

# Legal Studies subject report

2024 cohort

January 2025



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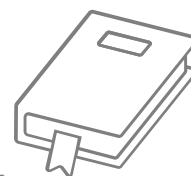
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# Introduction



The annual subject reports seek to identify strengths and opportunities for improvement of internal and external assessment processes for all Queensland schools. The 2024 subject report is the culmination of the partnership between schools and the QCAA. It addresses school-based assessment design and judgments, and student responses to external assessment for General and General (Extension) subjects. In acknowledging effective practices and areas for refinement, it offers schools timely and evidence-based guidance to further develop student learning and assessment experiences for 2025.

The report also includes information about:

- how schools have applied syllabus objectives in the design and marking of internal assessments
- how syllabus objectives have been applied in the marking of external assessments
- patterns of student achievement.

The report promotes continuous improvement by:

- identifying effective practices in the design and marking of valid, accessible and reliable assessments
- recommending where and how to enhance the design and marking of valid, accessible and reliable assessment instruments
- providing examples that demonstrate best practice.

Schools are encouraged to reflect on the effective practices identified for each assessment, consider the recommendations to strengthen assessment design and explore the authentic student work samples provided.

## Audience and use

This report should be read by school leaders, subject leaders, and teachers to:

- inform teaching and learning and assessment preparation
- assist in assessment design practice
- assist in making assessment decisions
- help prepare students for internal and external assessment.

The report is publicly available to promote transparency and accountability. Students, parents, community members and other education stakeholders can use it to learn about the assessment practices and outcomes for senior subjects.

## Subject highlights

**335**

schools offered  
Legal Studies



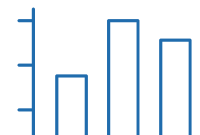
**75.71%**  
of students  
completed  
4 units



**93.57%**  
of students  
received a  
C or higher



# Subject data summary



## Subject completion

The following data includes students who completed the General subject or Alternative sequence.

**Note:** All data is correct as at January 2025. Where percentages are provided, these are rounded to two decimal places and, therefore, may not add up to 100%.

Number of schools that offered Legal Studies: 335.

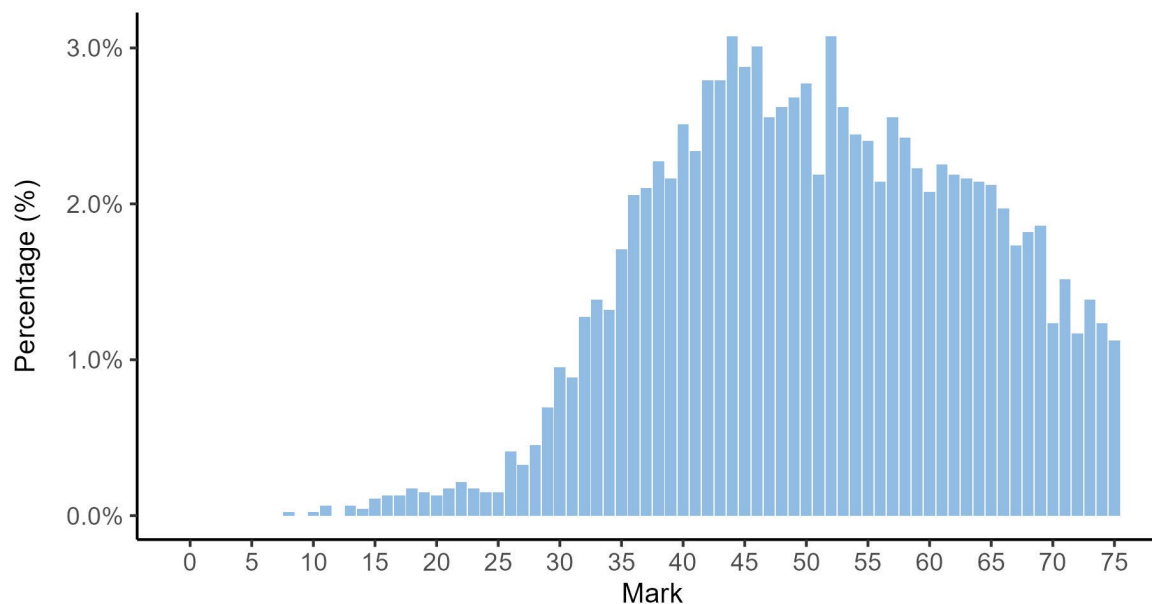
| Completion of units          | Unit 1 | Unit 2 | Units 3 and 4 |
|------------------------------|--------|--------|---------------|
| Number of students completed | 6,039  | 5,406  | 4,572         |

## Units 1 and 2 results

| Number of students | Satisfactory | Unsatisfactory |
|--------------------|--------------|----------------|
| Unit 1             | 5,252        | 787            |
| Unit 2             | 4,851        | 555            |

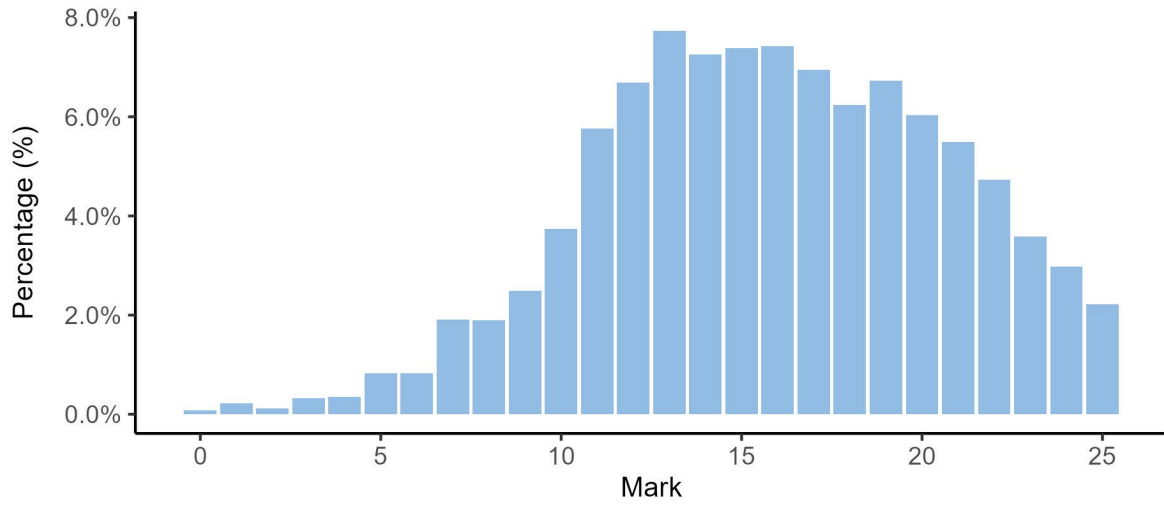
## Units 3 and 4 internal assessment (IA) results

