2019 Legal Studies Subject Assessment Advice

Overview

Subject assessment advice, based on the previous year’s 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

Most folios comprised of a range of tasks and allowed assessment across the assessment design criteria, although some folios appeared to exceed the word limit. For some folios, many of the concerns that were outlined 2018 Subject Assessment Advice continue to constrain student achievement, particularly in the areas of Inquiry and Analysis and Evaluation.

The more successful responses commonly:

* demonstrated achievement against all specific features
* showed evidence of *Inquiry* and *Analysis and Evaluation* skills several times
* applied knowledge and understanding to contemporary issues, prompting use of *Inquiry* skills to show extended knowledge
* included evidence of extensive research and use of appropriate bibliographies, which enabled higher levels for *Inquiry*
* included records of performances in film, audio, or text that clearly demonstrated the standard achieved in oral presentations and mock trials
* included relevant primary source materials, using current examples, and supporting material that was not excessively long
* responded, using critical analysis and evaluation, to extended response questions in written tasks or tests that required the presentation of opposing arguments and a conclusion
* demonstrated high level performance across all the specific features of knowledge and understanding, for example by requiring an extended answer addressing the response of the Australian legal system to one or more diverse groups in the community
* responded to a range of assessment opportunities, such as tests, essays and media responses, that allowed individuals to show their various strengths.

The less successful responses commonly:

* responded to mostly ‘outline’ or ‘describe’ short-answer questions that provided limited opportunity for analysis and evaluation at a high level
* provided a lengthy or superficial description of a principle, process, or structure with little 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 but were not completed under supervision
* responded to tasks that did not indicate the specific features being assessed
* were hindered by excessively scaffolded tasks that resulted in very similar student responses.

Assessment Type 2: Inquiry

Inquiry topics must be contemporary issues related to aspects of the Stage 2 Legal Studies subject outline. As in previous years, the determining factor for a successful response was the choice of topic and the appropriate framing of a focus question relating to that topic.

The more successful responses commonly:

* used a question or statement that could be argued rather than just identifying a broad topic
* had a narrow focus on specific aspects of the legal system, as opposed to broad concepts such as ‘republic’, ‘juries’, ‘death penalty, ‘abortion law’ or ‘adversary/inquisitorial systems’
* made good use of sub-headings that were relevant to the arguments being presented
* provided recommendations that related clearly to the arguments raised
* provided evidence from a recent source that showed that it was a current issue
* used a range of reputable sources that went well beyond classroom textbooks, Wikipedia, and short newspaper articles.

The less successful responses commonly:

* responded to a very broad question, 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
* did not present both sides of an argument
* were constrained by too much or inappropriate scaffolding in the task provided
* addressed social, political, physical education, or business and enterprise issues, rather than legal issues.

External Assessment

Assessment Type 3: Examination

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

Part A: Short Responses

Question directives such as ‘identify,’ ‘outline,’ ‘discuss,’ and ‘explain’ are used to indicate the type of answer required. The directive ‘outline’ requires a brief description, while ‘explain’ requires more detail. ‘Discuss’ requires students to weigh up competing factors and present arguments. Students can successfully answer a ‘discuss’ directive by only addressing one side of the argument, or they may explain one point for each side of an argument.

The more successful responses commonly:

* followed question directives and addressed the wording of the question
* used accurate, clear, and concise legal terminology
* demonstrated comprehensive knowledge and understanding, and perceptive analysis and evaluation, particularly on the ‘discuss’ questions
* engaged with the stimulus when directed
* used only a word or a phrase when required by a 1 mark question.

The less successful responses commonly:

* were too brief, particularly on ‘explain’ or ‘discuss’ questions
* demonstrated limited awareness of legal principles, processes, or structures
* rewrote the question
* did not answer all of the questions.

Question 1

This question covered Topic 1: The Australian Legal System.

1. Most students could identify the elements of negligence. However, less successful responses did not relate the elements to the situation depicted in the cartoon.
2. Generally well answered. Most students could identify an appropriate court, and the most successful students also gave an appropriate reason relating to either the amount of damages claimed or the complexity of the case.
3. The most successful responses included a reference to both civil and criminal processes in both parts (i) and (ii). Less successful responses only referred to civil or criminal disputes, without clearly identifying a difference between the two.
4. Generally well answered. Most students were able to identify a feature of the rule of law e.g. equality under the law, and explain how it was reflected in the cartoon e.g. both men and women are able to vote.
5. This question was challenging for many students who were unable to outline conventions applied after an election, or gave inaccurate responses, such as ‘the party with the most votes forms government’.
6. Most students could discuss the benefits of voting in general. The most successful responses engaged strongly with the ‘compulsory’ aspect and provided perceptive evaluation of the strengths and weaknesses of this for Australia’s system of parliamentary democracy.

