# Government of South Australia LogoSACE Board Logo2024 Legal Studies Subject Assessment Advice

Overview

Subject assessment advice, based on the 2024 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.

The Subject Renewal program has introduced changes for many subjects in 2025, these changes are detailed in the change log at the front of each subject outline. When reviewing the 2024 subject assessment advice, it is important to consider any updates to this subject to ensure the feedback in this document remains accurate.

School Assessment

Teachers can improve the moderation and online process by:

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

Assessment Type 1: Folio

Students are permitted to complete three or four assessments for Assessment Type 1. Of these, at least one must be conducted under direct supervision and at least one must correspond to the option area of choice. Most schools presented a broad range of tasks, including presentations, essays, reports, mock trials, podcasts, debates, sources analyses, case studies, legal problem-solving exercises, and tests. It is pleasing to see more schools providing multiple opportunities for students to engage with the competing tensions. Teachers are reminded that questions and sources should have a contemporary focus.

Teachers can elicit more successful responses by:

* incorporating opportunities to demonstrate achievement against all specific features
* finding a good balance between tests and tasks that allow opportunities for research and in-depth analysis and evaluation
* designing at least one task, or component of a task, explicitly around the competing tensions
* providing a variety of task types, such as tests, essays, multimodal presentations, and media responses, that allow individuals to show their various strengths
* including tasks that permit student agency in deciding on a contemporary topic or issue to investigate
* developing a range of questions of varied difficulty to allow for a range of student achievement to be demonstrated
* using contemporary issues and sources in a purposeful way that encourages students to apply their knowledge.

The more successful responses commonly:

* demonstrated deep engagement with the competing tensions by analysing the relationship or balance between the two entities rather than discussing them separately
* presented extensive research, including a range of relevant and contemporary sources, which were appropriately acknowledged
* showed application of knowledge to specific contemporary contexts — for example, by responding to sources relating to current laws, cases, and issues
* evidenced depth and breadth of knowledge and application of legal principles and processes including precise use of terminology and specific references to cases and legislation
* demonstrated perceptive analysis and evaluation of concepts, legal principles, processes, or problems
* were of sufficient length to allow for detailed and in-depth judgements that were supported by specific and relevant evidence
* included relevant and contemporary primary source materials
* included evaluation of arguments or issues and a conclusion and/or recommendations
* included at least one task that was conducted under direct supervision and at least one task that corresponded to an option area.

The less successful responses commonly:

* included tests which consisted substantially of ‘outline’ or ‘describe’ short-answer questions which evidenced recall but limited opportunity for analysis and evaluation at a high level
* included a large number of tests with excessive time limits
* responded to questions that called for descriptive or explanatory answers that tended to preclude analysis and evaluation of issues or arguments
* focused too heavily on social issues or overseas examples that were not linked back to the Australian legal system
* did not provide opportunities for inquiry or research
* lacked accuracy in their use of legal terminology
* included brief, superficial responses with no application to specific contexts or ‘name-dropped’ examples
* referenced terminology from the previous subject outline, such as the functions of law, which is no longer part of the course
* contained arguments that were vague, theoretical or generalised
* did not mention or discuss the competing tensions or ‘name-dropped’ them
* did not understand the competing tensions as a tension and made no judgement about how effectively the legal system had balanced the tension
* did not include a clearly defined supervised task
* did not incorporate a task that related to an option area
* used sources or referred to issues that were very dated, for example from 2008 or earlier, where a contemporary source or issue may have been more effective
* did not include referencing
* were significantly over the word count.

Assessment Type 2: Inquiry

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

Teachers can elicit more successful responses by:

* ensuring students frame a question that invite alternative arguments rather than description (e.g. questions that begin with ‘should’, ‘would’, or ‘to what extent’)
* steering students away from vague, broad, or outdated issues, or topics that do not have a legal focus
* ensuring the inquiry includes frequent and in-depth references to at least one of the competing tensions
* supporting students to locate sources for their arguments in the form of cases, legislation, and academic commentary that is properly referenced.