### Total marks for IA

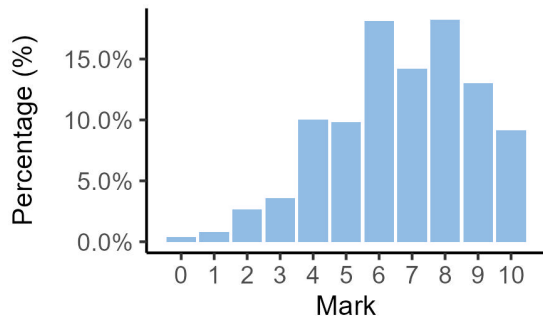


## IA1 marks

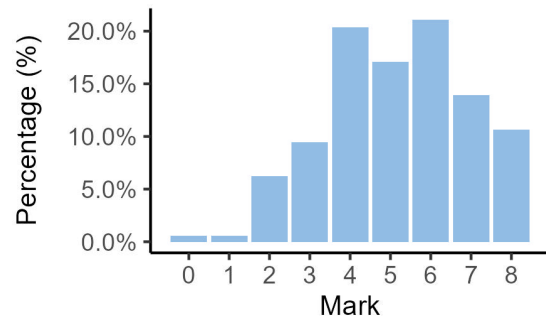
### IA1 total



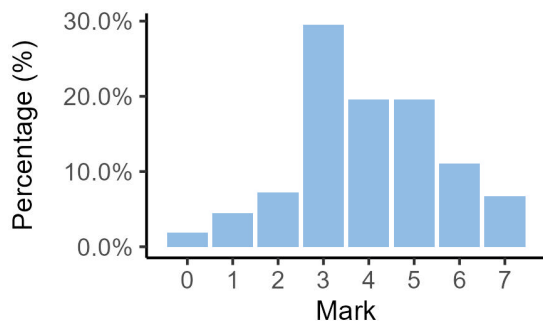
### IA1 Criterion: Part A — Comprehending



