

Legal Studies

2021 Subject Outline

Stage 1

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INTRODUCTION

SUBJECT DESCRIPTION

Stage 1 Legal Studies focuses on the use of laws and legal systems to create harmony within dynamic and evolving communities. Through an inquiry-based process, students explore and develop their understanding of the concepts of rights, fairness and justice, power, and change. These concepts are examined in the context of law making, law enforcement and dispute resolution, and should be applied to a range of contemporary Australian issues. Opportunities exist to consider alternative perspectives such as international law, customary law and systems used in other jurisdictions.

Legal Studies is explored through 'big questions'. Big questions are a useful mechanism to stimulate deep thinking and engagement, and for the consideration of a range of perspectives. In providing a response to the questions, students must evaluate, analyse and apply contextually appropriate legal principles, processes, evidence and cases to demonstrate their arguments.

Through Legal Studies, students develop an appreciation and awareness of their role as a citizen in the Australian legal system, the skills to communicate their ideas and the confidence to make informed and effective decisions regarding legal issues.

Legal Studies is a 10-credit subject or a 20-credit subject at Stage 1.

- For a 10-credit subject, students study Focus Area 1: Law and Communities, and at least two other focus areas.
- For a 20-credit subject, students study Focus Area 1: Law and Communities, and at least four other focus areas.

CAPABILITIES

The capabilities connect student learning within and across subjects in a range of contexts.

The SACE identifies seven capabilities. They are:

- literacy
- numeracy
- information and communication technology (ICT) capability
- critical and creative thinking
- personal and social capability
- ethical understanding
- intercultural understanding.

Literacy

In this subject, students extend and apply their literacy capability by, for example:

- cultivating specialised and appropriate language, terminology and discourse
- analysing, justifying and presenting reasoned arguments
- developing skills to articulate ideas, and propose solutions using supporting evidence
- formulating and defending positions
- using a variety of language conventions
- identifying and critiquing written, oral, data, and visual sources and online materials
- analysing different perspectives to consider context, relevance, purpose, bias, accuracy, and reliability
- critically extracting information from a range of sources and drawing appropriate conclusions
- referencing and acknowledgement of sources
- presenting material in a range of formats and text types
- using a variety of literacy skills to demonstrate thinking, knowledge and understanding.

Numeracy

In this subject, students extend and apply their numeracy capability by, for example:

- investigating, compiling, interpreting and evaluating quantitative data through observations, searches and interviews
- developing concepts of time, space, and number in relation to the institutions and operations of the Australian and or other legal system
- understanding and using graphs, diagrams, and statistics
- using graphical illustrations to convey meaning
- predicting outcomes from data
- analysing data in order to supply evidence for or against an argument.

Information and communication technology (ICT) capability

In this subject, students extend and apply their ICT capability by, for example:

- locating and using sources of information, specific to law in Australia and internationally (e.g. Hansard, case law, court judgments, legislation, legal journals, regulations, conventions etc.)
- being a responsible digital citizen (being safe, responsible and respectful online)
- using a range of different applications, programs and platforms to display their learning in multimodal formats
- participating in online or digital learning
- understanding reliability and credibility of sources and other digital literacies
- becoming discerning digital citizens.

Critical and creative thinking

In this subject, students extend and apply their critical and creative thinking capability by, for example:

- developing and responding to large, overarching questions to frame their learning and inquiry
- broadening their conceptual understanding and analysis
- breaking complex questions into component parts to construct understanding and build an argument
- developing informed recommendations for change in the legal system
- synthesising information in order to critically compare and contrast elements, principles or structures of the Australian legal system with that of another country, nation or international organisation
- critically analysing sources of information for credibility, reliability, bias and usefulness
- examining and reflecting upon the multiple perspectives that are involved in the development of new laws (both legislature and case law) for example, from special interest and minority groups, political parties, community expectations, and all parties to court disputes
- creating well-reasoned, research-oriented arguments that consider a variety of perspectives on current legal issues
- understanding and critiquing bias
- proposing and justifying creative responses to questions
- using the skills developed in understanding concepts in Legal Studies and applying to other contexts (transferability)
- making connections from big questions to legal concepts and other contexts (transferability)

Personal and social capability

In this subject, students extend and apply their personal and social capability by, for example:

- being an informed participant in legal discussions and arguments
- developing an understanding of the relationship between personal, group and societal rights and responsibilities
- developing their personal decision-making skills
- understanding how their decisions might influence the legal system
- developing an awareness of the ways in which law regulates the legal relationships between individuals and groups
- developing an awareness of how individuals and groups are able to influence the political and legal system including the creation of laws
- developing thinking and communication skills to deconstruct complex concepts and present a substantiated argument
- interacting and collaborating with others for a shared purpose
- building skills to work cohesively in a group and build on the ideas of others and or creatively problem solve
- enacting the roles and responsibilities associated with the collaborative process
- planning effectively and managing their time
- understanding the complexity of justice, freedom, rights and responsibilities.

Ethical thinking and understanding

In this subject, students extend and apply their ethical understanding capability by, for example:

- appreciating the diversity of values within the Australian and international communities and developing an understanding of how values change over time
- understanding that legal outcomes may conflict with social, environmental and ethical outcomes
- developing responsible and informed attitudes towards the Australian legal system and others
- acknowledging and referencing the ideas of others
- considering the consequences of legal decisions from ethical perspectives
- providing reasons and evidence to support their arguments and conclusions
- appreciating how context, including time, culture and power informs thinking and the creation of law
- developing an appreciation that laws are developed from societies and as such generally represent the ethics and values of that society
- understanding that laws may reflect the ethics of the times and thus may necessitate change.

Intercultural understanding

In this subject, students extend and apply their intercultural understanding capability by, for example:

- considering the different beliefs and values of a range of groups across, cultures, and nations
- developing an understanding of how successful legal systems reflect these beliefs and values, and reflecting on the extent to which the Australian legal system achieves this imperative
- investigating and analyzing the purpose of law and their impact on different peoples
- understanding that culture frames perspectives on justice, rights and responsibilities
- considering historical and contemporary impacts on the Australian legal system by other legal systems and what this means for society
- developing an understanding of the influence of international law on local communities
- acknowledging and applying understanding of cultures, narratives and accomplishments as told by Aboriginal peoples
- understanding law and lore and what this means for aboriginal people
- evaluating the success or otherwise of changes in law.

ABORIGINAL AND TORRES STRAIT ISLANDER KNOWLEDGE, CULTURES, AND PERSPECTIVES

In partnership with Aboriginal and Torres Strait Islander communities, and schools and school sectors, the SACE Board of South Australia supports the development of high-quality learning and assessment design that respects the diverse knowledge, cultures, and perspectives of Indigenous Australians.

- The SACE Board encourages teachers to include Aboriginal and Torres Strait Islander knowledge and perspectives in the design, delivery, and assessment of teaching and learning programs by:
- providing opportunities in SACE subjects for students to learn about Aboriginal and Torres Strait Islander histories, cultures, and contemporary experiences
- recognising and respecting the significant contribution of Aboriginal and Torres Strait Islander peoples to Australian society
- drawing students' attention to the value of Aboriginal and Torres Strait Islander knowledge and perspectives from the past and the present
- promoting the use of culturally appropriate protocols when engaging with and learning from Aboriginal and Torres Strait Islander peoples and communities
- appreciating and acknowledging the long history of aboriginal customary law/lore
- exploring the successes and implications of Australian law as it changes to provide justice for Aboriginal and Torres Strait Islander communities.

LEARNING SCOPE AND REQUIREMENTS

LEARNING REQUIREMENTS

The learning requirements summarise the knowledge, skills, and understanding that students are expected to develop and demonstrate through their learning in Stage 1 Legal Studies.

In this subject, students are expected to:

1. develop inquiry skills through questioning, exploration, discussion and research of concepts and legal issues
2. demonstrate their understanding of concepts, legal principles and processes
3. analyse and apply legal principles and processes
4. communicate legal concepts and arguments
5. evaluate legal arguments to reach a conclusion, and where appropriate, make recommendations
6. research, select and acknowledge relevant sources
7. collaborate effectively with others to problem solve and build on the work of others.