The more successful responses commonly:

* selected a contemporary legal issue and formulated an appropriate question that could be argued
* provided evidence from a recent source to demonstrate it was a current issue
* clearly identified at least one competing tension, sometimes incorporating it into the question, and then made frequent references to the balance reached by the legal system, weighing both sides of the tension in the main body and conclusion
* focused their question on a specific aspect of the legal system, rather than broad concepts
* were well structured and made good use of sub-headings that were relevant to the arguments being presented
* selected and engaged with a variety of good quality sources, including primary legal sources
* incorporated a range of relevant evidence to support arguments, such as legislation, case law, statistics, well explained examples, and quotes from reliable sources
* included perceptive analysis and evaluation
* had logical and achievable recommendations, sometimes in more than one paragraph, including recommendations from their own deductions
* included conclusions that answered their question and reached a position concerning the balance of their identified tension(s)
* used legal sources such as legislation, case law, parliamentary reports, and academic articles that were appropriately referenced including a bibliography.

The less successful responses commonly:

* addressed social, political, physical education, or business and enterprise issues, rather than legal issues
* addressed outdated topics
* used ambiguous questions that did not invite an argument
* did not engage with a competing tension
* only examined one side of a tension
* did not show understanding of how the legal system balanced a competing tension and instead examined the sides separately
* did not include sufficient legal content
* used distracting templates to present their work
* made repeated references to concepts that are no longer part of the course, such as functions of law
* included unnecessary images, tables, or other sources, without engagement
* repeated material that was descriptive rather than analytical and were well over the word count
* used few and/or inappropriate sources such as Wikipedia
* did not fully reference their work
* did not present both sides of an argument
* made limited recommendations or strong recommendations to abolish entire systems that were not logical
* made brief or general conclusions
* were poorly formatted and well under the word count
* used outdated information, for instance case studies from the late 1990s or early 2000s, where more recent, relevant evidence would be appropriate
* were constrained by too much or inappropriate scaffolding in the task provided, including the use of irrelevant headings and appendices.

External Assessment

Assessment Type 3: Examination

Teachers can elicit more successful responses by:

* providing multiple opportunities for students to practice applying their knowledge to a variety of relevant sources under timed, supervised conditions
* avoiding the overuse of tests that emphasise the description of information without the need for application, analysis, and evaluation
* explicitly teaching students how to specifically refer to sources in their responses in Part A
* explicitly teaching students how to develop arguments that can be supported by relevant examples in Part B
* explicitly teaching students how to demonstrate their engagement with competing tensions in their responses where required, including having students develop an understanding of how the balance between competing tensions is resolved, if applicable.

Part A: Response to sources

The more successful responses commonly:

* explicitly referred to a source (e.g. paraphrase or short quote, and clearly identified e.g. ‘In source 1 …’)
* used direct quotes from the sources
* addressed the question
* followed question directives such as outline, explain, present an argument or critically analyse
* demonstrated accuracy and precision in their understanding, analysis, and evaluation of legal concepts, principles, and processes
* understood how competing tensions could create a conflict that required balancing
* recognised, analysed and evaluated components of the sources that supported their responses.

The less successful responses commonly:

* did not refer to a source where directed, or made superficial references such as, ‘as seen in Source 1’, without explanation or engagement with the source
* provided superficial analysis or evaluation
* did not answer the question
* did not appropriately follow the question directives such as outline, explain, or critically analyse
* lacked accuracy and precision in their understanding, analysis, and evaluation of legal concepts, principles, and processes
* had overly long answers for the one- and two-mark questions and/or brief responses for the five and ten mark questions
* did not reference competing tensions when directed, made superficial references or discussed each side of a tension separately with no attempt at synthesis

Question 1 (a)

The more successful responses commonly:

* identified the standard as beyond reasonable doubt.

The less successful responses commonly:

* did not understand what was meant by the standard of proof or confused the criminal and civil standard.