### IA1 Criterion: Part B — Analysing

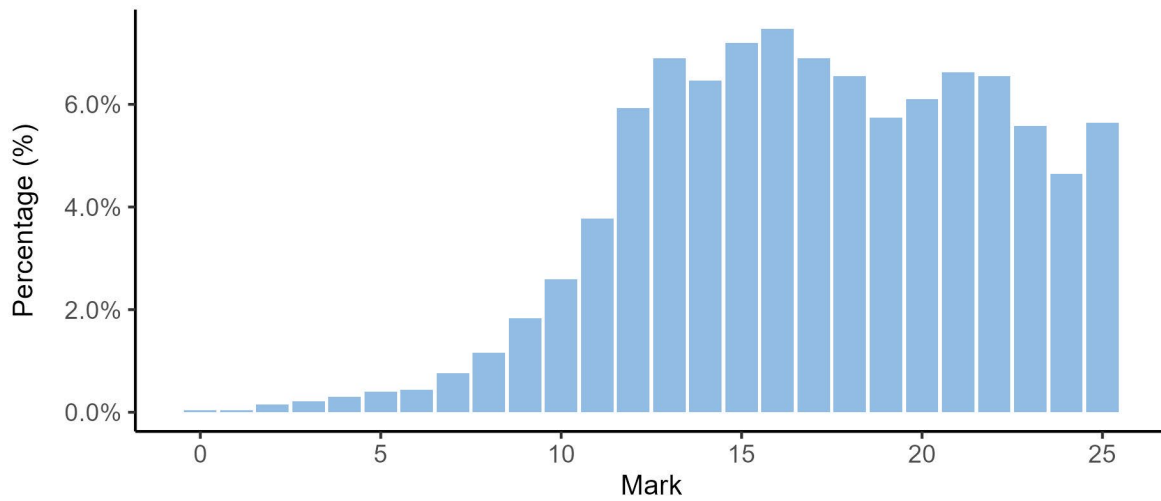


### IA1 Criterion: Part B — Evaluating

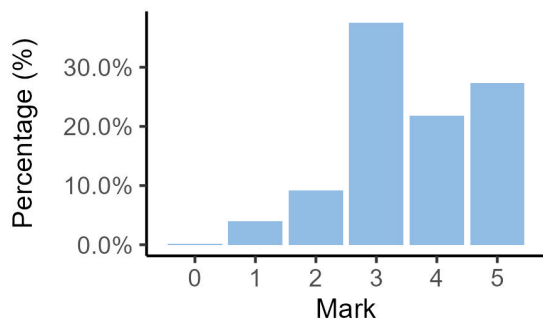


## IA2 marks

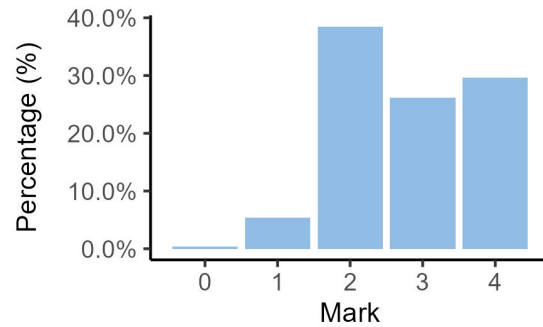
### IA2 total



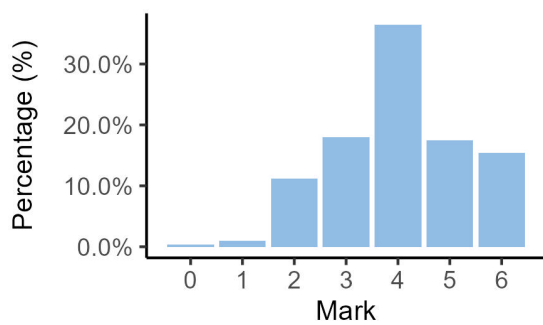
### IA2 Criterion: Comprehending



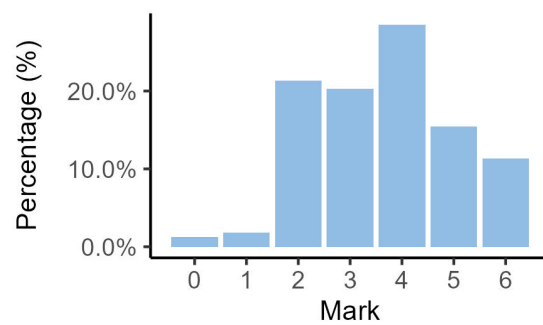
### IA2 Criterion: Selecting



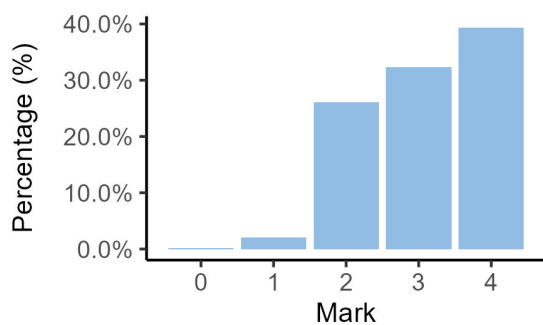
### IA2 Criterion: Analysing



### IA2 Criterion: Evaluating

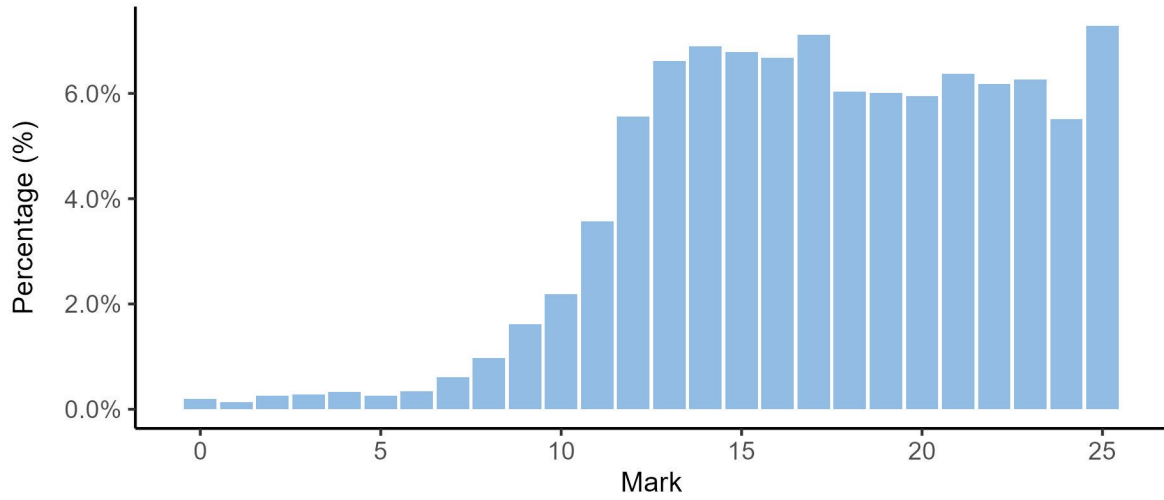


### IA2 Criterion: Creating a response

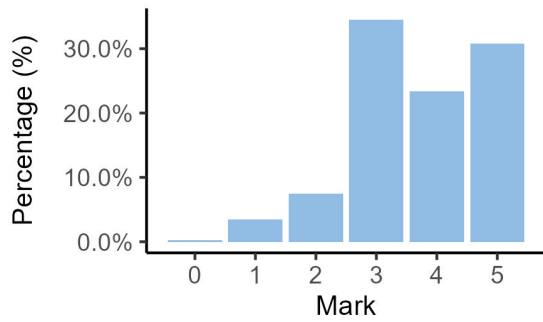


## IA3 marks

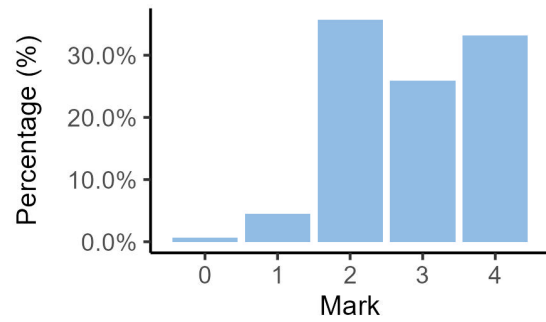
### IA3 total



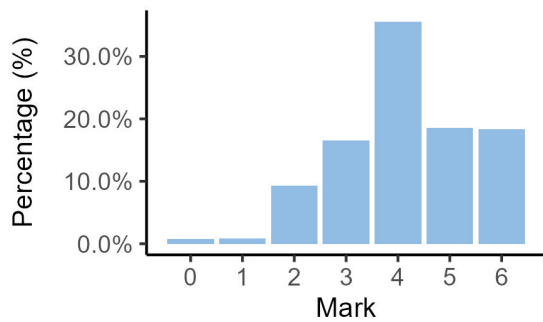
### IA3 Criterion: Comprehending



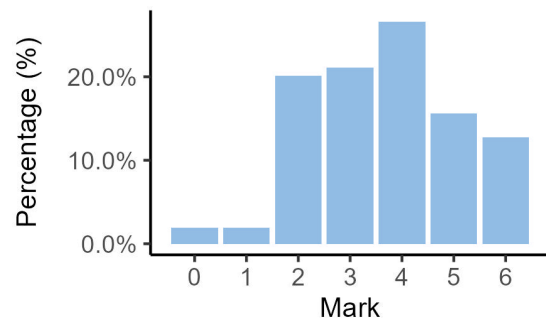
### IA3 Criterion: Selecting



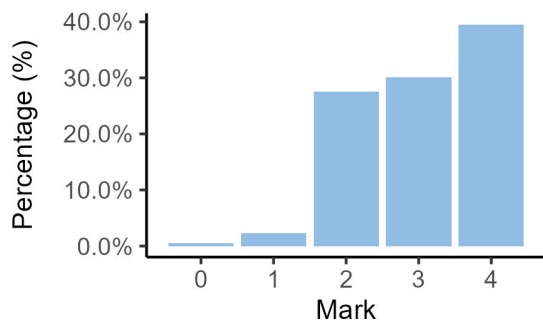
### IA3 Criterion: Analysing



### IA3 Criterion: Evaluating

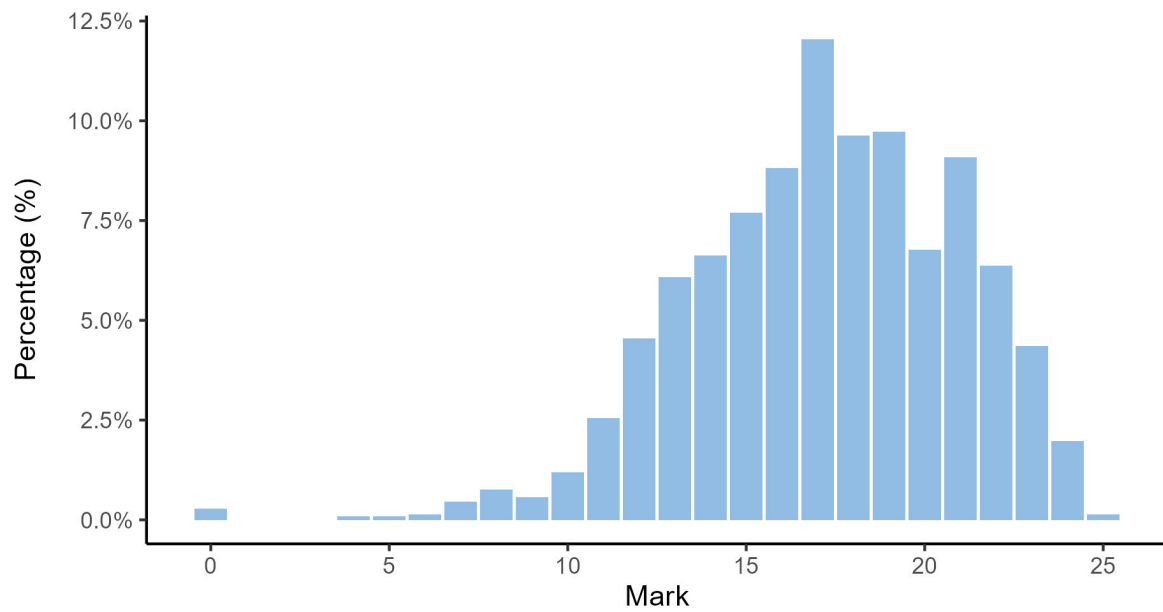


### IA3 Criterion: Creating a response



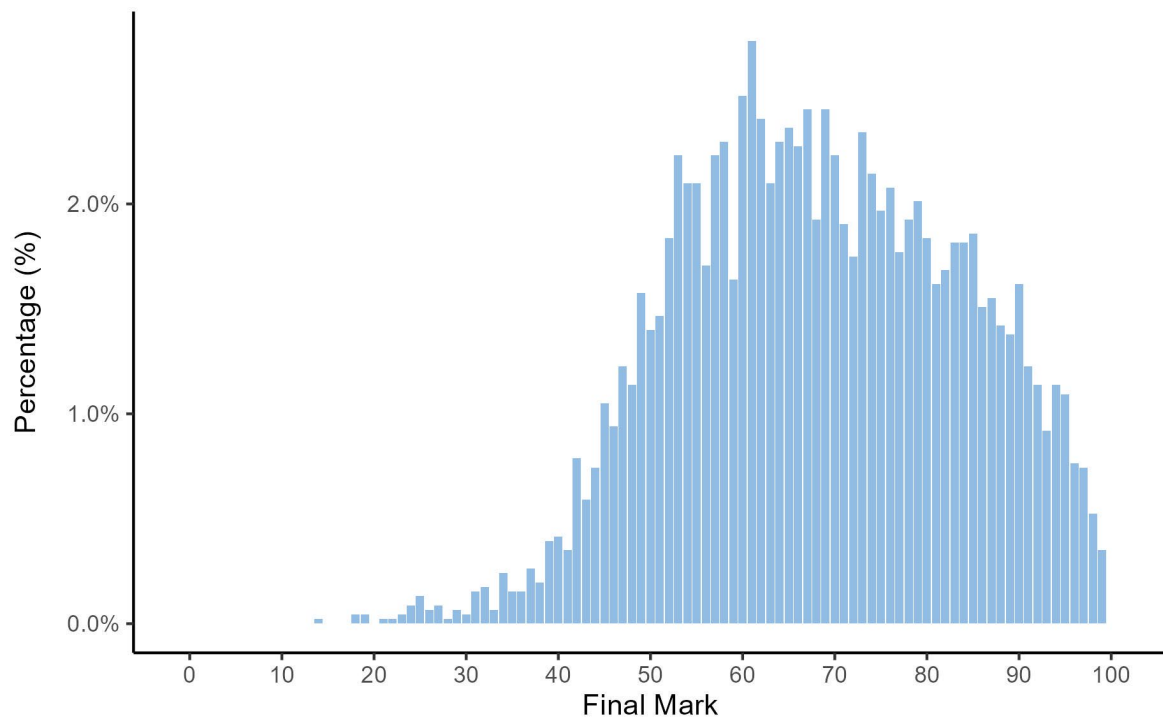


## External assessment (EA) marks



## Final subject results

### Final marks for IA and EA



## Grade boundaries

The grade boundaries are determined using a process to compare results on a numeric scale to the reporting standards.

| Standard       | A      | B     | C     | D     | E    |
|----------------|--------|-------|-------|-------|------|
| Marks achieved | 100–84 | 83–65 | 64–46 | 45–19 | 18–0 |

## Distribution of standards

The number of students who achieved each standard across the state is as follows.

| Standard           | A   | B     | C     | D   | E |
|--------------------|-----|-------|-------|-----|---|
| Number of students | 871 | 1,762 | 1,645 | 291 | 3 |

# Internal assessment



The following information and advice relate to the assessment design and assessment decisions for each IA in Units 3 and 4. These instruments have undergone quality assurance processes informed by the attributes of quality assessment (validity, accessibility and reliability).