CONCEPTS

Students develop an understanding of the following concepts:

- Rights
- Fairness and Justice
- Power
- Change

These concepts underpin each of the focus areas of study and provide a rich platform for discussion and analysis. Big questions allow for exploration of these concepts in each focus area. Students examine scenarios and the law to substantiate an argument and/or support a recommendation.

Rights

Through a study of Legal Studies, students develop an understanding of the concept of 'rights' within the context of the law. Students should be given an opportunity to examine the different legal rights that are afforded to Australians under domestic and international law, and the corresponding responsibilities that accompany these legal rights.

Students may examine and/or analyse:

- common law rights
- statutory rights
- international rights obligations
- human rights

Students may consider the following big questions:

- Are the rights of all Australians adequately protected?
- Do some groups require special attention to ensure their rights are protected and does this imply targeted policies to protect them?
- Should the Australian Constitution include a Bill of Rights?
- Can you have rights without responsibilities?
- Should rights be irrespective of age/gender/social group/ethnicity?
- Are basic human rights universal?
- Should Australia be a signatory to international human rights agreements?

Fairness and Justice

Through a study of Legal Studies, students develop an understanding of the concept of 'justice' and the relationship to fairness. Students explore the idea of justice, and the challenges that the Australian legal system faces in its endeavour to achieve this.

Students may examine and/or analyse:

- natural justice
- Australia's adversary system
- access to justice

Students may consider the following big questions:

- What is justice?
- How do perceptions of justice vary globally?
- Is justice delayed justice denied?
- Should the law influence society or society influence law?

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- To what extent do diverse groups in Australia have equal access to justice?
 - How fair are referendums?
 - How do we strike a fair balance between all parties in a diverse society?
 - How can laws deal with the moral complexity of contemporary society?
 - Do we/Should we align the degree of suffering of the victim with the penalty of the crime?
 - Is there such a thing as a victimless crime?
 - Is being fair and just the same?
 - Why are civil disputes treated differently to criminal disputes?
 - How effective is the adversarial system in justice for diverse groups in Australia?

Power

Power is a central concept in the study of Legal Studies. Students develop an understanding of the extent of power held by each of the branches of government, and their limitations. The concept of power is analysed within the context of relationships. These relationships are between branches of government, between individuals and the government, and between individuals themselves.

Students examine and/or analyse:

- how branches of government exercise power, and how that power is supervised
- how individuals exercise power
- media: power, rights and obligations in law

Students may consider the following big questions:

- Does the Australian legal system favour the empowered?
- Do the factors that lead to the empowerment of leaders and groups need to be changed?
- Do the factors that inhibit empowerment for individuals and groups need to be changed?
- How accountable are the powerful? Is this appropriate?
- Why do we have the laws we do?
- How can power divide or connect society?

Change

Change is a central concept in the study of Legal Studies. As a society, we expect that the law will develop and progress to reflect our changing beliefs and values. Students analyse elements of our legal system that change through necessity, and the elements that must remain constant for our system to function effectively.

Students may examine the concept of change from the perspective of:

- changes in societal values, and the impact of these changes on our laws
- changes in case law and legislation over time
- constitutional change (or lack thereof)
- international influence.

Students may contrast these areas of change with elements of the Australian legal system that remain the same, or simply consider the reasons for lack of change:

- features of the adversarial system
- roles and structure of parliament
- underlying principles of the adversarial and Westminster systems.

Students may consider the following big questions:

- Is the 'barometer of community sentiment' the best catalyst for influencing the creation of new laws?
- How do the experiences of individuals and groups produce a desire for change?
- How adequately do laws provide for the future?
- Do our laws need changing?
- Does our law change too much?
- Do interest groups hinder or promote change?
- Is the media too powerful in driving change?

FOCUS AREAS

Students complete a study of Focus Area 1: Law and Communities, and then complete:

- at least two additional focus areas for a 10-credit subject
- at least four additional focus areas for a 20-credit subject

from the suggested focus areas listed below, or alternative focus areas developed by teachers in negotiation with students.

Some suggested focus areas include:

- Government
- Law-making
- Justice and Society
- Young People and the Law
- Contemporary Issues and the Law
- Victims and the Law
- Motorists and the Law
- Young Workers and the Law
- Relationships and the Law
- Media and the Law
- Sport and the Law
- Entertainment and the Law
- Technology and the Law
- Animals and the Law
- Women and the Law
- Aboriginal and Torres Strait Islander Law
- Aboriginal and Torres Strait Islanders and the Law
- Environment and the Law
- Refugees and Asylum Seekers and the Law
- Transnational legal rights
- Crime, Law and Punishment
- Minority groups and the Law
- Emerging Legal Issues
- Royal Commissions

Focus Area 1: Law and Communities

Through inquiry, students build their understanding of how Australia's laws have developed from rules, customs, creeds, codes, customary law (such as Australian Aboriginal customary law), and common law. They study the power, influence, and perspectives of those who have constructed Australia's laws and through analysis and judgment, develop informed opinions and arguments. By exploring the past, students gain an understanding of the evolution and need for laws in Australian society and consider their role in influencing and constructing laws.

Possible inquiry questions:

- What is the rule of law?
- How does the Australian legal system reflect its English heritage?
- How does the Australian Constitution reflect the views of its writers?
- What influence have religious codes and creeds had on our legal system?
- How does the perspectives of individuals and groups shape our law?
- Are there missing perspectives in our law-making processes or structures?
- What are some examples of customary law in Australia today?
- What factors may lead to changes in law?
- What forms of legal assistance/structures are available to you to assist you in your everyday life?

Connections to the concepts of rights, fairness and justice, power and change:

- Rule of law
- Democracy
- Representative government
- Separation of powers
- Impact of the media on our perception of the government, law and justice
- Changes in societal values, and the impact of these changes on our laws

Students could consider big questions such as the following:

- Why do we need laws?
- What is the purpose of law?
- Are all laws good?
- What are the influences on Australia's laws and does this lead to just outcomes?
- Is law-making controlled by particular groups in society?
- To what extent does the law meet the needs of Australian communities?
- To what extent do Australian laws need to change?
- How effectively are the rights of individuals and groups in different communities upheld?
- How has the concept of justice in Australia changed over time?
- Should your rights and responsibilities change under law as you reach adulthood?
- What justification is there for changing rights and responsibilities as you age?

Optional Focus Areas

When designing a course of study, teachers should be aware that not all focus areas need be of equal length, and that there is flexibility in the development and integration of units to reflect student interest.

The following should be considered in planning:

- development of big questions to frame inquiry, engagement and learning
- development of inquiry questions to focus research
- current/relevant structures and processes
- connection to the concepts of rights, fairness and justice, power, and change
- engagement with the capabilities
- current legislation
- relevant cases
- consideration of assessment including the specific feature(s) to be addressed
- time allocation.

Teachers consider a range of assessment options, including activities that invite deep and critical thinking, transferability of skills and the incorporation of appropriate capabilities.

Example 1: Government

Through the development and discussion of 'big questions', students should understand, analyse and evaluate the Australian legal system's approach to Government and make considered recommendations as appropriate.

Possible inquiry questions

- What is the division of powers?
- What is the separation of powers?
- What are the main features of a constitutional monarchy?
- How is the Australian government structured?
- What is the difference between responsible and representative government?
- What are the functions of parliament as a lawmaking body?
- What is the function of a Royal Commission?
- What is the legislative process?
- What is the role of the executive?
- Why do we have a court hierarchy?

Connections to the concepts of rights, fairness and justice, power and change

- The rule of law
- The independence of the judiciary
- The separation of powers
- Elections

Big questions

- Does the separation of the legislature, executive, and judiciary fulfill its purpose?
- How representative is parliament, and how responsible is government?
- Should the judiciary be independent?
- How can civic participation be fostered and encouraged?

