a position without proposing too much by way of positive settlement discussions. You clearly came with a plan for the negotiations and were not easily going to be swayed from that.

E. You did not really manage to get yourself involved in the hearing despite opportunities to do so. It is appreciated that this can seem daunting but the negotiation brief was clear that this should have been a priority for you.

Criterion 5: Negotiation Skills - Agility, flexibility and willingness to deal

A. First rate negotiation skills on display. Your approach has much to commend it in terms of being agile, approachable and sensible as well as having the necessary tenacity to try and close the deal.

B. Very good negotiating ability displayed – you worked hard to overcome the obstacles and did not become too bogged down in the others’ refusal to deal.
C. Good skills displayed you demonstrated that you were prepared to talk and work through problems – you might have tried alternative approaches as some of the junctures.

D. Your approach which although pragmatic and realistic left the others without really much alternatives as to how they might try and move around the problems encountered – more agility needed to drive the thing forward

E. Your contribution to the negotiation was limited and therefore difficult to assess in a meaningful way. Needed to speak up for yourself some more.

The grades awarded against the different criteria are amalgamated to give an overall grade which covers a range of marks as follows:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Minimum marks</th>
<th>Maximum marks</th>
</tr>
</thead>
<tbody>
<tr>
<td>A+</td>
<td>76</td>
<td>100</td>
</tr>
<tr>
<td>A</td>
<td>73</td>
<td>75</td>
</tr>
<tr>
<td>A-</td>
<td>70</td>
<td>72</td>
</tr>
<tr>
<td>B+</td>
<td>66</td>
<td>69</td>
</tr>
<tr>
<td>B</td>
<td>63</td>
<td>65</td>
</tr>
<tr>
<td>B-</td>
<td>60</td>
<td>62</td>
</tr>
<tr>
<td>C+</td>
<td>56</td>
<td>59</td>
</tr>
<tr>
<td>C</td>
<td>53</td>
<td>55</td>
</tr>
<tr>
<td>C-</td>
<td>50</td>
<td>52</td>
</tr>
<tr>
<td>D+</td>
<td>46</td>
<td>49</td>
</tr>
<tr>
<td>D</td>
<td>43</td>
<td>45</td>
</tr>
<tr>
<td>D-</td>
<td>40</td>
<td>42</td>
</tr>
<tr>
<td>E</td>
<td>30</td>
<td>40</td>
</tr>
<tr>
<td>F</td>
<td>0</td>
<td>30</td>
</tr>
</tbody>
</table>
Appendix D:

Module 3: Construction Law

ASSIGNMENT ONE: Negotiation

Student Name:

Group (A-E):

Marked by: Date:

Tutor comments on group performance:

(write your comments here)

Tutor feedback on individual performance:

(write your feedback here)

Breakdown of individual performance:

<table>
<thead>
<tr>
<th>Criterion</th>
<th>Band (A-E)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1: Position Statement - General</td>
<td></td>
</tr>
<tr>
<td>2: Position Statement - Content</td>
<td></td>
</tr>
<tr>
<td>3: Planning &amp; Collaboration Skills</td>
<td></td>
</tr>
<tr>
<td>4: Negotiation Skills - Early exchanges and getting your point across</td>
<td></td>
</tr>
<tr>
<td>5: Negotiation Skills - Agility, flexibility and willingness to deal</td>
<td></td>
</tr>
</tbody>
</table>

Overall grade: