2020 Legal Studies Subject Assessment Advice

Overview

Subject assessment advice, based on the 2020 assessment cycle, gives an overview of how students performed in their school and external assessments in relation to the learning requirements, assessment design criteria, and performance standards set out in the relevant subject outline. They provide information and advice regarding the assessment types, the application of the performance standards in school and external assessments, and the quality of student performance.

Teachers should refer to the subject outline for specifications on content and learning requirements, and to the subject operational information for operational matters and key dates.

School Assessment

Assessment Type 1: Folio

Teachers and students should note that this was the final folio using the old subject outline. Teachers are directed to carefully review the [2021 Subject Outline.](https://www.sace.sa.edu.au/web/legal-studies/stage-2/subject-outline/print) The 2020 subject outline allowed the opportunity to present between five and eight assessment tasks. As in previous years, some folios appeared to exceed the word limit. The design of some tasks emphasised description of principles, processes and structures thereby providing limited and in some instances no opportunity for students to adequately demonstrate Inquiry and Analysis and Evaluation.

The more successful responses commonly:

* incorporated the opportunity to demonstrate achievement against all specific features
* included several tasks that evidenced Inquiry and Analysis and Evaluation skills
* allowed students to respond to contemporary issues so they could apply and extend their Knowledge and Understanding
* included evidence of extensive research, including a range of contemporary sources, which were appropriately acknowledged, enabling higher levels for Inquiry
* showed evidence of depth and breadth of Knowledge and Understanding of the legal system including precise use of terminology and perceptive Analysis and Evaluation
* included records of performances in film, audio, or text that clearly demonstrated the standard achieved in oral presentations and mock trials
* included relevant and contemporary primary source materials that were not excessively long
* included tasks that required the presentation of opposing arguments and a conclusion and/or recommendations
* included evidence of high-level performance across all the specific features of knowledge and understanding, for example by requiring an extended answer addressing the influences on the Australian legal system
* provided a variety of assessment opportunities, such as tests, essays and media responses, that allowed individuals to show their various strengths.

The less successful responses commonly:

* included a large number of tests which consisted substantially of ‘outline’ or ‘describe’ short-answer questions thereby limiting opportunity for analysis and evaluation at a high level
* responded to questions that called for descriptive or explanatory answers that tended to preclude analysis and evaluation of concepts or arguments
* simply stated knowledge without demonstrating deep understanding of legal concepts or analysis of legal systems
* responded to questions drawn from previous examinations that were not completed under supervision
* did not complete all tasks or provided very brief responses where more detail was required
* lacked accuracy in their use of legal terminology
* used sources that were very dated, for example from 2008 or earlier, where a contemporary source may have been more effective
* responded to tasks that did not indicate the specific features being assessed
* provided little opportunity for Inquiry or did not reference a range of sources, often relying heavily on the textbook
* were excessively scaffolded in a way that hindered student achievement at high levels.

Assessment Type 2: Inquiry

The inquiry must relate to aspects of the Stage 2 Legal Studies subject outline and focus on a contemporary issue. A well-framed question that allowed for the consideration of multiple legal perspectives was critical for success.

The more successful responses commonly:

* showed a connection to a contemporary issue that has prompted, or is likely to prompt, a legal response
* provided evidence from a recent source to demonstrate it was a current issue
* framed a question that could be argued
* focused their question on a specific aspect of the legal system, rather than broad concepts
* made good use of sub-headings that were relevant to the arguments being presented and explored multiple perspectives
* included perceptive analysis and evaluation and a detailed conclusion
* provided explicit and justified recommendations that related clearly to the arguments raised
* used legal sources such as legislation, case law, parliamentary reports and academic articles that were appropriately referenced including a bibliography.

The less successful responses commonly:

* addressed social, political, physical education, or business and enterprise issues, rather than legal issues
* responded to a very broad question such as “the jury system”, resulting in responses almost entirely devoted to explanation and description of concepts with little to no analysis and evaluation
* did not research the topic in sufficient breadth or depth, relying exclusively short newspaper articles or the textbook
* used inappropriate references such as Wikipedia
* did not fully reference their work, instead only pasted in links to websites
* did not present both sides of an argument
* did not make explicit recommendations
* made brief or general conclusions
* were constrained by too much or inappropriate scaffolding in the task provided, including the use of irrelevant headings and appendices.

External Assessment

Assessment Type 3: Examination

Teachers and students should note that this was the final exam using the old subject outline. Teachers are directed to carefully review the [2021 Subject Outline](https://www.sace.sa.edu.au/web/legal-studies/stage-2/subject-outline/print) and sample exam.

The 2020 examination provided students with many opportunities to demonstrate their learning of legal principles, processes and structures against the criteria of Knowledge and Understanding, Communication, and Analysis and Evaluation.

Students responded well to the online format and generally provided fuller responses than in previous years.

Part A: Short Responses

The more successful responses commonly:

* demonstrated comprehensive knowledge and understanding
* addressed the question
* referred to the stimulus where directed
* followed question directives such as ‘explain,’ or ‘outline’
* provided detailed arguments for ‘discuss’ questions, demonstrating perceptive analysis and evaluation
* used succinct and accurate legal terminology.