Current/relevant structures

- Legal institutions such as parliament, government, and the courts.
- Representative government and the separation of powers.
- The interaction of parliaments with the people.

Students explore current legislation, such as the *Commonwealth of the Australian Constitution Act 1900 (UK)* and the *Electoral Act*, and any relevant cases.

Example 2: Law-making

Students develop a critical understanding of the legislative process, the making of subordinate legislation, and the processes used by judges to develop case law, including the interpretation of statutes. A consideration of how these processes affect people should be included. Students are encouraged to participate in the democratic process through activities that foster the growth of civic literacy, such as a mock parliament, a youth parliament, debates, and role-plays.

Possible inquiry questions

- Who makes law?
- What is a Bill?
- How does a Bill become an Act?
- What is a parent/enabling Act, and what role does it play in law-making?
- What role does the Executive have in law-making?
- How do judges make law?
- How does each branch of government supervise law-making?
- What responsibilities do Australians have in the law-making process?
- How have recent changes to the law in Australia impacted you?

Connections to the concepts of rights, fairness and justice, power and change

- Changes in societal values, and the impact of these changes on our laws
- Changes in case law and legislation over time
- Constitutional change (or lack thereof)
- International influence

Current relevant structures and processes

- Parliament
- the Court hierarchy
- Legislative process
- Process of making delegated legislation
- How judges make law

Big questions

- Should judges make law?
- Should juries be abolished?
- What are influences or influencers that cause laws to be made or changed?
- Is delegated legislation a violation of democracy?
- Do laws change enough, or too much?
- Why do we have the laws that we do?
- Is the 'barometer of community sentiment' the best catalyst for influencing the creation of new laws?
- How do the experiences of individuals and groups produce a desire for change?
- How adequately do laws provide for the future?
- Are some laws no longer necessary?
- Students explore current legislation and any relevant cases.

Through developing their response to big questions, students should understand and evaluate the Australian legal system's approach to law-making and make recommendations for change as appropriate.

Example 3: Justice and Society

Students explore the operation of the adversarial system of trial in the resolution of criminal and civil disputes.

Possible inquiry questions

- What are the main features of the Australian adversarial system?
- How are criminal and civil trials different? (Features, processes, outcomes)
- How is a criminal dispute resolved?

- How is a civil dispute resolved?
- What are the rules of evidence?
- What is the role of a judge?
- How does a judge determine sentence?
- What is ADR, and how does it relate to the civil justice system?
- Why do we have a court hierarchy, and how does this facilitate just outcomes?
- How is a jury selected, and what role do they play in a trial?

Connection to the concepts of rights, fairness and justice, power and change

- How the adversary system aims to achieve justice
- The rights of the accused
- Common law rights
- Statutory rights
- International human rights obligations
- Human rights
- Natural justice
- Features of the adversary system
- Access to justice

Current/relevant structures

- The Adversary system of trial
- The criminal justice system
- The civil justice system
- The jury system

Big questions

- What is justice?
- What features of the adversary system of trial provide for a just outcome?
- How and why do perceptions of justice vary globally?
- Why are criminal disputes and civil disputes resolved differently? Is this effective?
- Are the rights of all Australians adequately protected?
- Do some groups require special attention to ensure their rights are protected and does this imply targeted policies to protect them?
- Should the Australian Constitution include a Bill of Rights?
- Can you have rights without responsibilities?

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- Should rights be irrespective of age/gender/social group/ethnicity?

Through developing their response to big questions, students should understand and evaluate the Australian legal system's approach to justice and society, explore current legislation and relevant cases and make recommendations for change as appropriate.

Example 4: Young People and the Law

The rights and interests of young people are protected through state, territory, national, and international laws. Students investigate and debate a range of issues, such as young people's views on drugs, vandalism, child abuse, parental responsibility, shoplifting, health, work, and under-age drinking.

Possible inquiry questions

- What does it mean to lack legal capacity?
- What does the phrase 'age of criminal responsibility' mean?
- What are my rights and responsibilities under law as a child/teenager?
- How are children and teenagers treated differently to adults in the criminal justice system?
- What specific protections are written into legislation to preserve the rights of teenagers?
- How would you access reliable information about your legal rights?
- How can young people influence meaningful legal change?

Connection to the concepts of rights, fairness and justice, power and change

- The rights of young people
- Common law rights
- Statutory rights
- International rights obligations
- Human rights
- Access to justice.

Current/relevant structures

- The juvenile justice system
- The Youth Court
- Family conferencing.

Students could investigate and debate a range of issues, such as young people's views on drugs, vandalism, child abuse, parental responsibility, shoplifting, health, work, and under-age drinking.

Big questions

- How effective is the juvenile justice system?
- Is the Youth Court effective in dealing with criminal actions by young people?
- Is family conferencing effective in preventing crime?

- Are young people adequately protected by legislation?
- Are there sufficient rights recognised by common law?
- How does the United Nations Convention on the Rights of the Child affect young people?
- Are young people adequately protected within family relationships?
- Should the rights of the child be different to the rights of the adolescent?
- Does the law adequately address issues such as a mobile phone contract, and internet protocols (for example, downloading of music, plagiarism, and copyright)?
- Is justice the same for all people, regardless of age/ethnicity/gender?
- Should teenagers be able to vote?

Students explore the United Nations Convention on the Rights of the Child, *Young Offenders Act 1993* (SA) and any current legislation and relevant cases.

Through developing their response to big questions, students should understand and evaluate the Australian legal system's approach to young people and the law and make recommendations for change as appropriate.

Example 5: Victims and the Law

A public focus on victims of crime is reflected in a number of initiatives by both parliament and the courts. Students investigate a range of issues such as double jeopardy, the right to silence, victims of crime, white-collar crimes, international crimes, victimless crimes, and access to the justice system.

Possible inquiry questions

- How do you report a crime?
- What structures are put in place to support victims of crime after an incident has occurred?
- What rights are victims afforded under current legislation?
- What rights are perpetrators afforded under law during the criminal process?
- Why is important for an accused to be considered innocent until proven guilty?
- To what degree can victims be involved during a criminal trial?
- What is a victim impact statement?
- What is charge bargaining, and what rights do victims have in this process?

Connection to the concepts of Rights, Fairness and Justice, Power and Change

- Protection of Victim's Rights
- Common law rights
- Statutory rights
- International rights obligations
- Human rights

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- Access to justice
 - The need for change

Current/relevant structures and processes

- Commissioner for Victims Rights
- The Department for Correctional Services Victim's Register
- South Australian Court Hierarchy
- Victims of Crime Fund
- Victim Support Service

Big questions

- Who are the victims?
- Is there such a thing as a victimless crime?
- Do legislation and case law adequately consider victims of crime?
- Is there an imbalance between the rights of the victim and the rights of the accused? Should there be?
- Should there be any role by victims in sentencing, family conferencing and victim-offender mediation?
- Is there adequate compensation for victims through a victims of crime levy, criminal injury compensation, or civil remedies? What is adequate?
- How can justice in the past be different to justice now?
- Should there be a stronger focus on restorative justice in Australia?

Students explore current legislation, such as the *Victims of Crime Act 2001 (SA)* and the *Sentencing Act 2017 (SA)*, and any relevant cases.

Through developing their response to big questions,, students should understand and evaluate the Australian legal system's approach to Victims and the Law and make recommendations for change as appropriate.

ASSESSMENT SCOPE AND REQUIREMENTS

Assessment at Stage 1 is school based.

EVIDENCE OF LEARNING

The following assessment types enable students to demonstrate their learning in Stage 1 Legal Studies:

- Assessment Type 1: Analytical Response
- Assessment Type 2: Inquiry
- Assessment Type 3: Presentation

For a 10-credit subject, students should provide evidence of their learning through three assessments. Each assessment type should have a weighting of at least 20%. Students undertake:

- One assessment for the analytical response
- One inquiry
- One presentation

For a 20-credit subject, students should provide evidence of their learning through five assessments. Each assessment type should have a weighting of at least 20%. Students undertake:

- At least two assessments for the analytical response
- At least one inquiry
- At least one presentation

ASSESSMENT DESIGN CRITERIA

The assessment design criteria are based on the learning requirements and are used by teachers to:

- clarify for students what they need to learn
- design opportunities for students to provide evidence of their learning at the highest possible level of achievement.

