

# Legal Studies marking guide and response

External assessment 2024

## Combination response (44 marks)

### Assessment objectives

This assessment instrument is used to determine student achievement in the following objectives:

1. comprehend legal concepts, principles and processes of Australian human rights laws
3. analyse a legal issue involving human rights in Australia
4. evaluate a legal situation relevant to human rights in Australia.

**Note:** Objectives 2 and 5 are not assessed in this instrument.

# Purpose

This document consists of a marking guide and a sample response.

The marking guide:

- provides a tool for calibrating external assessment markers to ensure reliability of results
- indicates the correlation, for each question, between mark allocation and qualities at each level of the mark range
- informs schools and students about how marks are matched to qualities in student responses.

The sample response:

- demonstrates the qualities of a high-level response
- has been annotated using the marking guide.

## Mark allocation

Where a response does not meet any of the descriptors for a question or a criterion, a mark of '0' will be recorded.

Where no response to a question has been made, a mark of 'N' will be recorded.

# Marking guide

## Short response

### Criterion: Comprehending

Q	Sample response	The response:
1	<p>Self-determination is the right of a peoples to decide their own political status and processes. For example, the peoples' right to choose what sort of government they will have, without intervention from other nation-states. They can establish their own political structure and electoral system independently of external interference.</p>	<ul style="list-style-type: none"> <li>describes self-determination in the context of the ICCPR <b>[1 mark]</b></li> <li>provides a relevant example of self-determination in the context of the ICCPR <b>[1 mark]</b></li> </ul>

Q	Sample response	The response:	The response:
2	<p>The Australian Constitution provides limited protection of human rights. However, some rights (express rights) are protected by being explicitly stated in the Constitution. Other rights (implied rights) have been interpreted by the High Court of Australia to be implicitly protected, as they can be implied by the Constitution's wording.</p> <p>One example of an express constitutional right is the right to trial by jury. This right is protected, in some circumstances, by section 80, which states that trials of indictable offences against the Commonwealth will be jury trials and will be held in the state in which the offence took place.</p> <p>One example of an implied right is the right to free speech. The High Court has determined that an implied right to freedom of political communication exists in the Constitution, as it is inherent in a system of representative government as created by sections 7 and 24.</p>	<ul style="list-style-type: none"> <li>identifies that the Australian Constitution protects some human rights (express/implied rights) <b>[1 mark]</b></li> <li>identifies a relevant example <b>[1 mark]</b></li> <li>explains how this example protects human rights <b>[1 mark]</b></li> </ul>	<ul style="list-style-type: none"> <li>identifies that the Australian Constitution protects some human rights (express/implied rights) <b>[1 mark]</b></li> <li>identifies a relevant example <b>[1 mark]</b></li> <li>explains how this example protects human rights <b>[1 mark]</b></li> </ul>

Q	Sample response	The response:
3a)	Sovereignty refers to a nation-state's independence and authority over its territory and peoples without interference from other nation-states.	<ul style="list-style-type: none"> <li>describes sovereignty in the context of States' rights <b>[1 mark]</b></li> </ul>
3b)	Sovereignty is important to Australia's integrity as a State, as it allows independence and the ability to exercise full control over the country's political affairs. This means that Australia can make independent decisions to ensure the protection of its citizens and the advancement of its economy. Australia also has the right to create its own legal system and enforce its own laws. These laws apply to all citizens of Australia and all visitors to Australia.	<ul style="list-style-type: none"> <li>explains the importance of sovereignty to Australia's integrity as a State <b>[1 mark]</b></li> <li>uses one example to support the explanation <b>[1 mark]</b></li> <li>uses a second example to support the explanation <b>[1 mark]</b></li> </ul>

Q	Sample response	The response:
4a)	Before a human rights claim can be commenced in the Federal Court of Australia, a complaint must be made to the Australian Human Rights Commission, and the complaint must be terminated.	<ul style="list-style-type: none"> <li>identifies that a complaint must first be made to the Australian Human Rights Commission <b>[1 mark]</b></li> <li>identifies that the complaint must be terminated <b>[1 mark]</b></li> </ul>
4b)	To succeed in a human rights trial before the Federal Court of Australia, the applicant must prove three things. First, what happened to them, where it happened and who did it. Second, that the incident was illegal under one of the relevant federal anti-discrimination statutes (e.g. the <i>Sex Discrimination Act</i> ). Third, that they suffered some sort of damage, harm or loss (e.g. loss of income) as a result of what happened to them.	<ul style="list-style-type: none"> <li>states that the applicant must prove <ul style="list-style-type: none"> <li>what happened, where it happened and who did it <b>[1 mark]</b></li> <li>that the incident was unlawful under one of the relevant federal anti-discrimination statutes <b>[1 mark]</b></li> <li>that they suffered damage, loss, harm and/or injury as a result of what happened to them <b>[1 mark]</b></li> </ul> </li> </ul>