The less successful responses commonly:

* demonstrated limited knowledge and understanding
* did not respond to all questions
* did not follow question directives
* provided only brief analysis and evaluation.

Question 1

(a) Generally well answered. Most students could identify roles such as listening to evidence and deciding a verdict.

(b) Less successful students stated that a role of defence is to ‘prove innocence.’ More successful students identified roles such as ‘casting doubt on prosecution evidence by cross-examining witnesses.’

(c) Generally well answered.

(d) Generally well answered.

(e) Successful students identified an aspect of the source, such as juror distraction, and linked this to causing a mistrial e.g. jurors unable to reach a unanimous or majority verdict. Students are reminded to refer specifically to the source where directed.

(f) Generally well answered.

(g) Generally well answered. Less successful students identified a feature but did not explain its importance.

(h) Successful students presented arguments that demonstrated understanding of aspects of social cohesion and how these may be evident in jury verdicts. Less successful students discussed the jury system in general or did not identify aspects of social cohesion.

Question 2

(a) Successful students identified specific initiating factors and linked them specifically to the Bill. Less successful students listed factors without outlining.

(b) The question required students to identify that a public bill is one that is introduced by a Minister.

(c) Successful students focused on the ‘pre-parliamentary stage’ as directed.

(d) Generally well answered. Most students focused on bicameral scrutiny.

(e) Generally well answered.

(f) Successful students explained the process of statutory interpretation or judicial review. Less successful students identified the process but did not provide an explanation, or their explanation was inaccurate.

(g) Successful students focused on the role of the executive in the process of making legislation. Less successful responses focused on the process of making, or the benefits of, delegated legislation.

Question 3

(a) Successful students identified a role of JSCOT, such as providing a report to parliament about the treaty and explained why this was important.

(b) Less successful students provided vague or very brief responses, or listed without outlining.

(c) Generally well answered.

(d) Less successful students provided sweeping generalisations about the impact of treaties in upholding the rule of law such as ‘treaties ensure everyone is equal.’ Successful students were able to explain the influence of treaties on the incorporation of legislation that protected human rights.

(e) Generally well answered.

(f) Generally well answered. Successful students identified an appropriate case, such as Teoh or Mabo 1 and provided a brief outline.

(g) Successful students discussed the way treaties have had some impact on expanding Commonwealth power, often providing an example.

Part B: Extended Responses

It was pleasing to see most students providing detailed responses of 800 words or more, with some responses 1500+ words. However, students should be mindful that the quality of the response is as important as quantity. Question 7 was the most popular, but there was reasonable spread across all questions.

The most successful responses commonly:

* engaged with the proposition
* provided a structured response with an introduction, paragraphs, and a conclusion
* provided numerous detailed judgments
* provided multiple specific, well-explained, and appropriate examples that complemented their analysis
* included some contemporary examples
* provided a balanced response that explored both sides of the proposition
* used accurate and appropriate legal terminology
* included a detailed conclusion that weighed the competing arguments.

The less successful responses commonly:

* did not engage strongly with the proposition
* lacked structure
* described/explained rather than evaluated
* lacked understanding of the nuances of the legal system
* made sweeping generalisations that lacked accuracy and precision
* lacked examples or used very vague examples
* identified examples but did not analyse them in relation to the proposition
* included a conclusion that restated points made rather than weighing them
* wrote long responses of 1500+ words that either did not engage with the question or lacked evaluation.

Question 4

* Successful students demonstrated a perceptive and broad understanding of parliamentary democracy and features of representative government in Australia, referred to specific and contemporary examples, and provided counter arguments.
* Less successful students gave very general responses, only examined one side of the proposition, and lacked specific examples.

Question 5

* Successful students provided a balanced response, used a variety of appropriate examples, and related them to specific aspects of the Constitution, including explicit and implicit rights.
* Less successful students failed to show understanding of features of the constitution lacked examples or could not relate the examples to aspects of the Constitution. They lacked a balanced approach, often criticising but not providing examples of how the Constitution does protect rights. Some students wrote about rights in a generalised way without referring to the Constitution.

Question 6

* Successful students demonstrated a comprehensive understanding of the three branches of government, supervisory mechanisms and used specific, and often contemporary, examples. They presented arguments and were able to draw conclusions about the extent to which laws are supervised effectively.
* Less successful students explained the roles of the branches of government and supervisory mechanisms without making judgements. If examples were used, they were vague and generalised. Some students made numerous judgments about the strengths of supervisory mechanisms without acknowledging weaknesses, or that some mechanisms are more effective than others.

Question 7

* Nearly all responses focused on criminal trials, with few students identifying how the rules apply differently in civil and criminal cases. Many students made comparisons between the adversary and inquisitorial systems. Many students discussed the categories of admissible and inadmissible evidence and how evidence is presented and examined at trial.
* Successful students used a range of appropriate, and often contemporary, examples, precise legal terminology, and engaged strongly with ‘just outcomes.’ They provided a balanced response, evaluating both strengths and weaknesses of having strict rules.
* Less successful students wrote long responses explaining the rules of evidence without making judgments. Some students only criticised the rules of evidence without acknowledging the benefits. Some students discussed the rules of evidence but did not engage with ‘just outcomes.’