The assessment design criteria consist of specific features that:

- students should demonstrate in their learning
- teachers look for, as evidence that students have met the learning requirements.

For this subject the assessment design criteria are:

- Exploration, Understanding and Application
- Analysis and Evaluation
- Communication and Collaboration

The specific features of these criteria are described below.

The set of assessments, as a whole, must give students opportunities to demonstrate each of the specific features by the completion of study of the subject.

Inquiry, Understanding and Application

The specific features are as follows:

- IUA1 Inquiry, understanding and application of concepts
- IUA2 Inquiry, understanding and application of legal principles and processes
- IUA3 Research, selection and acknowledgement of relevant sources.

Analysis and Evaluation

The specific features are as follows:

- AE1 Analysis of legal principles, processes and concepts
- AE2 Evaluation of legal arguments to reach a conclusion, and where appropriate, make recommendations.

Communication Collaboration and Reflection

The specific features are as follows:

- CC1 Communication of legal concepts, legal principles and arguments
- CC2 Collaboration
- CC3 Reflection on learning

Collaboration can be assessed using a range of strategies including teacher, team and self-review.

Consideration should be given to how the student worked with others to support and advance the problem-solving capacity and ideas of the group towards a common goal.

SCHOOL ASSESSMENT

Students should approach the assessment tasks through responding to big questions, deconstructing concepts and applying discipline knowledge to make informed responses. They identify and describe legal issues, interrogate primary and secondary sources, explore information and data, analyse, and evaluate to make decisions or propose recommendations

Assessment Type 1: Analytical Response

For a 10-credit subject, students undertake one analytical response, and two analytical responses for 20-credit subject.

This assessment could be presented in written, oral or multimodal form. For example:

- report
- web page
- sources analysis
- essay
- test
- media journal
- extended response
- letter to parliament
- parliamentary speech (e.g. maiden speech)
- political cartoon and commentary.

Participation in group work and classroom discussion is strongly encouraged.

Assessment conditions such as word-limits and the performance standards that are being assessed should be clearly communicated to students. A response should be a maximum of 1,200 words if written, or a maximum of 7 minutes for an oral presentation, or the equivalent in multimodal form.

For this assessment type, students provide evidence of their learning primarily in relation to some or all of the following assessment design criteria:

- Exploration, Understanding and Application
- Analysis and Evaluation
- Communication and Collaboration

Assessment Type 2: Inquiry

Students undertake at one Inquiry for a 10-credit and at least one for a 20-credit subject.

Students inquire in depth into a current legal issue with reference to at least one of the concepts. It should be an issue that students can cover over a period of weeks.

This issue should be examined with consideration given to its legal implications and include a diversity of views and recommendations for changes to the law.

The inquiry could be presented in written, oral or multimodal form. Whatever form is chosen, there should be evidence of deep thinking and research, including a relevant media article as a resource. The inquiry should be a maximum of 1,200 words if written, a maximum of 7 minutes for an oral presentation, or the equivalent in multimodal form.

For this assessment type, students provide evidence of their learning primarily in relation to the following assessment design criteria:

- Exploration, Understanding and Application
- Analysis and Evaluation
- Communication and Collaboration

Assessment Type 3: Presentation

Students undertake at least one collaborative presentation and an individual reflection for both a 10-credit and a 20-credit subject. Students are assessed individually.

Presentations can take a variety of forms and occur in a variety of situations.

For example:

- multimodal presentation
- display or an address in a public or school area
- debate
- mock trial
- panelist discussion
- mock parliament
- video production
- website
- oral presentation.

Whatever form of presentation is chosen, there must be some oral communication. This should be for a maximum of 7 minutes. Some allowance can be made depending on the size of the group.

The audience for the oral part of the assessment is negotiable, and may include the class, other classes, community groups, or public arenas.

The individual reflection should be a maximum of 500 words.

The reflection could include:

- an evaluation of their role in the collaborative process, and the presentation
- significance of what they learnt, in terms of personal and social capability and legal perspective
- how they worked to build and support the ideas of others to produce a better outcome
- problems they may have overcome.

For this assessment type, students provide evidence of their learning primarily in relation to the following assessment design criteria:

- Exploration, Understanding and Application
- Analysis and Evaluation
- Communication, Collaboration and Reflection

PERFORMANCE STANDARDS

The performance standards describe five levels of achievement, A to E.

Each level of achievement describes the knowledge, skills, and understanding that teachers refer to in deciding how well students have demonstrated their learning on the basis of the evidence provided.

During the teaching and learning program the teacher gives students feedback on their learning, with reference to the performance standards.

At the student's completion of study of a subject, the teacher makes a decision about the quality of the student's learning by:

- referring to the performance standards
- taking into account the weighting of each assessment type
- assigning a subject grade between A and E.

Performance Standards for Stage 1 Legal Studies

	Exploration, Understanding and Application	Analysis and Evaluation	Communication Collaboration and Reflection
A	<p>Sophisticated exploration and application of concepts to develop astute understanding</p> <p>Sophisticated exploration and application of legal principles and processes to develop astute understanding</p> <p>Thorough and focused research to select and appropriately acknowledge a range of relevant sources</p>	<p>Extensive and perceptive analysis of legal principles, processes and concepts</p> <p>Sophisticated evaluation of legal arguments to reach a convincing conclusion and where appropriate make convincing recommendations</p>	<p>Highly effective in the communication of concepts, legal principles and arguments</p> <p>Highly effective and consistent collaboration to achieve insightful, well-reasoned and justified outcomes</p> <p>Insightful and perceptive reflection on learning, and the personal and group skills required to achieve a successful collaborative outcome</p>
B	<p>Substantial exploration and application of concepts to develop considerable understanding</p> <p>Substantial exploration and application of legal principles and processes to develop considerable understanding</p> <p>Substantial research to select and appropriately acknowledge a range of relevant sources</p>	<p>Substantial and thoughtful analysis and application of legal principles, processes and concepts</p> <p>Well-considered evaluation of legal arguments to reach a mostly convincing conclusion and where appropriate make appropriate recommendations</p>	<p>Effective in the communication of concepts, legal principles and arguments</p> <p>Effective and consistent collaboration to achieve reasoned and justified outcomes</p> <p>Well-considered reflection, on learning, and the personal and group skills required to achieve a successful collaborative outcome</p>
C	<p>Adequate exploration and application of concepts to develop generally competent understanding and application</p> <p>Adequate exploration and application of legal principles and processes to develop generally competent understanding</p> <p>Adequate research, selection and acknowledgement of a range of relevant sources</p>	<p>Moderately considered analysis and application of legal principles, processes and concepts</p> <p>Mostly sound evaluation of legal arguments to reach a conclusion and where appropriate make recommendations</p>	<p>Moderately effective in the communication of concepts, legal principles and arguments</p> <p>Moderately effective collaboration to achieve satisfactory outcomes</p> <p>Adequate reflection on learning, and the personal and group skills required to achieve a successful collaborative outcome</p>
D	<p>Some exploration and application of concepts to develop partial understanding and application</p> <p>Some exploration and application of legal principles and processes to develop partial understanding and application</p> <p>Basic research, selection and acknowledgement of a range of relevant sources</p>	<p>Some analysis and application of some legal principles and/or processes and concepts.</p> <p>Partial evaluation of legal arguments and where appropriate, partially substantiated recommendations</p>	<p>Some communication of concepts, legal principles and arguments</p> <p>Some collaboration with other students</p> <p>Some reflection on learning, and the personal and group skills required to achieve a successful collaborative outcome</p>
E	<p>Limited exploration and application of concepts to demonstrate emerging understanding and application</p>	<p>Limited analysis of some legal principles and/or processes or concepts</p>	<p>Limited success in the communication of concepts, legal principles and arguments</p> <p>Limited collaboration with other students</p>

Exploration, Understanding and Application		Analysis and Evaluation	Communication Collaboration and Reflection
	<p>Some exploration and application of legal principles and processes to demonstrate emerging understanding and application</p> <p>Rudimentary research, selection and acknowledgement of a range of sources</p>	Limited consideration of some legal arguments with no or uninformed recommendations.	Rudimentary reflection on learning, and the personal and group skills required to achieve a successful collaborative outcome

ASSESSMENT INTEGRITY

The SACE Assuring Assessment Integrity Policy outlines the principles and processes that teachers follow to assure the integrity of student assessments. This policy is available on the SACE website (www.sace.sa.edu.au) as part of the SACE Policy Framework.