## Endorsement

Endorsement is the quality assurance process based on the attributes of validity and accessibility. These attributes are categorised further as priorities for assessment, and each priority can be further broken down into assessment practices.

Data presented in the Assessment design section identifies the reasons why IA instruments were not endorsed at Application 1, by the priority for assessment. An IA may have been identified more than once for a priority for assessment, e.g. it may have demonstrated a misalignment to both the subject matter and the assessment objective/s.

Refer to *QCE and QCIA policy and procedures handbook v6.0*, Section 9.5.

### Percentage of instruments endorsed in Application 1

| Instruments submitted                | IA1 | IA2 | IA3 |
|--------------------------------------|-----|-----|-----|
| Total number of instruments          | 333 | 333 | 330 |
| Percentage endorsed in Application 1 | 24  | 53  | 43  |

## Confirmation

Confirmation is the quality assurance process based on the attribute of reliability. The QCAA uses provisional criterion marks determined by teachers to identify the samples of student responses that schools are required to submit for confirmation.

Confirmation samples are representative of the school's decisions about the quality of student work in relation to the instrument-specific marking guide (ISMG), and are used to make decisions about the cohort's results.

Refer to *QCE and QCIA policy and procedures handbook v6.0*, Section 9.6.

The following table includes the percentage agreement between the provisional marks and confirmed marks by assessment instrument. The Assessment decisions section of this report for each assessment instrument identifies the agreement trends between provisional and confirmed marks by criterion.

### Number of samples reviewed and percentage agreement

| IA | Number of schools | Number of samples requested | Number of additional samples requested | Percentage agreement with provisional marks |
|----|-------------------|-----------------------------|--|---|
| 1  | 329               | 2,199                       | 64                                     | 79.33                                       |
| 2  | 329               | 2,186                       | 46                                     | 81.16                                       |
| 3  | 329               | 2,182                       | 28                                     | 78.72                                       |

# Internal assessment 1 (IA1)



## Examination — combination response (25%)

The examination assesses the application of a range of cognitions to multiple provided items — questions, scenarios and problems.

Student responses must be completed individually, under supervised conditions and in a set timeframe.

## Assessment design

### Validity

Validity in assessment design considers the extent to which an assessment item accurately measures what it is intended to measure and that the evidence of student learning collected from an assessment can be legitimately used for the purpose specified in the syllabus.

### Reasons for non-endorsement by priority of assessment

| Validity priority | Number of times priority was identified in decisions |
|-------------------|--|
| Alignment         | 191  |
| Authentication    | 17   |
| Authenticity      | 47   |
| Item construction | 51   |
| Scope and scale   | 33   |

### Effective practices

Validity priorities were effectively demonstrated in assessment instruments that:

- avoided bias in the construction of Part A questions and allowed students to demonstrate their comprehension of legal concepts without being led to predetermined responses
- managed the scope and scale of short response questions in Part A, e.g. a question such as 'Explain two (2) implications of minority governments in the Commonwealth Parliament' allowed students to give comprehensive answers and show depth in their responses as opposed to submitting an open-ended list of all possible implications.

### Practices to strengthen

It is recommended that assessment instruments:

- include all cognitions being assessed and that the descriptors of the ISMG are suitably scaffolded, e.g. a task must direct students to present and evaluate two legal alternatives from the stimulus as outlined in the syllabus specifications
- adhere to task specifications regarding word length. The extended response section of the task should be worded so it is possible for students to respond within the required word length of 400–500 words (Syllabus section 4.5.1)
- do not lead students to a predetermined viewpoint or decision about the effectiveness or validity of a particular legal issue

- avoid the use of the term ‘stakeholders’ as the syllabus and ISMG descriptors require students to ‘examine different viewpoints and their consequences’. No reference is made in the syllabus to stakeholders.

## Accessibility

Accessibility in assessment design ensures that no student or group of students is disadvantaged in their capacity to access an assessment.

### Reasons for non-endorsement by priority of assessment

| Accessibility priority | Number of times priority was identified in decisions |
|------------------------|--|
| Bias avoidance         | 11   |
| Language               | 16   |
| Layout                 | 28   |
| Transparency           | 20   |

### Effective practices

Accessibility priorities were effectively demonstrated in assessment instruments that:

- clearly stated the legal issue to be analysed and evaluated in Part B, allowing all students to access the question and clearly identified the area of focus for students, e.g. a good question for the extended response section could state
  - ‘Use Sources 1–11 to analyse the nature and scope of the Constitutional issue relating to the disqualification of members of parliament for having foreign citizenship. Using evidence from the sources, examine two viewpoints. Evaluate the issue using legal criteria and present two legal alternatives. Make a justified decision and discuss the implications of that decision’.

### Practices to strengthen

It is recommended that assessment instruments:

- include stimulus for Part B comprised of a range of high-quality sources that can fit on one page. Information included in the stimulus must be succinct and suitable for the task conditions
- specifically provide directions to refer to case law and/or legislation rather than require students to ‘select legal information’ (Syllabus section 4.5.2).

## Assessment decisions

### Reliability

Reliability is a judgment about the measurements of assessment. It refers to the extent to which the results of assessments are consistent, replicable and free from error.

