# Government of South Australia LogoSACE Board Logo2023 Legal Studies Subject Assessment Advice

Overview

Subject assessment advice, based on the 2023 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

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), 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, debates, podcasts, 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

Subject adjustments to the subject outline were continued in 2023 permitting 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, podcasts, debates, sources analyses, case studies, legal problem-solving exercises, and tests. More substantial engagement with the competing tensions within tasks was apparent in comparison to previous years. 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 reference 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 judgements that were supported by specific and relevant evidence
* included relevant and contemporary primary source materials
* 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
* 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 judgement about how effectively the legal system had balanced the tension
* 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. 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, or topics that do not have a legal focus
* ensuring the inquiry includes frequent and in-depth references to at least one of the competing tensions
* supporting students to locate sources 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
* 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
* 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
* used ambiguous questions that did not invite an argument
* did not engage with a competing tension
* 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
* did not include sufficient legal content
* 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, without engagement
* used few and/or inappropriate sources such as Wikipedia
* did not fully reference their work
* did not present both sides of an argument
* 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 …’)
* used direct quotes from the sources
* 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 refer to a source where directed, or made superficial references such as, ‘as seen in Source 1’, without explanation or engagement with the source
* 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:

* outlined two distinct features or characteristics of delegated legislation and contrasted them with corresponding features of legislation to demonstrate the differences.

The less successful responses commonly:

* did not outline a difference
* outlined the same difference twice using different wording.

Question 1 (b)

The more successful responses commonly:

* outlined two specific ways that groups or individuals in the Australian community can influence laws made by the executive arm of government and linked them to the sources
* common ways outlined included contacting the minister, challenging a regulation in court, and using social media to raise awareness and place pressure on the government.

The less successful responses commonly:

* did not reference the sources
* spoke generally about influence
* outlined ways that involved arms of government rather than groups and individuals in the community, for example, parliamentary committees.

Question 1 (c)

The more successful responses commonly:

* used information from Source 3 as evidence to support a well explained strength of question time
* explained strengths relating to responsible government such as scrutiny and accountability of government or supervision of delegated legislation.

The less successful responses commonly:

* repeated information from Source 3 without explaining a strength
* a small number of responses confused question time with parliamentary committees.

Question 1 (d)

The more successful responses commonly:

* used information from Source 1 as evidence to support a well explained weakness of parliamentary committees
* explained weaknesses such as committees being over-burdened and under-resourced, lacking expertise, and not having access to cabinet discussions.

The less successful responses commonly:

* gave irrelevant or inaccurate information or repeated the source without explanation.

Question 1 (e)

The more successful responses commonly:

* used information from the sources as evidence to support a well explained strength or weakness of the principle of Cabinet confidentiality
* common strengths included permitting full and frank debate
* common weaknesses included undermining transparency, concealing the influence of pressure groups, and diminishing accountability.

The less successful responses commonly:

* gave irrelevant or inaccurate information, or repeated material from the sources without explanation
* focused on the idea of consultation rather than the principle of Cabinet confidentiality
* provided a strength and a weakness but did not explain either in any depth.

Question 1 (f)

In general, students gave pleasing responses to this question.

The more successful responses commonly:

* demonstrated accurate knowledge of the rule of law and linked this to the dispute involving Jo Hook
* addressed issues relating to the validity of the regulation or features of the rule of law such as equality before the law, the protection of human rights or the ability of citizens to know and understand the law
* made a recommendation as to whether Jo Hook should contest the charge in court which was justified based on an analysis of the rule of law.

The less successful responses commonly:

* did not refer to a source, were brief or repetitive, misunderstood the rule of law, were vague, or did not make a clear recommendation as to how Jo Hook should proceed
* did not address the rule of law.

Question 1 (g)

The more successful responses commonly:

* clearly identified rights of groups and individuals in the community that the executive arm of government have (or have not) protected, commonly by discussing the implications of the snapper ban
* presented arguments that showed understanding of the role of the executive arm of government
* referred explicitly to at least one source and engaged with the tension between the empowered and the disempowered.

*The less successful responses commonly:*

* presented arguments that did not relate to executive actions
* focused entirely on the strengths and weaknesses of the snapper ban
* did not identify groups and individuals in the community in their discussion of rights.

Question 1 (h)

The more successful responses commonly:

* referred explicitly to at least one source and engaged with the tension between fairness and efficiency
* presented and weighed competing arguments about the strengths and weaknesses of delegated legislation
* discussed the adequacy of supervisory mechanisms and/or the complementary relationship between legislation and delegated legislation.

The less successful responses commonly:

* did not refer to a source
* showed little understanding of delegated legislation
* did not provide balance in their arguments
* did not engage with the tension between fairness and efficiency.

Part B: Extended response

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
* demonstrated perceptive understanding of one or more competing tensions
* 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.

The less successful responses commonly:

* included information that was not relevant to the statement
* lacked examples or used vague or irrelevant examples, or hypothetical examples
* did not demonstrate understanding of a competing tension
* lacked precision in their explanations of legal concepts, principles, or processes
* described rather than evaluated
* contained inaccurate use of legal terminology
* repeated information.

Statement 1

This was quite a popular statement.

The more successful responses commonly:

* presented and evaluated detailed arguments addressing the extent to which both parliaments and courts are representative of the community with supporting examples
* made a clear and appropriate recommendation for reform.

The less successful responses commonly:

* failed to address both aspects of the statement, focusing entirely on one institution.

Statement 2

This statement was the most popular and saw less successful responses from students.

The more successful responses commonly:

* discussed strengths and weaknesses of the jury system and considered how these would translate to the resolution of civil disputes
* acknowledged the evident problems that would arise if juries were used in civil trials
* demonstrated knowledge of the civil justice system.

The less successful responses commonly:

* presented a pre-prepared response which failed to fully engage with the question in terms of the appropriateness of the jury system in the context of civil disputes.

Statement 3

This statement tended to be less popular but was generally well answered by those who chose it.

The more successful responses commonly:

* demonstrated perceptive understanding of the role of the Australian Constitution
* considered a number of contemporary issues that have posed challenges to Australian society
* made insightful judgements and conclusions about how effectively the Constitution has addressed those challenges.

*The less successful responses commonly:*

* demonstrated vague or inaccurate understanding of the Constitution.

Statement 4

The more successful responses commonly:

* described specific instances where tensions have arisen between groups and individuals in the Australian community such as the recent referendum or protests by climate change activists
* made insightful judgements about how fairly and efficiently the Australian legal system has resolved tensions between groups and individuals in the Australian community, showing perceptive knowledge of justice, lawmaking and/or Constitutional processes.

The less successful responses commonly:

* demonstrated little knowledge of tensions between groups and individuals in the Australian community
* failed to engage with the tension between fairness and efficiency
* contained significant inaccuracies.