The SACE Board uses a range of quality assurance processes so that the grades awarded for student achievement in the school assessment are applied consistently and fairly against the performance standards for a subject, and are comparable across all schools.

Information and guidelines on quality assurance in assessment at Stage 1 are available on the SACE website (www.sace.sa.edu.au).

SUPPORT MATERIALS

SUBJECT-SPECIFIC ADVICE

Online support materials are provided for each subject and updated regularly on the SACE website (www.sace.sa.edu.au). Examples of support materials are sample learning and assessment plans, annotated assessment tasks, annotated student responses, and recommended resource materials.

ADVICE ON ETHICAL STUDY AND RESEARCH

Advice for students and teachers on ethical study and research practices is available in the guidelines on the ethical conduct of research in the SACE, which are on the SACE website (www.sace.sa.edu.au).

Legal Studies

2021 Subject Outline

Stage 2

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Draft for consultation

INTRODUCTION

SUBJECT DESCRIPTION

Legal Studies is a 20-credit subject at Stage 2.

Law is intended to facilitate fairness, justice and harmony within communities. The study of Legal Studies enables an understanding of the operation of the Australian legal system, its principles and processes and prepares students to be informed and articulate in matters of the Law and society.

Central to the study of Legal Studies is an exploration of the competing tensions that arise between rights and responsibilities, fairness and efficiency, the empowered and the disempowered, and certainty and flexibility. Laws must constantly evolve in order to resolve these tensions whilst also responding to changes in community values and circumstances.

Legal Studies is explored through 'big questions'. Big questions are a useful mechanism to stimulate deep thinking and engagement, and for the consideration of a range of perspectives. In providing a response to the questions, students must evaluate, analyse and apply contextually appropriate legal principles, processes, evidence and cases to demonstrate their arguments. Students consider a range of perspectives to make recommendations for reforms to the legal system and laws.

Students explore rights and responsibilities, sources of law and adversarial and inquisitorial dispute resolution processes. Through Legal Studies, students examine how people, governments and institutions shape the law and how law controls, shapes and regulates interactions between people, institutions and government. Students develop an understanding of the ways in which they can influence democratic processes, the importance of critical and conceptual thinking and the significance of checks and balances in providing lawful mechanisms to control the exercise of power.

Legal Studies empowers students to evaluate evidence in order to make decisions and potentially substantiated recommendations about legal principles and processes. Conceptual understanding and analysis provide for transference within and across disciplines. This skill development disposes students to approach new situations and contexts with an analytical and problem-solving mindset. The capabilities are deeply embedded in the nature of the thinking, learning and engagement with others.

CAPABILITIES

The capabilities connect student learning within and across subjects in a range of contexts.

The SACE identifies seven capabilities. They are:

- literacy
- numeracy
- information and communication technology (ICT) capability
- critical and creative thinking
- personal and social capability
- ethical understanding
- intercultural understanding

Literacy

In this subject, students extend and apply their literacy capability by, for example:

- articulating ideas, using supporting evidence
- analysing, justifying and presenting reasoned arguments
- cultivating and using specialized and appropriate legal terminology and discourse
- formulating and defending positions
- using a variety of language conventions
- decoding the language of law
- presenting material in a range of formats and text types
- identifying and critiquing online, written, oral, data, and visual sources
- analysing different perspectives to consider context, relevance, purpose, bias, accuracy, and reliability
- critically extracting information from a range of sources and drawing appropriate conclusions
- appropriately acknowledging sources
- using a variety of literacy skills to demonstrate thinking, knowledge and understanding

Numeracy

In this subject, students extend and apply their numeracy capability by, for example:

- understanding concepts of time, space, and number in relation to the institutions and operations of the Australian and or other legal system
- understanding and using graphs, diagrams, and statistics
- using graphical illustrations to convey meaning

-
- researching, compiling and evaluating quantitative data through observations, searches, and interviews
 - evaluating and interpreting data
 - predicting outcomes from data
 - analysing data in order to supply evidence for or against a given argument

Information and communication technology (ICT) capability

In this subject, students extend and apply their ICT capability by, for example:

- participating and or facilitating digital learning
- locating and using sources of information, specific to the study of the law in Australia, and internationally (e.g. Hansard, case law, court judgments, legislation, legal journals, regulations, conventions.)
- being a responsible digital citizen (being safe, responsible and respectful online)
- using a range of different applications, programs and platforms to display their learning in multi-modal formats
- understanding reliability and credibility of sources and other digital literacies

Critical and creative thinking

- In this subject, students extend and apply their critical and creative thinking capability by, for example:
- developing and or responding to large, overarching questions to frame their learning and inquiry
- thinking about their thinking and learning (metacognition)
- synthesising information in order to critically compare and contrast elements, principles or structures of the Australian legal system with that of another country, nation or international organisation
- critically analysing sources of information for credibility, reliability, bias and usefulness
- examining and reflecting upon the multiple perspectives that are involved in the development of new laws (both legislature and case law) to respond to questions about justice, fairness, rights and responsibilities and empowerment
- analyzing context, the law and the changing society to make informed recommendations for change in the legal system
- engage in breaking complex constructs and concepts into smaller manageable components for critical analysis
- creating well-reasoned, research-oriented arguments that consider multiple perspectives on current legal issues

Personal and social capability

In this subject, students extend and apply their personal and social capability by, for example:

- developing an understanding of legal rights and responsibilities of individuals and groups
- developing their personal decision-making skills
- understanding how their decisions might influence others and the legal system
- developing an awareness of the ways in which law regulates and influences the legal relationships between individuals and groups
- developing an awareness and understanding of how individuals, special interest and minority groups are able to influence the legal system including the creation of laws
- understanding the needs and expectations of all parties to court disputes
- interacting and collaborating with others in order to effectively participate in and utilise the legal system
- planning effectively and managing their time
- developing their understanding of the complexities of justice, freedom and human rights and empowerment
- reflecting on and developing the skills required for effective collaboration

Ethical understanding

In this subject, students extend and apply their ethical understanding capability by, for example:

- developing an appreciation of the diversity of values within the Australian and international communities and an understanding of how values change over time
- developing an understanding that legal outcomes may conflict with social, environmental and ethical outcomes
- developing responsible and respectful attitudes towards the Australian legal system and others
- acknowledging and referencing the ideas of others
- considering the consequences of legal decisions from ethical perspectives
- examining the law from ethical perspectives
- providing reasons and evidence to support their conclusions
- understanding how the ethics in one context may be different to ethics in another

Intercultural understanding

In this subject, students extend and apply their intercultural understanding capability by, for example:

- considering the different beliefs and values of a range of groups across languages, cultures, and nations
- developing an understanding that successful legal systems reflect these beliefs and values, and reflecting on the extent to which the Australian legal system achieves this imperative
- understanding that culture frames perspectives on justice, rights and responsibilities, and ethics
- considering historical and contemporary impacts on the Australian legal system by other legal systems
- acknowledging and applying understanding of cultures, narratives and accomplishments as told by Aboriginal peoples
- that the tension between the concepts and just resolutions may be different for people of differing cultures

ABORIGINAL AND TORRES STRAIT ISLANDER KNOWLEDGE, CULTURES, AND PERSPECTIVES

In partnership with Aboriginal and Torres Strait Islander communities, and schools and school sectors, the SACE Board of South Australia supports the development of high-quality learning and assessment design that respects the diverse knowledge, cultures, and perspectives of Indigenous Australians.