Question 1 (b)

The more successful responses commonly:

* outlined one specific way that a criminal dispute can be resolved without a trial
* common ways outlined included plea or charge bargain, withdrawal of the charge or the defendant entering a guilty plea.

The less successful responses commonly:

* outlined ways that were applicable to civil disputes e.g. methods of alternative dispute resolution such as conceding the claim, mediation, conciliation or arbitration, or suggested that the dispute could be resolved by the defendant paying the fine.

Question 1 (c)

The more successful responses commonly:

* explained that Brief was not entitled to choose a trial by jury because he was charged with a summary offence
* supported their response with a reference to Source 1 or Source 2 which outline that the maximum penalty for a first offence is 2 years or explained that the nature of the reckless driving charge is less serious therefore does not warrant a jury trial.

The less successful responses commonly:

* inaccurately suggested that jury trials are available to all criminal defendants
* did not refer to the sources or incorrectly inferred from the use of a magistrate in Brief’s trial that the offence must have been a summary offence.

Question 1 (d)

The more successful responses commonly:

* used information from the sources to explain a specific role of a judge or magistrate in a criminal dispute
* common roles explained included overseeing the proceedings/protecting the rights of the accused, being independent, ruling on evidentiary or procedural matters, interpreting and applying legislation, sentencing the accused (if found guilty) and finding the facts of the case to determine a verdict.

The less successful responses commonly:

* explained roles that apply exclusively to civil disputes
* were vague, unclear or too brief
* did not refer to the sources.

Question 1 (e)

The more successful responses commonly:

* explained a specific pre-trial procedure that could logically be linked to the dispute in Police v Brief
* explained how that procedure would apply in the dispute in Police v Brief
* common procedures included the police investigation of the case, arrest and/or bail hearing, the laying/filing of an information by the police, the parties agreeing on a Statement of Agreed Facts, an application for a suppression order and the prosecution providing discovery of relevant material to the defence.

The less successful responses commonly:

* did not identify a pre-trial procedure
* explained a pre-trial procedure that would not apply in the dispute in Police v Brief e.g. a preliminary hearing or the selection or empanelment of a jury without showing understanding of why that procedure would not apply
* did not explain how the pre-trial procedure would apply to the dispute in Police v Brief
* were vague, unclear, or too brief.

Question 1 (f)

In general, student responses to this question were poor.

The more successful responses commonly:

* used information from the sources as evidence to support a well explained strength or weakness of the principle of party control
* common strengths included the creation of a statement of agreed facts to shorten the trial, the ability to test evidence in cross examination, the ability to decide on witnesses and to make objections during the trial
* common weaknesses included the underutilisation of the judge’s expertise, the overreliance on the skill of legal counsel and the unfairness that might result from a power imbalance between the parties.

The less successful responses commonly:

* confused the principle of party control with the use of strict rules of evidence
* did not refer to a source or referenced a source that did not support the chosen strength or weakness
* were inaccurate, irrelevant, vague, or too brief.

Question 1 (g)

In general, students gave pleasing responses to this question.

The more successful responses commonly:

* engaged strongly with the legislation and case law as directed by the question
* considered relevant facts and evidence arising from Sources 4, 5 and/or 6
* presented a detailed argument relating to whether Brief’s driving was dangerous that showed understanding of how the facts might be applied to the law to reach a clear conclusion about whether Brief was or was not guilty
* presented arguments that included understanding of the rules of evidence.

The less successful responses commonly:

* repeated material from the sources without explanation
* presented arguments that were unclear, contradictory, or lacked depth
* presented arguments that showed a misunderstanding of the law e.g. assuming the police officer’s evidence would automatically be excluded because it was objected to.

Question 1 (h)

The more successful responses commonly:

* referred explicitly to at least one source and engaged with the tension between certainty and flexibility
* referred to the legislation in Source 2 and recognised that parliament has not provided much guidance to courts in the offence of dangerous driving, emphasising flexibility at the expense of certainty
* presented one or more arguments about the strengths and/or weaknesses of this approach
* identified common strengths which included allowing for a case-by-case determination of guilt, facilitating complex and nuanced considerations by the judge
* identified common weaknesses which included not allowing for laws to be known and understood, giving too much power to unelected judges, and creating the need for too much case law
* responses that concluded the extent of parliamentary guidance was appropriate favoured the need for flexibility and those that concluded it was not appropriate argued greater certainty was desirable.

