2022 Legal Studies Subject Assessment Advice

Overview

Subject assessment advice, based on the 2022 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.

Across the Assessment Types for this subject, students can present their responses in oral or multimodal form, where 6 minutes is the equivalent of 1000 words. Students should not speed-up the recording of their videos excessively in an attempt to condense more content into the maximum time limit.

From 2023, if a video is flagged by markers/moderators as impacted by speed,schools will be requested to provide a transcript and markers/moderators will be advised to mark/moderate based on the evidence in the transcript, only considering evidence up to the maximum word limit (e.g. up to 2000 words for AT3).

If the speed of the recording makes the speech incomprehensible, it affects the accuracy of transcriptions and it also impacts the ability of markers/moderators to find evidence of student achievement against the performance standards.

School Assessment

Teachers can improve the moderation process and the online process by:

* thoroughly checking that all grades entered in schools online are correct
* ensuring the uploaded tasks are legible, all facing up (and all the same way), and remove blank pages, and ensure that each side of double-sided tasks is scanned
* including records of performances in film, audio or text that clearly demonstrate the standard achieved in oral presentations and mock trials
* ensuring the uploaded responses have pages the same size and in colour so teacher marking and comments are clear and can be distinguished from student work.

Assessment Type 1: Folio

COVID adjustments to the Subject Outline issued in April 2022 permitted students to complete three or four assessments for assessment type 1, which are worth 40% as a set. At least one assessment must be conducted under direct supervision and at least one task must correspond to the option area of choice. Most schools presented a broad range of tasks, including presentations, essays, reports, mock trials, sources analyses, case studies, legal problem-solving exercises and tests. Schools attempted to address the competing tensions within at least one task and while engagement was generally consistent, many students did so only to a superficial extent. Despite this being the second year of the Subject Outline some tasks and student responses still referenced irrelevant concepts such as the functions of the law. Some schools included old tasks that directed students to explore outdated cases or laws and teachers are reminded that questions and sources should have a contemporary focus.

Teachers can elicit more successful responses by:

* finding a good balance between tests and tasks that allow opportunities for research and in-depth analysis and evaluation
* designing at least one task, or component of a task, explicitly around the competing tensions
* developing a range of questions of varied difficulty to allow for a range of student achievement to be demonstrated
* using contemporary issues and sources.

The more successful responses commonly:

* incorporated the opportunity to demonstrate achievement against all specific features
* included more than one task that made explicit references to the competing tensions
* provided opportunities for depth of engagement with the competing tensions so that the responses showed understanding of the relationship or balance between the two entities rather than discussing them separately
* included several tasks that demonstrated extensive research, including a range of relevant and contemporary sources, which were appropriately acknowledged
* provided opportunities for students to apply their knowledge to specific contemporary contexts — for example, by responding to sources relating to current laws, cases and issues
* showed evidence of depth and breadth of knowledge and application of legal principles and processes including precise use of terminology and specific references to cases and legislation
* provided several opportunities for perceptive analysis and evaluation of concepts, legal principles, processes, or problems
* allowed for responses of sufficient length for students to make detailed and in-depth judgments that were supported by specific and relevant evidence
* included relevant and contemporary primary source materials that were not excessively long
* included tasks that required the evaluation of arguments or issues and a conclusion and/or recommendations
* included at least one task that was conducted under direct supervision and at least one task that corresponded to an option area
* provided a variety of assessment opportunities, such as tests, essays, multi modal presentations and media responses, that allowed individuals to show their various strengths
* included tasks that permitted student agency in deciding on a contemporary topic or issue to investigate.

The less successful responses commonly:

* included tests which consisted substantially of ‘outline’ or ‘describe’ short-answer questions which evidenced recall but limited opportunity for analysis and evaluation at a high level
* included a large number of tests with excessive time limits
* responded to questions that called for descriptive or explanatory answers that tended to preclude analysis and evaluation of issues or arguments
* made simplistic judgments or generalisations that did not demonstrate deep understanding of concepts, legal principles, processes, or problems
* did not provide opportunities for inquiry or research
* lacked accuracy in their use of legal terminology
* included brief, superficial responses with no application to specific contexts or ‘name-dropped’ examples
* referenced terminology from the previous subject outline, such as the functions of law, which is no longer part of the course
* did not mention or discuss the competing tensions or ‘name-dropped’ them
* did not understand the competing tensions as a tension and made no judgment about how effectively the legal system had balanced the tension
* addressed multiple competing tensions superficially, separated or confused them and/or improvised new tensions that are not part of the subject outline
* did not include a clearly defined supervised task
* did not incorporate a task that related to an option area
* used sources or referred to issues that were very dated, for example from 2008 or earlier, where a contemporary source or issue may have been more effective
* did not include referencing
* were significantly over the word count.

Assessment Type 2: Inquiry

The inquiry must focus on a contemporary legal issue of public interest in the previous 12 months and relate to at least one of the competing tensions. Generally, students achieved well in this assessment, demonstrating in depth research and detailed recommendations and conclusions in responses that availed themselves of the word limit to the full extent. Again, the framing of a strong question that provided scope for analysis and evaluation of a range of perspectives was of paramount importance.