### Agreement trends between provisional and confirmed marks

| Criterion number | Criterion name | Percentage agreement with provisional | Percentage less than provisional | Percentage greater than provisional | Percentage both less and greater than provisional |
|------------------|----------------|---------------------------------------|----------------------------------|-------------------------------------|---|
| 1                | Comprehending  | 93.92                                 | 5.47                             | 0.61                                | 0.00  |
| 2                | Analysing      | 92.10                                 | 7.60                             | 0.30                                | 0.00  |
| 3                | Evaluating     | 84.19                                 | 15.50                            | 0.00                                | 0.30  |

### Effective practices

Accuracy and consistency of the application of the ISMG for this IA was most effective when:

- in Part A (Comprehending)
  - judgments were applied across all responses in Part A when matching evidence in short responses with the performance-level descriptors
  - responses aligned with the upper performance-level descriptors included all required information and used precise legal terminology
- in Part B (Analysing and Evaluating)
  - for the Analysing criterion, the requirements of the ‘application of legal concepts, principles and/or processes to determine the nature and scope of a legal issue’ was recognised as matching the upper performance-level descriptors when the response extended beyond a general statement and/or definition of the legal issue, and applied information by providing depth and detail.

### Practices to strengthen

To further ensure accuracy and consistency of the application of the ISMG for this IA, it is recommended that:

- for the Evaluating criterion, relevant legal alternatives presented allow for an insightful decision. For alternatives to be considered legal, they must be related to the law, e.g. the introduction of new legislation, amendments to existing laws, the creation of new courts, or changes in legal processes. Alternatives that are not considered legal include education programs, policy changes, cultural initiatives, and increased funding.

## Samples

The following excerpts have been included to demonstrate evidence to match the top performance-level descriptors of the ISMG for the Analysing criterion and the Evaluating criterion in Part B.

Excerpt 1 demonstrates an 'insightful decision, justification of the decision through the effective use of legal criteria' and 'fluent discussion of relevant implications of the decision'.

This task focused on the legal issue of 'the ability of the Queensland unicameral system of parliament to pass fair and just legislation'. In the first two sentences the response clearly outlines the nature and scope of the legal issues by explaining what a unicameral parliament is in Queensland and the legal issue of whether Queensland can pass beneficial laws without an upper house. This paragraph uses a range of sources from the stimulus to support the nature and scope of the response.

Excerpt 2 responds to the same question as Excerpt 1. The first sentence of Excerpt 2 clearly outlines the recommendation to move Queensland to a bicameral system of government and justifies this through the use of legal criteria.

The paragraph also begins to use legal criteria to justify the recommendation by stating that the change to a bicameral system of government will ensure that the government will be able to make 'just and fair laws' by ensuring there are checks and balances in place. It also goes on to state the recommendation will help counteract the impulsive nature of the lower house to ensure that there are 'just and equitable outcomes' for Queenslanders. Implications of the recommendation are also discussed, along with the challenges of changing the constitution and the long legislative process to make the recommended change.

**Note:** The characteristic/s identified may not be the only time the characteristic/s occurred throughout a response.

### Excerpt 1

The Queensland system of parliament is unicameral, meaning that it has no Upper House, like 69% of ~~both~~ Global Bicameral Parliaments (S2). However, the legal issue is whether or not the unicameral system in Queensland is able to pass fair and just legislation by upholding the rule of law through a checks and balances system to ensure responsible governance. While the Lower House has more legislative power (S1), bicameral systems offer <sup>strict</sup> mediation for just and fair laws (S5). Therefore, there is debate around the House of Representatives being able to pass beneficial laws without a "deliberative body" in the Senate (S4). *Nature and scope clearly outlined. Perfect.*

## Excerpt 2

It is recommended that the Queensland system move to a bicameral parliament to improve the ability to make just and fair laws by ensuring checks and balances. By introducing an Upper House like the Bundesrat (53), the Queensland government will be held accountable for their legislative action to ensure that unjust laws are not passed (57). While it may be difficult to alter the constitution to allow a bicameral parliament, and the legislative process may be prolonged due to compromise (56), an Upper House is essential to counteract the "impulsive nature" of the lower House and ensure just and equitable legislative outcomes for Queenslanders. Finally, as in Germany, an Upper House acts as a constitutional safeguard (53) to prevent laws from being passed without adequate consideration.

*Insightful recommendation from analysis.*

*Implications*

*Well justified.*

## Additional advice

- Care is required to correctly apply the principle of best-fit when using the ISMG, e.g. in a performance level that contains a two-mark range, 7–8, the upper mark in the range (8) is awarded if evidence in the response matches all descriptors within the 7–8 mark performance level. The lower mark in the range (7) is awarded where evidence in the response matches a majority of descriptors within the performance level, with others matched to a lower performance level (e.g. 3–4). (Further information on the application of best-fit is contained in the *Making judgments* webinar, available via the Resources section of the Syllabuses application (app).



# Internal assessment 2 (IA2)



## Investigation — inquiry report (25%)

The assessment requires students to research a current legal issue by collecting, analysing and synthesising primary and secondary information, data and sources. An inquiry report uses research practices to assess a range of cognitions in a particular context. Research practices include locating and using information beyond students' own knowledge and the information they have been given.

Students are encouraged to use technology (e.g. word processors, spreadsheet programs and legal databases) to increase their productivity during the investigation:

- as a means of locating information
- as an aid in recording sources and notes
- assisting analytical processes, for example, graphing and/or exposing patterns or trends
- assisting with the drafting process or production of the final response.

## Assessment design

### Validity

Validity in assessment design considers the extent to which an assessment item accurately measures what it is intended to measure and that the evidence of student learning collected from an assessment can be legitimately used for the purpose specified in the syllabus.

### Reasons for non-endorsement by priority of assessment

| Validity priority | Number of times priority was identified in decisions |
|-------------------|--|
| Alignment         | 87   |
| Authentication    | 6  |
| Authenticity      | 20   |
| Item construction | 23   |
| Scope and scale   | 27   |

### Effective practices

Validity priorities were effectively demonstrated in assessment instruments that:

- focused on an area of law that requires reform, change, or a new legislative instrument as per the syllabus specifications. Tasks that avoided topics relating to legal issues that have recently been reformed allowed students the opportunity to meet the top performance-level descriptors
- managed the scale of the task by directing students to focus on a particular legal issue or topic, rather than referring to 'the legal issues in Queensland or Australia' and explicitly directing students to provide only one recommendation.