The SACE Board encourages teachers to include Aboriginal and Torres Strait Islander knowledge and perspectives in the design, delivery, and assessment of teaching and learning programs by:

- providing opportunities in SACE subjects for students to learn about Aboriginal and Torres Strait Islander histories, cultures, and contemporary experiences
- recognising and respecting the significant contribution of Aboriginal and Torres Strait Islander peoples to Australian society
- drawing students' attention to the value of Aboriginal and Torres Strait Islander knowledge and perspectives from the past and the present
- understanding the diversity within Aboriginal and Torres Strait Islander peoples and how that may be reflected in contemporary society
- welcoming the participation of Aboriginal and Torres Strait Islander peoples in the study of Legal Studies
- promoting the use of culturally appropriate protocols when engaging with and learning from Aboriginal and Torres Strait Islander peoples and communities.

LEARNING SCOPE AND REQUIREMENTS

LEARNING REQUIREMENTS

The learning requirements summarise the knowledge, skills, and understanding in Legal Studies.

In this subject, students are expected to:

1. demonstrate an understanding of legal principles and processes
2. demonstrate an understanding of ways that legal systems balance competing interests or tensions
3. demonstrate civic literacy through inquiry
4. critically analyse and apply legal principles, processes and concepts to case studies, the law and or issues
5. communicate and evaluate legal arguments and make informed recommendations

CONCEPTS

Students develop an understanding of the tension between the following concepts:

- Competing rights and responsibilities
- Fairness and efficiency
- The empowered and the disempowered
- Certainty and flexibility

The tension between two concepts invites students to consider what it is that laws aim to achieve and why it may be so difficult to find the perfect balance.

The competing tensions are also designed to allow for conceptual links across the focus areas and to guide students to consider fundamental questions about laws. Some competing tensions have been aligned with specific focus areas, but teachers may choose to examine different competing tensions in relation to big questions.

Together with big questions, these tensions provide a rich platform for discussion and analysis.

Competing rights and responsibilities

Students develop an understanding that laws regulate relationships between people and legal entities. The need for rules surrounding relationships is a product of tensions that arise between legal rights and where they are in conflict. In doing so, the law creates certain responsibilities.

Students are encouraged to explore the different contexts in which a conflict between legal rights may occur. These could include the rights of an individual conflicting with the rights of the community, the

rights of special interest groups conflicting with the rights of the wider community, the rights of nations, including Australia, conflicting with international human rights and the rights of people now, and in the past, conflicting with the rights of people in the future.

Students consider the challenges involved in resolving conflicting rights for institutions of government that make laws, enforce and administer laws and resolve disputes about laws. Students investigate the extent to which laws adequately strike a balance between competing rights and provide an appropriate consequence when rights are breached.

Fairness and efficiency

Students develop an understanding of whether an appropriate balance between fairness and efficiency is struck by the legal system. They consider these competing tensions in the context of the power exercised by institutions of government in the processes of making laws and enforcing and resolving disputes about laws. They evaluate whether the law is fair and/or efficient when Australian citizens are seeking a legal resolution in the court system.

The empowered and the disempowered

Students develop an understanding of how power is shared and divided amongst different arms of government, and statutory bodies across the legal system. Students investigate and analyse whether current power-sharing arrangements are benefiting Australian society.

Students consider different geopolitical spaces (social, cultural, economic, geographic groups) in Australian society that may be disempowered by the current system structure. They investigate possible changes or courses of action that could potentially redress the power imbalance between the individual or group, and the government.

Certainty and flexibility

Students develop an understanding that effective legal systems strive for an appropriate balance between certainty and flexibility. Students are encouraged to inquire into whether this balance is successfully achieved in the Australian legal system.

Certainty is a necessary feature of constitutional government. There must be clarity as to the roles and powers of the institutions of government, and also of the rights and responsibilities of the people. However, there must also be the flexibility to adapt to changing circumstances and needs; the law must evolve to meet the needs of societies now and in the future.

It is this tension between the desire to maintain a stable and known set of legal principles, juxtaposed with the need to adapt the law to reflect the changing values and needs of the people, that poses challenges for parliaments, governments and courts and which leads to an ongoing debate in the community.

Focus Areas

Focus areas provide a rich context to consider big questions and examine competing tensions. Competing tensions can apply to more than one focus area.

The following focus areas are recommendations for exploring the questions and tensions:

- Focus Area 1: Sources of Law – Parliament
- Focus Area 2: Sources of Law – Courts
- Focus Area 3: Dispute Resolution
- Focus Area 4: Rights and Obligations

Support materials will provide a starting point for inquiry in the focus areas. The materials are recommended but are not a compulsory component of the course.

Students are not required to quote or recall section numbers from the Constitution.

The following should be considered by teachers in planning for each focus area:

- development of big questions to frame inquiry, engagement and learning
- development of inquiry questions to focus research
- connection to the competing tensions of:
 - competing rights and responsibilities
 - fairness and efficiency
 - the empowered and the disempowered
 - certainty and flexibility
- current/relevant structures and processes
- current legislation
- relevant cases
- a variety of contemporary sources
- engagement with the capabilities
- consideration of assessment including the specific feature(s) to be addressed
- time allocation

Focus Area 1: Sources of Law – Parliament

Students use inquiry questions to investigate and analyse some key principles and institutions that form the foundation of the legal system.

Inquiry Questions

- What is the rule of law?
- What was the historical context of the Constitution?
- How are the reasons for Federation reflected in the Constitution?
- Who and what was overlooked, and why?
- What sources did the writers of the Constitution use?
- How does Australia function as a constitutional monarchy?
- What is the significance of the division of powers in the Federal system?
- What do we mean by the following terms and how are they applied?
 - specific powers
 - exclusive powers
 - concurrent powers
 - residual powers
 - prohibited powers
- How are the rights and powers of the States preserved?
- What is the mechanism for constitutional change?
- What is the separation of powers and why is it important?
- How effective are the mechanisms for supervising the exercise of power by government institutions?
- Do the following features support the principle of responsible government?
 - the formation of government following an election
 - the roles performed by the Prime Minister, Cabinet, and ministers
 - the role of unwritten conventions in establishing the above
 - Question Time, and other mechanisms of holding the Government to account.
- How does the preferential voting system help achieve representative government?
- Does the proportional voting system achieve adequate representation in the Senate?
- What factors may lead to the initiation or change of legislation?
- What are the critical stages of making legislation?
- How are state and federal deadlocks resolved?
- How is parliament's legislative power supervised?
- Why does Parliament delegate law-making power to bodies such as:

-
- Executive Council (Cabinet)
 - local councils

What are the processes by which delegated legislation is made, and what is the supervisory role of parliament?

In their response to selected big questions, students consider the competing tensions. Teachers may choose to develop alternative big questions to frame the units of work, discussion and inquiry.

Big Questions

- How adequately do laws provide for future generations? (Consider: competing rights and responsibilities)
- Does Parliament make laws efficiently? What do we gain and what do we lose by efficiency? (Consider: fairness and efficiency)
- Are the institutions of government fair and efficient? (Consider: fairness and efficiency)
- Is a power imbalance between a government and its people necessary for a democratic government to be effective and functional? (Consider: The empowered and the disempowered)
- How can a democracy have disempowered people? (Consider: The empowered and the disempowered)
- Is the bias of the powerful reflected in the law? (Consider: The empowered and the disempowered)
- How does the Constitution provide for both certainty and flexibility? (Consider: certainty and flexibility)
- Are laws responsive to change? (Consider: certainty and flexibility)
- How adequately does the Australian legal system achieve the rule of law?
- Does the Australian parliamentary system adequately represent all Australians?
- Does the original purpose of the Senate as a 'States' house' adequately serve contemporary Australia?
- Does the law reflect the values of its people?
- Do people influence laws, or do laws influence people?
- Is the will of the people reflected in the Parliament?
- Should Australia have a complete separation of powers?
- How effective are the mechanisms for supervising the exercise of power by government institutions?
- Has the High Court of Australia been an effective guardian of the Constitution?
- Does the Australian Constitution reflect the needs of contemporary society?
- Should Australia become a republic?
- How has the balance of power between the Commonwealth and the States changed since federation, and what is the significance of this?
- Does the Australian system compare well to alternative models?