Question 2

This question covered Topic 2: Constitutional Government. The questions in this section were generally well answered.

1. Less successful responses did not focus specifically on the role of the Parliament, or were inaccurate.
2. Most students were able to identify an aspect of the referendum process and justify why it should be changed. Many students focused on the dual criteria and explained that it was too difficult to achieve.
3. Most students could identify a role of the Governor General. Less successful responses were unable to provide a convincing reason explaining why it should be retained.
4. Most students focused on either the reviewing function of the Senate, or its role in representing the interests of individual states, and could explain why this should be retained.
5. Some students could not accurately identify a residual power.
6. Successful responses provided a clear and concise argument. Some students wrote excessively long responses arguing both sides when only one argument on one side was required.
7. The most successful responses identified specific groups, such as Indigenous peoples or women, and provided perceptive arguments about the strengths and/or weaknesses of reserving seats in Commonwealth Parliament. Less successful responses gave broad and vague reasons.

Question 3

This question covered Topic 3: Law-making. Overall, this was the most challenging section of the short responses for students.

Many students gave imprecise answers that lacked appropriate legal terminology.

1. Less successful responses gave vague or incomplete answers.
2. Few students identified the Office of Parliamentary Counsel.
3. Some students wrote excessively long responses.
4. Popular cases selected included Donoghue v Stevenson, or Mabo [1] or [2]. Some students confused the facts between the two Mabo cases. Some students did not clearly identify a case.
5. Less successful responses only identified the types of precedent, or gave inaccurate information. The most successful responses identified and outlined.
6. The most successful responses identified and outlined two methods. Less successful responses outlined without clearly identifying methods, confused methods, or gave inaccurate information.
7. Most students had a good understanding of the doctrine of precedent. The most successful responses engaged strongly with the concept of ‘just outcomes’ and provided clear and convincing arguments.

Question 4

This question covered Topic 4: Justice Systems. The questions in this section were generally well answered.

1. Most students could outline two roles of the judge. Some students misread the question and outlined roles of the judge in the inquisitorial system.
2. Most students could identify two rights of the accused. Some students wrote excessively long answers.
3. Most students could outline types of evidence. Less successful responses identified a type of evidence, but lacked a brief explanation.
4. Most students were able to explain one advantage of using a jury.
5. Most students were able to explain one disadvantage of using a jury.
6. Less successful responses did not focus on the pre-trial stage.
7. Most students had a good understanding of the role of the judge in the inquisitorial system. The most successful responses engaged strongly with the concept of ‘just outcomes’ and provided clear and convincing arguments.

Part B: Extended Responses

Section 1

Successful responses in (a) and (b) questions clearly outlined the knowledge and understanding required.

Some students wrote excessively long responses. Some students did not focus on ‘parliaments’ in 7(a), and outlined court cases. Most students could identify High Court cases for 5(b), but less successful responses were unable to explain them in relation to ‘rights.’ As in the short answer section, there was some confusion between Mabo [1] and [2].

Part (c) continued to be the most challenging for students. The most successful responses included perceptive and critical analysis, and were of a reasonable length (more than one page). Successful responses provided judgments on both sides and included a conclusion. Less successful responses were brief and lacked detail, or were descriptive rather than evaluative.

Section 2

Question 9 was the most popular. However, students generally lacked adequate understanding of the principle of the separation of powers and struggled to move beyond an explanation of the three arms of government and how each upholds the functions of law. Most students did not explore the system of checks and balances between the three arms. Questions 10-12 were less popular, but generally responses were of a better quality.

The most successful responses commonly:

* addressed all parts of the proposition
* were detailed and contained at least 4-5 judgements directly related to the proposition
* explained judgements in at least 4-5 sentences each and supported them with relevant examples
* used accurate and appropriate legal terminology
* provided multiple well-explained judgments
* evaluated aspects of the legal system
* included and analysed relevant examples
* explored and evaluated both sides of the proposition
* contained clear paragraphs
* included a detailed conclusion.

The less successful responses commonly:

* did not address all parts of the proposition
* were brief
* used inaccurate legal terminology
* contained description rather than judgments, or judgments were superficial
* identified examples but did not include adequate explanation
* did not explore all sides of the proposition
* lacked structure
* contained a brief conclusion
* ignored the question and wrote a pre-prepared response.