## Practices to strengthen

It is recommended that assessment instruments:

- specifically identify the need for students to demonstrate comprehension of relevant legal concepts, principles and/or processes within the report
- include an explicit instruction for students to refer to legislation and/or case law.

## Accessibility

Accessibility in assessment design ensures that no student or group of students is disadvantaged in their capacity to access an assessment.

### Reasons for non-endorsement by priority of assessment

| Accessibility priority | Number of times priority was identified in decisions |
|------------------------|--|
| Bias avoidance         | 1  |
| Language               | 9  |
| Layout                 | 0  |
| Transparency           | 47   |

## Effective practices

Accessibility priorities were effectively demonstrated in assessment instruments that:

- used clear directions in the scaffolding, particularly for analysis where the requirement to ‘examine different viewpoints and their consequences’ was explicitly stated
- modelled the correct use of italics and formatting features to refer to relevant legislation.

## Practices to strengthen

It is recommended that assessment instruments:

- use context statements, where relevant, that either contextualise the relevance of the task to the unit of work being studied or act as an impartial reference to the topic to be investigated. It must not lead to unnecessary bias or pre-empt a specific response
- model correct spelling, grammar, punctuation and references to legislation.

## Additional advice

- For schools using the Alternative sequence resource (AS), the task should be aligned to the appropriate sequence year and the corresponding task specifications. For example, in 2024, the focus should have been on criminal trials and/or criminal punishment and sentencing in the Australian and/or Queensland jurisdiction.

## Assessment decisions

### Reliability

Reliability is a judgment about the measurements of assessment. It refers to the extent to which the results of assessments are consistent, replicable and free from error.

### Agreement trends between provisional and confirmed marks

| Criterion number | Criterion name      | Percentage agreement with provisional | Percentage less than provisional | Percentage greater than provisional | Percentage both less and greater than provisional |
|------------------|---------------------|---------------------------------------|----------------------------------|-------------------------------------|---|
| 1                | Comprehending       | 95.74                                 | 4.26                             | 0.00                                | 0   |
| 2                | Selecting           | 95.14                                 | 4.86                             | 0.00                                | 0   |
| 3                | Analysing           | 89.67                                 | 10.03                            | 0.30                                | 0   |
| 4                | Evaluating          | 86.93                                 | 12.77                            | 0.30                                | 0   |
| 5                | Creating a response | 98.78                                 | 1.22                             | 0.00                                | 0   |

### Effective practices

Accuracy and consistency of the application of the ISMG for this IA was most effective when:

- in the Analysing criterion
  - the nature and scope of the law reform issue was separate from the report’s introduction, and depth was evident for both the nature and scope of the law reform issue
  - responses analysed the different viewpoints and their consequences (rather than those of different stakeholders). Additionally, the examination of different viewpoints and their consequences was based on the interpretation of legal information when matched to the top two performance levels of the Analysing criterion.

### Practices to strengthen

To further ensure accuracy and consistency of the application of the ISMG for this IA, it is recommended that:

- for the Selecting criterion, referencing is consistent throughout the response and adheres to the method specified in the task
- for the Evaluating criterion, legal alternatives, not social or educational alternatives, stem from the analysis. Only when both alternatives are legal in nature, can they be matched to the first descriptor in any performance level. If at least one alternative is not legal in nature, but a recommendation is made, the evidence can be matched to the first descriptor at the lowest performance level.

## Samples

The following excerpt (Excerpt 1) has been included to demonstrate for the Analysing criterion, the perceptive application of relevant legal concepts, principles and/or processes to determine the nature and scope of criminal trials and/or criminal punishment and sentencing.

The first paragraph clearly explains what minimum mandatory sentences are and how they are used by mandating that judges apply a set sentence for certain offences. The focus then narrows to the relevant pieces of legislation with a relevant example given in s 314A of the *Criminal Code Act 1899* (Qld) and how this demonstrates the theories of punishment outlined in the *Penalties and Sentences Act 1992* (Qld).

The second paragraph explains the issues that arise from mandatory sentences by considering how these sentences disproportionately disadvantage different groups in society and how the sentences affect the court's ability to consider the individual circumstances of a case when considering sentencing and incarceration as a last resort. The paragraph also outlines how mandatory sentences affect and undermine the doctrine of the separation of powers. These issues are exemplified by a relevant case and supported by a range of relevant sources.

Excerpt 2 has been included to demonstrate the interpretation of legal information to perceptively examine one viewpoint and its consequences in relation to the law reform issue of age discrimination. (**Note:** The response also examined a second, different viewpoint and its consequences, as required.)

The paragraph presents the view that there is limited access to Human Resource Practices available to those who experience age discrimination. Members of the legal profession have called for an inquiry into current business practices to see whether these current practices align with the *Age Discrimination Act 2004* (Cth) (ADA). The ADA and its processes are viewed as cumbersome. The paragraph goes on to explain that alternative dispute resolution (ADR) measures and out-of-court measures are preferred over the threatening view of tribunals and court proceedings for age discrimination claimants.

The consequences of the viewpoint are outlined clearly — ADR offers streamlined access to justice for claimants because the processes are more efficient than traditional legal processes and provide more options.

The viewpoint and its consequences are examined by interpreting relevant legal information from a range of reputable sources.

**Note:** The characteristic/s identified may not be the only time the characteristic/s has occurred throughout a response.

## Excerpt 1

## 2.0 Nature/Scope

For serious crimes in Australia, a minimum mandatory non-parole period, or sentence may be imposed by parliament to ensure that the 5 Theories of Punishment, as outlined in the *Penalties and Sentences Act, 1992* (Qld), are upheld (Lippingwell et al., 2018). These minimum sentences often aim to address community outcry over a particular issue, or in instances where the public believes judges are too lenient (Australian Law Reform Commission, 2018). These laws mandate that a judge or magistrate imposes a certain sentence on someone who is found guilty of an offence, rather than the sentencing period being up to judicial discretion (Sentencing Advisory Council, 2022). For instance, *Safe Night Out Legislation Amendment Act, 2014* (Qld) which, under the new section 314A of the *Criminal Code Act, 1899* (Qld), sought to bridge the gap between manslaughter and assault offences that ‘Coward’s Punches’ fell in. This act mandated that perpetrators serve a minimum of 15 years in prison, or 80% of their total sentence, before being eligible for parole. This promotes consistency, deterrence, denunciation, punishment, and protects the community by incapacitating the perpetrator of a dangerous offence (Australian Law Reform Commission, 2018). According to Anthony Gray (2017), Australian Professor of Law, the use of mandatory sentencing is increasing globally in response to public opinion that judges are ‘too soft’ and inconsistent.