Teachers can elicit more successful responses by:

* ensuring students frame a question that invite alternative arguments rather than description, (e.g. questions that begin with ‘should’, ‘would’ or ‘to what extent’)
* steering students away from vague, broad or outdated issues
* ensuring the inquiry includes frequent and in-depth references to at least one of the competing tensions
* supporting students to locate support for their arguments in the form of cases, legislation and academic commentary that is properly referenced.

The more successful responses commonly:

* selected a contemporary legal issue and formulated an appropriate question that could be argued
* provided evidence from a recent source to demonstrate it was a current issue
* clearly identified at least one competing tension, sometimes incorporating it into the question, and then made frequent references to the balance reached by the legal system, weighing both sides of the tension in the main body and conclusion
* focused their question on a specific aspect of the legal system, rather than broad concepts
* were well structured and made good use of sub-headings that were relevant to the arguments being presented
* selected and engaged with a variety of good quality sources, including primary legal sources
* engaged in in-depth research to explore a wide range of perspectives on the issue
* incorporated a range of relevant evidence to support arguments, such as legislation, case law, statistics, well explained examples and quotes from reliable sources
* included perceptive analysis and evaluation
* had logical and achievable recommendations, sometimes in more than one paragraph, including recommendations from their own deductions, that were based on judgments made throughout the response
* included conclusions that answered their question and reached a position concerning the balance of their identified tension(s)
* 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—for example, examining racism in different areas of society
* used ambiguous questions that did not make grammatical sense or clearly invite an argument
* did not engage with a competing tension or name-dropped a tension showing little understanding
* only examined one side of a tension
* did not show understanding of how the legal system balanced a competing tension and instead examined the sides separately
* responded to a very broad question such as “should criminal law be stricter”, resulting in responses almost entirely devoted to explanation and description of concepts with little to no analysis and evaluation
* used distracting templates to present their work
* made repeated references to concepts that are no longer part of the course, such as functions of law
* included unnecessary images, tables, or other sources, which were dropped into the inquiry with no engagement
* did not research the topic in sufficient breadth or depth, relying exclusively short newspaper articles or a textbook
* used few and/or inappropriate sources such as Wikipedia
* did not fully reference their work, instead only pasted in links to websites
* did not present both sides of an argument
* made generalised or unjustified assertions
* made limited recommendations or strong recommendations to abolish entire systems that were not logical
* made brief or general conclusions
* were poorly formatted and well under the word count
* used outdated information, for instance case studies from the late 1990s or early 2000s, where more recent, relevant evidence would be appropriate
* 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 can elicit more successful responses by:

* explicitly teaching students how to specifically refer to sources in their responses in Part A
* explicitly teaching students how to engage with examples in Part B
* explicitly teaching students how to engage with competing tensions, where required.

Part A: Response to sources

The more successful responses commonly:

* explicitly referred to a source (e.g. paraphrase or short quote, and clearly identified e.g. “In source 1 …”)
* were economical in their use of direct quotes from the sources
* engaged with the sources rather than simply repeating them
* addressed the question
* followed question directives such as outline, explain, or critically analyse
* demonstrated accuracy and precision in their understanding, analysis and evaluation of legal concepts, principles, and processes.

The less successful responses commonly:

* did not answer all questions
* did not refer to a source where directed, or made superficial references such as, “as seen in Source 1,” without explanation or specific engagement with the source
* quoted large sections from the sources
* provided superficial analysis or evaluation
* did not answer the question
* did not appropriately follow the question directives such as outline, explain, or critically analyse
* lacked accuracy and precision in their understanding, analysis and evaluation of legal concepts, principles, and processes
* had overly long answers for the one and two mark questions and/or brief responses for the five and 10 mark questions.

Question 1 (a)

The more successful responses commonly:

* provided an accurate citation Luck v Brash.

The less successful responses commonly:

* lacked accuracy (e.g. referring to prosecution, citing Brash v Luck).

Question 1 (b)

The more successful responses commonly:

* identified the plaintiff/applicant/Luck as having the burden of proof and the standard as the balance of probabilities.

The less successful responses commonly:

* lacked accuracy (e.g. referred to criminal terms).

Question 1 (c)

The more successful responses commonly:

* outlined a specific role of a judge (e.g. enforcing rules of evidence and procedure, considering evidence presented during the trial and delivering a judgment).

The less successful responses commonly:

* were vague, unclear, or too brief.

Question 1 (d)

The more successful responses commonly:

* identified that Thompson v Woolworths would be binding on the dispute in Source 1.

The less successful responses commonly:

* gave irrelevant or inaccurate information or repeated the source.

Question 1 (e)

The more successful responses commonly:

* identified or inferred distinguishing as the method for departing from the precedent and outlined this method.

The less successful responses commonly:

* gave irrelevant or inaccurate information or repeated the source.

Question 1 (f)

The more successful responses commonly:

* referred to a relevant specific source and explained a reason why the club may have settled out of court (e.g. cheaper and quicker to admit liability and limit legal cost, avoid negative publicity etc.).