Focus Area 2: Sources of Law – Courts

Students use inquiry questions to investigate and analyse the courts as a source of law in Australia.

Inquiry Questions

- Why do we have federal and state courts?
- Why are courts arranged in a hierarchy?
- What is the role of the High Court of Australia?
- What is judicial independence and why is it important?
- How do the following features help to uphold judicial independence?
 - fixed tenure
 - judicial privilege
 - appointment and dismissal
 - fixed remuneration
- What is the relationship between judicial independence, democracy and the rule of law?
- How do parliament and the courts supervise each other?
- What are the strengths and weaknesses of the doctrine of precedent?
- Why do we need binding and persuasive precedents?
- Why is it necessary for judges to develop common law?
- What are the elements of the tort of negligence? How has it developed over time?
- Why do courts interpret statutes?
- How do courts interpret statutes?
- What is the relationship between legislation, delegated legislation and case law?

In their response to selected big questions, students consider the competing tensions. Teachers may choose to develop alternative big questions to frame the units of work, discussion and inquiry.

Big Questions

- Do judges have too much power? (Consider: empowered and the disempowered)
- What is justice? Whose justice? Who decides? (Consider: competing rights and responsibilities)
- Is there a role of perspectives in a determination of law? (Consider: fairness and efficiency)
- Does the Australian High Court have too much power? (*Consider: The empowered and the disempowered*)
- Is the bias of the powerful reflected in the law? (*Consider: The empowered and the disempowered*)
- How do courts balance the need to facilitate predictability, certainty and fairness, whilst also re-examining established legal principles to ensure a progressive society? (*Consider: certainty and flexibility*)
- Is the law fair if it is subject to interpretation? (Consider: fairness and efficiency)

-
- Are judges responsive to change?
 - Are judges reflective of the diverse society in which they work? Is this important?
 - Is the distinction between Rule of law and rule by law significant?
 - Should judges make law?
 - Does the court hierarchy facilitate just outcomes?
 - How has the High Court been able to change the meaning of the Australian Constitution?
 - How has the High Court affected the division of powers through their interpretation of the Constitution?
 - Has the High Court been effective at upholding the rights of Australians?

Focus Area 3: Dispute Resolution (Justice Systems)

Students use inquiry questions to investigate and analyse adversarial and inquisitorial justice systems. Courts in Australia incorporate features of both systems but are typically more adversarial.

Inquiry Questions

- How are cases listed for trial?
- How does the adversarial system differ from inquisitorial systems? Including the:
 - role of the judge
 - role of the parties (party control)
 - rules of evidence and procedure
 - burden and standards of proof
- What are the types of criminal offences? Consider:
 - summary, including strict liability
 - minor indictable
 - indictable
- What are the elements of an indictable criminal offence?
- What is the nature and purpose of pre-trial rights and processes in criminal law? Including:
 - rights on arrest
 - bail
 - committal hearing
 - charge bargaining
 - arraignment
 - pre-trial conference
- How is evidence presented at a trial?

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- What are the stages of a trial?
 - What types of verdicts are possible?
 - What is the difference between evidence and submissions?
 - How are sentences determined?
 - What is the purpose of sentencing?
 - On what grounds might an appeal be lodged?
 - What occurs during an appeal hearing?
 - What is the extent of the accused right to trial by jury in South Australia?
 - How are jury lists compiled (including criteria for eligibility, disqualification and being excused)?
 - How are juries empaneled (including inquiry into bias and peremptory and with cause, challenges)?
 - What are the possible outcomes of a jury trial, including unanimous verdict, majority verdict, hung jury and mistrial?
 - What are the rights of the accused?
 - How can cases be settled out of court?
 - What are the benefits and limitations of negotiated outcomes?
 - What are the important features of civil procedure?
 - What is discovery and how does it contribute to just outcomes?
 - What is the purpose of a statement of claim and a defence?
 - What civil remedies are possible and do they achieve their purpose?
 - In what circumstances can a party appeal?
 - What decisions can the appeal court make?

Students consider the competing tensions in their response to big questions.

Big Questions

- What is justice? (Consider: empowered and the disempowered, competing rights and responsibilities)
- How adequately does the criminal justice system balance the rights of the accused with the rights of victims? (Consider: competing rights and responsibilities)
- Are too many rights afforded to an accused person in the adversarial system of trial? (Consider: competing rights and responsibilities)
- Do common understandings of fairness have a place in the legal system? (Consider: fairness and efficiency)
- Do courts resolve disputes fairly? Fair for whom? (Consider: fairness and efficiency)
- Is fairness contextual? Is this problematic? (Consider: fairness and efficiency)
- Is being fair and lawful the same thing? (Consider: fairness and efficiency)

-
- Is justice reliant on the abilities of lawyers/interpretation of judges? (Consider: fairness and efficiency)
 - Would fairness be better achieved by another justice system? (Consider: fairness and efficiency)
 - Why might fairness be complex in certain contexts? (Consider: fairness and efficiency)
 - Is justice accessible? (Consider - empowered and the disempowered)
 - Are the rules of evidence too strict to allow just outcomes? (Consider: certainty and flexibility)
 - Is the adversarial system or inquisitorial system of trial more likely to result in just outcomes?
 - What happens when rights conflict?
 - Should juries be used in the justice system?

Focus Area 4: Rights and Obligations

Students use inquiry questions to investigate and analyse how rights are protected in Australia and limitations of that protection.

Inquiry Questions

- How and why does Australia enter into treaties with other nations?
- What is the relationship between treaties and Australian law?
- What is the significance of the Commonwealth's external affairs power? How has this impacted human rights in Australia?
- How are rights protected by legislation?
- How adequately are Aboriginal & Torres Strait Islanders rights protected with reference to:
 - Native Title
 - Basis of customary Indigenous Law (origins and implications today)
 - 1967 Referendum
 - Proposals for Constitutional Change
- What is the origin of the *Racial Discrimination Act 1975*? What role has it played in protecting the rights of Aboriginal & Torres Strait Islanders?
- How does the criminal justice system respond to and consider Aboriginal & Torres Strait Islanders? What are the roles of specialised courts?
- What are the limitations of the protection of rights in Australia? Consider:
 - asylum seekers
 - freedom of speech
 - freedom of press
 - freedom of association
 - freedom of religion

-
- anti-discrimination legislation
 - First peoples
 - environment

Students consider the competing tensions in their response to big questions.

Big Questions

- Does the Australian Constitution adequately protect the rights of individuals or groups? (*Consider: competing rights and responsibilities*)
- To what extent should Australia be required to comply with its international human rights obligations? (*Consider: competing rights and responsibilities*)
- Does the legal system of Australia fairly administer the law for minority groups? (*Consider: fairness and efficiency*)
- Do minorities require special attention to ensure their rights? (*Consider: fairness and efficiency*)
- Is positive discrimination fair? (*Consider: fairness and efficiency*)
- To what extent does case law and legislation adequately compensate for the lack of explicit human rights in the Constitution? (*Consider: certainty and flexibility*)
- How can the disempowered have full access to human rights? (*Consider: empowered and the disempowered*)
- Should rights be universal?
- Are human rights guaranteed in Australia?
- Should Australia have a Bill of Rights?
- How can the tension between conflicting rights be fairly resolved?
- Can we trust our government to protect our rights?
- Does the existence of a right guarantee its enforcement?
- What is the value of rights if you don't know that you have them?
- What is the relationship between the rule of law and human rights?

ASSESSMENT SCOPE AND REQUIREMENTS

All Stage 2 subjects have a school assessment component and an external assessment component.