## Section 2: Extended response — Question 5

### Criterion: Analysing

The response:	M	The response:	M	The response:	M	The response:	M
<b>Nature and scope</b>		<b>Viewpoint 1</b>		<b>Viewpoint 2</b>		<b>Use of evidence</b>	
<ul style="list-style-type: none"> <li>provides an accurate explanation of the nature and scope of the legal issue</li> </ul>	3	<ul style="list-style-type: none"> <li>provides a perceptive explanation of a valid viewpoint and its consequence/s, related to the legal issue</li> </ul>	4	<ul style="list-style-type: none"> <li>provides a perceptive explanation of a different valid viewpoint and its consequence/s, related to the legal issue</li> </ul>	4	<ul style="list-style-type: none"> <li>makes discerning use of a range of relevant information from the stimulus to support the analysis</li> </ul>	4
<ul style="list-style-type: none"> <li>describes the nature and scope of the legal issue</li> </ul>	2	<ul style="list-style-type: none"> <li>provides an effective explanation of a valid viewpoint and its consequence/s, related to the legal issue</li> </ul>	3	<ul style="list-style-type: none"> <li>provides an effective explanation of a different valid viewpoint and its consequence/s, related to the legal issue</li> </ul>	3	<ul style="list-style-type: none"> <li>makes effective use of some relevant information from the stimulus to support the analysis</li> </ul>	3
<ul style="list-style-type: none"> <li>identifies the legal issue</li> </ul>	1	<ul style="list-style-type: none"> <li>provides an adequate explanation of a valid viewpoint related to the legal issue</li> </ul>	2	<ul style="list-style-type: none"> <li>provides an adequate explanation of a different valid viewpoint related to the legal issue</li> </ul>	2	<ul style="list-style-type: none"> <li>makes satisfactory use of information from the stimulus to support the analysis</li> </ul>	2
<ul style="list-style-type: none"> <li>does not satisfy any of the descriptors above.</li> </ul>	0	<ul style="list-style-type: none"> <li>describes a viewpoint related to the legal issue</li> </ul>	1	<ul style="list-style-type: none"> <li>describes a different viewpoint related to the legal issue</li> </ul>	1	<ul style="list-style-type: none"> <li>refers to evidence from the stimulus</li> </ul>	1
		<ul style="list-style-type: none"> <li>does not satisfy any of the descriptors above.</li> </ul>	0	<ul style="list-style-type: none"> <li>does not satisfy any of the descriptors above.</li> </ul>	0	<ul style="list-style-type: none"> <li>does not satisfy any of the descriptors above.</li> </ul>	0

## Criterion: Evaluating

The response:	M	The response:	M	The response:	M	The response:	M
<b>Legal alternative 1</b>		<b>Legal alternative 2</b>		<b>Decision and justification</b>		<b>Implications</b>	
<ul style="list-style-type: none"> <li>effectively uses information from the analysis to present a relevant legal alternative</li> </ul>	3	<ul style="list-style-type: none"> <li>effectively uses information from the analysis to present a second relevant legal alternative</li> </ul>	3	<ul style="list-style-type: none"> <li>justifies a valid decision through effective use of relevant legal criteria</li> </ul>	3	<ul style="list-style-type: none"> <li>effectively discusses a plausible implication of the decision</li> </ul>	3
<ul style="list-style-type: none"> <li>uses information from the analysis to present a relevant legal alternative</li> </ul>	2	<ul style="list-style-type: none"> <li>uses information from the analysis to present a second relevant legal alternative</li> </ul>	2	<ul style="list-style-type: none"> <li>justifies a valid decision using relevant legal criteria</li> </ul>	2	<ul style="list-style-type: none"> <li>discusses a plausible implication of the decision</li> </ul>	2
<ul style="list-style-type: none"> <li>presents a legal alternative</li> </ul>	1	<ul style="list-style-type: none"> <li>presents a second legal alternative</li> </ul>	1	<ul style="list-style-type: none"> <li>makes a valid decision</li> </ul>	1	<ul style="list-style-type: none"> <li>identifies an implication of the decision</li> </ul>	1
<ul style="list-style-type: none"> <li>does not satisfy any of the descriptors above.</li> </ul>	0	<ul style="list-style-type: none"> <li>does not satisfy any of the descriptors above.</li> </ul>	0	<ul style="list-style-type: none"> <li>does not satisfy any of the descriptors above.</li> </ul>	0	<ul style="list-style-type: none"> <li>does not satisfy any of the descriptors above.</li> </ul>	0