The less successful responses commonly:

* didn’t refer to a source, were brief and did not adequately explain, or were vague or inaccurate.

Question 1 (g)

The more successful responses commonly:

* clearly identified two distinct features of the rule of law and linked each to a source
* common features outlined included: equality before the law, judicial independence, right to legal representation, open and transparent justice system and laws.

The more successful responses commonly:

* did not refer to a source, or only referred to a source for one feature, or only referred to one feature of the rule of law or gave two features that were repetitive
* a common inaccuracy was that applicants are entitled to legal aid.

Question 1 (h)

In general, students gave pleasing responses to this question.

The more successful responses commonly:

* engaged strongly with the sources, such as the legislation and case law
* presented detailed arguments relating to duty of care, foreseeability, risk, the reasonable person, breach of duty of care etc. and came to a clear conclusion about whether Brash was or was not liable.

The less successful responses commonly:

* were brief, misunderstood concepts relating to foreseeability and the reasonable person (stating that Luck should have foreseen or acted reasonably), were vague, or did not come to a clear conclusion regarding liability.

Question 1 (i)

The more successful responses commonly:

* referred explicitly to a source
* provided a detailed explanation of a weakness (such as expense of legal representation, adversarial nature of trials, complicated legislation and case law, no option for a jury etc)
* gave a clear, specific, and well-explained recommendation for improvement.

The less successful responses commonly:

* gave recommended improvements that already exist or were vague and unclear.

Question 1 (j)

The more successful responses commonly:

* referred explicitly to at least one source and engaged with certainty and flexibility tension
* presented arguments about the strengths and weaknesses of judge-made law and related these arguments specifically to civil dispute resolution.

The less successful responses commonly:

* did not refer to a source, or repeated large sections from sources without critically analysing
* showed little understanding of judge-made law
* contained inaccuracies
* recounted information without critically analysing
* did not provide some balance in their arguments
* gave brief responses
* did not link to civil dispute resolution
* discussed criminal dispute resolution.

Part B: Extended response

Most students provided detailed responses of 800+ words, with some responses 1500+ words. Teachers and students should note that this section requires the use of relevant examples and engagement with one or more competing tension.

The more successful responses commonly:

* engaged strongly with the statement
* provided numerous, well-explained and relevant examples
* included contemporary examples
* demonstrated perceptive understanding of one or more competing tension
* demonstrated perceptive analysis and evaluation of relevant concepts, principles, and processes
* explored more than one side of the statement
* provided insightful evaluation of the arguments and weighed them in convincing conclusions and/or recommendations
* used accurate and appropriate legal terminology
* provided a structured response with an introduction, paragraphs, and an in-depth conclusion
* used clear and effective expression.

The less successful responses commonly:

* did not engage strongly with the statement
* included information that was not relevant to the statement
* lacked examples or used vague or irrelevant examples, or hypothetical examples
* ‘name-dropped’ examples without explanation
* did not demonstrate understanding of a competing tension or did so superficially (name-dropped with little or no explanation)
* lacked precision in their explanations of legal concepts, principles, or processes
* made sweeping generalisations
* described rather than evaluated, or evaluation was superficial and simplistic
* contained inaccurate use of legal terminology
* lacked structure, often writing one or two very long paragraphs
* lacked clear communication with poor grammar and multiple grammatical and spelling errors that made the response difficult to understand
* repeated information
* made long and or multiple references to concepts that are no longer in the course, such as social cohesion and social progress, although this occurred less frequently this year.

Statement 1

This was a popular statement.

The more successful responses commonly:

* demonstrated a perceptive understanding of the principle of the separation of powers
* evaluated connections and checks and balances between the three branches of government.

The less successful responses commonly:

* gave long explanations of the features and functions of each branch of government but did not show understanding of the separation of powers as a principle.

Statement 2

This statement was the most poorly done by students that selected it.

The more successful responses commonly:

* focused specifically on pre-trial (e.g. investigation and collection of evidence, bail, committal hearings, selection and empanelling of jurors etc) and post-trial (e.g. sentencing, appeals) processes of criminal disputes.

The less successful responses commonly:

* did not address the question and included copious amounts of information that was not relevant (e.g. trial stage).

Statement 3

The more successful responses commonly:

* demonstrated perceptive understanding of areas of flexibility within the Constitution, such as the referendum mechanism, unwritten conventions of responsible government, power-sharing between the Commonwealth and states and territories, High Court case law, etc.
* provided insightful arguments and conclusions about the extent to which the level of flexibility is adequate.

The less successful responses commonly:

* demonstrated vague or inaccurate understanding of the Constitution.

Statement 4

Although they could, students were not required to go into depth about the lawmaking process.

The more successful responses commonly:

* demonstrated perceptive understanding of the ways in which individuals and groups impact lawmaking by parliament (e.g. lobby groups, protests, petitions, committee submissions, complaints to ombudsman, litigation, voting etc.).

The less successful responses commonly:

* demonstrated little insight about the impact of groups and individuals beyond ‘protests’
* gave vague and/or repetitive responses
* contained significant inaccuracies (e.g. the ‘referendum’ to introduce same-sex marriage).