The less successful responses commonly:

* did not refer to a source
* showed little understanding of parliamentary guidance as it related to the interpretation of legislation, limiting their response to an analysis of sentencing processes
* did not present an argument or made vague or irrelevant points
* did not engage with the tension between certainty and flexibility or did so superficially.

Question 1 (i)

The more successful responses commonly:

* referred explicitly to at least one source and engaged with the tension between fairness and efficiency
* presented and weighed competing arguments about the strengths and weaknesses of strict rules of evidence in the resolution of criminal disputes.

The less successful responses commonly:

* did not refer to a source
* showed little understanding of strict rules of evidence
* recounted information from the sources without analysis
* described rules of evidence without any evaluation
* presented inaccurate, irrelevant (e.g. civil/inquisitorial features without comparison to the criminal system) or overly simplistic arguments
* did not provide balance in their arguments
* did not engage with the tension between fairness and efficiency or did so superficially.

Part B: Extended response

Teachers and students should note that this section requires the use of relevant examples and engagement with one or more competing tension.

The more successful responses commonly:

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

The less successful responses commonly:

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

Statement 1

This was the most popular statement.

The more successful responses commonly:

* presented and evaluated detailed arguments addressing the extent to which parliaments are too powerful with supporting examples
* analysed and evaluated mechanisms that exist to supervise the power of parliament
* considered the power of the parliament in the context of the other institutions of government, the separation of powers and the absence of a bill of rights
* were able to justify their stance on the proposition by presenting convincing conclusion/s.

The less successful responses commonly:

* described the power of parliaments without addressing whether or not they are too powerful
* did not use examples or presented examples that contradicted their arguments.

Statement 2

The more successful responses commonly:

* discussed strengths and weaknesses of the civil justice system and considered how these would impact the rule of law
* referred to real world civil disputes in support of their arguments
* made arguments relating to the effectiveness of alternative dispute resolution, the absence of juries and access to justice which were linked to features of the rule of law
* mentioned features of the criminal justice system or inquisitorial systems only as a means of comparison.

The less successful responses commonly:

* failed to accurately distinguish between civil and criminal justice systems
* lacked a convincing connection between their arguments and the rule of law
* incorrectly stated that civil defendants were entitled to publicly funded legal representation.

Statement 3

This statement tended to be less popular.

The more successful responses commonly:

* demonstrated perceptive understanding of the role of the High Court
* used examples of High Court cases to support their arguments
* showed knowledge of existing limits on judicial power
* engaged with the question as to whether the High Court should be more accountable as opposed to simply describing the extent to which it is.

The less successful responses commonly:

* demonstrated vague or inaccurate understanding of the role of the High Court
* did not fully engage with the proposition, instead limiting their analysis to theoretical arguments about topics such as whether the judiciary should be elected.

Statement 4

This statement was quite popular but responses were generally quite ineffective.

The more successful responses commonly:

* described in some depth specific instances where rights must be prioritised over others
* used contemporary laws, cases, or issues to support their arguments such as Covid 19 regulations, laws regarding the rights of protestors, Aboriginal and Torres Strait Islander rights, the rights of young people and the rights of participants in the adversary system
* made insightful judgements about how appropriate the prioritisation of rights was in each instance.

The less successful responses commonly:

* demonstrated little knowledge of contemporary laws, cases, or issues where some rights have been prioritised over others
* discussed at length various moral, social, and ethical issues which did not have any or sufficient legal aspects
* wrote lengthy descriptions of particular rights without clear analysis as to why some rights may or may not be more important than others
* did not engage with the proposition, instead focused on instances where the Australian legal system had failed to protect rights.