EVIDENCE OF LEARNING

The following assessment types enable students to demonstrate their learning in Stage 2 Legal Studies.

School assessment (70%)

- Assessment Type 1: Folio (40%)
- Assessment Type 2: Inquiry (30%)

External assessment (30%)

Assessment Type 3: Examination.

Students provide evidence of their learning through six assessments, including the external assessment component. Students complete:

- four folio tasks
- one inquiry
- one examination

ASSESSMENT DESIGN CRITERIA

The assessment design criteria are based on the learning requirements and are used by:

- teachers to clarify for students what they need to investigate, learn and demonstrate
- teachers and assessors to design opportunities for students to provide evidence of their learning at the highest possible level of achievement.

The assessment design criteria consist of specific features that:

- students should demonstrate in their learning
- teachers and assessors look for evidence that students have met the learning requirements.

For this subject the assessment design criteria are:

- Understanding and Application
- Analysis and Evaluation
- Communication

The specific features of these criteria are described below.

The set of assessments, as a whole, must give students opportunities to demonstrate each of the specific features by the completion of study of the subject.

Understanding and Application

The specific features are as follows:

- UA1 Understanding of ways that the legal system balances competing tensions and application to specific contexts
- UA2 Understanding and application of legal principles and processes
- UA3 Research, selection and acknowledgement of relevant sources.

Analysis and Evaluation

The specific features are as follows:

- AE1 Analysis of legal principles and processes
- AE2 Evaluation of legal arguments to reach a resolution, and where appropriate, make recommendations.

Communication

The specific features are as follows:

- C1 Communication of legal concepts and arguments

SCHOOL ASSESSMENT

Assessment Type 1: Folio (40%)

Students undertake four assessments for the folio. At least one folio assessment must be conducted under direct supervision.

Every task should be designed so that students can demonstrate their conceptual and contextual learning. Students must have the opportunity to analyse and evaluate in each assessment.

The program of assessments should include different forms, for example:

- debates
- essays
- reports
- media analysis exercises
- multimodal presentations
- oral presentations
- short-answer questions
- short responses to stimuli
- responses to case studies
- simplified mock trials
- forum discussion
- sources analysis
- tests

Assessment conditions such as word-limits, time limits, and presentation length should be clearly communicated to students. Each task does not need to be equal in word or time-limit. However, the combined folio assessments should be a maximum of 4000 words if written, or the equivalent in 24 minutes in oral or multimodal form.

For this assessment type, students provide evidence of their learning primarily in relation to the following assessment design criteria:

- Understanding and Application
- Analysis and Evaluation
- Communication

Assessment Type 2: Inquiry (30%)

Students complete one inquiry task.

In this assessment type, students develop a range of capabilities by **posing a question** that encourages consideration of a range of competing perspectives or arguments. The Inquiry is a critical response to the question.

Through self-directed inquiry, students develop their deep learning for transference, civic literacy skills and understanding of the Australian legal system. Students respond to a legal issue by researching in depth; providing relevant and appropriate acknowledgment of sources; synthesising, and analysing information and opinions, and where appropriate, offering recommendations.

The focus of the inquiry must be a contemporary legal issue of public interest in the 12 months before the assessment began, and related to one pair of the competing concepts and focus areas of this subject.

Students present a report on their inquiry. The report could take the form of, for example:

- a multimodal presentation
- an oral presentation
- a written report
- any combination of the above.

The report should be a maximum of 2000 words if written, and a maximum of 12 minutes for an oral presentation, or the equivalent in multimodal form.

For this assessment type, students provide evidence of their learning primarily in relation to the following assessment design criteria:

- Understanding and Application
- Analysis and Evaluation
- Communication

EXTERNAL ASSESSMENT

Assessment Type 3: Examination (30%)

Students undertake a 130-minute external examination that is divided into two parts.

- Part A: Sources Analysis (60 minutes)
- Part B: Extended Response (60 minutes)

Part A consists of a number of sources, and or case studies and students respond by answering set questions.

Part B requires students to answer one essay question from a selection of big questions.

The following specific features of the assessment design criteria for this subject may be assessed in the examination

- Understanding and Application
- Analysis and Evaluation
- Communication

PERFORMANCE STANDARDS

The performance standards describe five levels of achievement, A to E.

Each level of achievement describes the knowledge, skills, and understanding that teachers and assessors refer to in deciding how well students have demonstrated their learning on the basis of the evidence provided.

During the teaching and learning program the teacher gives students feedback on their learning, with reference to the performance standards.

The student's school assessment and external assessment are combined for a final result, which is reported as a grade between A+ and E-.

Performance Standards for Stage 2 Legal Studies

	Understanding and Application	Analysis and Evaluation	Communication
A	<p>Sophisticated and perceptive understanding of the ways that the legal system balances competing tensions</p> <p>Astute application of legal principles and processes to specific contexts</p> <p>Thorough and focused research to select and appropriately acknowledge a range of relevant sources</p>	<p>Thorough and perceptive analysis and evaluation of legal concepts, principles and processes</p> <p>Sophisticated/insightful development of arguments to reach a convincing conclusion and/or make informed recommendations</p>	<p>Highly organised, very clear and effective communication of legal concepts, opinions and arguments</p>
B	<p>Substantial and clear understanding of the ways that the legal system balances competing tensions</p> <p>Proficient application of legal principles and processes to specific contexts</p> <p>Well-informed research to select and appropriately acknowledge a range of relevant sources</p>	<p>Substantial and considered analysis and application of legal principles and processes</p> <p>Proficient evaluation of legal arguments to reach a mostly convincing conclusion and/or make mostly informed recommendations</p>	<p>Well-organised, clear and effective communication of legal concepts, opinions and arguments</p>
C	<p>Sound understanding of the ways that the legal system balances competing tensions</p> <p>Generally informed application of legal principles and processes to specific contexts</p> <p>Adequate research to select and appropriately acknowledge a range of relevant sources</p>	<p>Adequate analysis and application of legal principles and processes</p> <p>Sound evaluation of legal arguments to reach a conclusion and/or make recommendations</p>	<p>Generally effective communication of legal concepts, opinions and arguments</p>
D	<p>Some understanding of the ways that the legal system balances competing tensions</p> <p>Partial application of legal principles and processes to specific contexts</p> <p>Some research to select and appropriately acknowledge a range of relevant sources</p>	<p>Some analysis and application of legal principles and processes</p> <p>Partial evaluation of legal arguments to reach a conclusion and/or make recommendations</p>	<p>Some effective communication of legal concepts, opinions and arguments</p>
E	<p>Limited understanding of the ways that the legal system balances competing tensions</p> <p>Limited application of legal principles and processes to specific contexts</p> <p>Rudimentary research, selection and acknowledgement of a range of sources</p>	<p>Limited analysis of legal principles and processes</p> <p>Limited consideration of legal arguments to reach a vague or unsubstantiated conclusion and/or recommendation.</p>	<p>Limited communication of legal concepts, opinions and arguments</p>

ASSESSMENT INTEGRITY

The SACE Assuring Assessment Integrity Policy outlines the principles and processes that teachers and assessors follow to assure the integrity of student assessments. This policy is available on the SACE website (www.sace.sa.edu.au) as part of the SACE Policy Framework.

The SACE Board uses a range of quality assurance processes so that the grades awarded for student achievement, in both the school assessment and the external assessment, are applied consistently and fairly against the performance standards for a subject and are comparable across all schools.

Information and guidelines on quality assurance in assessment at Stage 2 are available on the SACE website (www.sace.sa.edu.au).

SUPPORT MATERIALS

SUBJECT-SPECIFIC ADVICE

Online support materials are provided for each subject and updated regularly on the SACE website (www.sace.sa.edu.au). Examples of support materials are sample learning and assessment plans, annotated assessment tasks, annotated student responses, and recommended resource materials.

ADVICE ON ETHICAL STUDY AND RESEARCH

Advice for students and teachers on ethical study and research practices is available in the guidelines on the ethical conduct of research in the SACE, which are on the SACE website (www.sace.sa.edu.au).