However, mandatory sentences often disproportionately effect disadvantaged socioeconomic groups, and Aboriginal and Torres Strait Islander peoples by attacking ‘crimes of poverty’ such as stealing (Australian Law Reform Commission, 2018). For this reason, the UN Committee against torture recommended that Australia “Keep under careful review legislation imposing mandatory minimum sentences” to avoid “the possible adverse effect upon disadvantaged groups” (Human Rights and Equal Opportunity Commission, 2007). Mandatory sentencing also infringes upon the role of the courts to consider individual circumstances when sentencing and undermines the principal that incarceration should be reserved as a last resort (Lippingwell et al., 2018; Australian Law Reform Commission, 2018). It also has potential to violate the civil right of the accused to a fair trial and undermine the principal of the Separation of Powers between the Legislative and Judiciary branches of government (Lippingwell et al., 2018; Australian Law Reform Commission, 2018). Additionally, mandatory minimum sentences have the possibility to go ‘beyond what is necessary to protect society’ by imposing cruel and disproportionate punishments, and may exacerbate recidivism rates (Gray, 2017). For instance, in the case of *Wurrumbarra, Johnno, 2001* (NT), an Aboriginal child was sentenced to prison for stealing \$90 worth of paint and stationery, and then died while incarcerated (Bagaric, 2002). It also raises questions as to a conflict of interest between the parliament- who want to be re-elected above all else- as opposed to judges, who are trained to produce just, and unbiased outcomes based on evidence. Inspector of Custodial Services John Paget called current mandatory sentencing policy “indefensible” as it was “not supported by research on the effectiveness of the prison system to reduce criminal behaviour in the short or long term, but because it provided proponents of the policy with the opportunity to build their public image” (Justiceaction.org, n.d.).

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**Excerpt 2**

### 3 Viewpoint One

Alternative Dispute Resolution (ADR) is a prominent alternative to traditional litigation in Australia's civil justice system, particularly in assisting age discrimination cases. Due to the extent of Australia's aging population, the civil justice system must exhaust all options to provide access to justice for all claims regarding age discrimination. Particularly viewed from this issue is the need for ADR processes to be utilized prior to court proceedings. ADR's prominence over traditional litigation proceedings has grown in recent years, testament to ADR's variety of processes and accessibility to claimants. The role of ADR in age discrimination cases is supported by Thornthwaite (1993) who particularly commented on the method of conciliation and its role in resolving claims without use of legal proceedings. Thornthwaite identifies that tribunal processes are viewed by many age discrimination claimants as threatening and invasive, where the ability to constructively negotiate is preferred then commencing court litigation (Thornthwaite, 1993). Additionally, Noone (2020) supports Thornthwaite's pro-ADR notion in age discrimination cases, suggesting that out-of-court alternatives provide many benefits to claimants, where they eliminate costly court fees and backloging of court schedules. These legal critics identify that processes surrounding ADA and its legislation are cumbersome to the ever-aging community.

As raised throughout the viewpoint, claimants whose claims dispute anything that breaches the ADA must go through ADR processes prior to court proceedings. This view consequently enables increased levels of streamlined access to justice for all claimants, where ADR processes are more efficient in many facets than traditional litigation processes (Saxena, 2017). ADR processes offer varieties of options to claimants, including and not limited to facilitative, determinative, advisory, and transformative processes, each of which directly boost access to justice. Further, uptake of ADR processes results in the avoidance of costly court fees, especially significant in HRP claims where employees will seek both HRP's and court services (Stipanowich, 2004).

### Additional advice

- Schools should ensure accurate scanning of files submitted for confirmation to ensure pages are not missed and/or incorrect responses are not uploaded.
- Schools should ensure annotations are not placed over student responses, as this may impede the confirmer's ability to review the response.

# Internal assessment 3 (IA3)



## Investigation — argumentative essay (25%)

The assessment requires students to research a current legal issue through collection, analysis and synthesis of primary and secondary information, data and sources. An argumentative essay uses research practices to assess a range of cognitions in a particular context. Research practices include locating and using information beyond students' own knowledge and the information they have been given.

Students are encouraged to use technology, for example, word processing, spreadsheet programs and accessing legal databases to increase their productivity during the investigation. This may be as:

- a means of locating information
- an aid in recording sources and notes
- assisting analytical processes, for example, graphing and/or patterns or exposing trends
- assisting with the drafting process and the production of the final response.

## Assessment design

### Validity

Validity in assessment design considers the extent to which an assessment item accurately measures what it is intended to measure and that the evidence of student learning collected from an assessment can be legitimately used for the purpose specified in the syllabus.

### Reasons for non-endorsement by priority of assessment

| Validity priority | Number of times priority was identified in decisions |
|-------------------|--|
| Alignment         | 163  |
| Authentication    | 5  |
| Authenticity      | 20   |
| Item construction | 18   |
| Scope and scale   | 15   |

### Effective practices

Validity priorities were effectively demonstrated in assessment instruments that:

- referred to a specific and clear contemporary international human rights issue in which Australia has a legal interest, e.g. capital punishment of Australians in foreign countries, adoption of children via international surrogates, or custody disputes of an Australian child between international parents
- directed students to refer to legislation and/or case law in their responses
- provided a limited number of options from which students could select and ensured that the information available for students to research in all listed topics was equitable in terms of access to information.

## Practices to strengthen

It is recommended that assessment instruments:

- avoid domestic topics that direct students to consider Australian citizens within Australia, e.g. homelessness would be considered a domestic issue and does not meet the requirements of an international contemporary legal issue, but a focus on the homelessness of refugees and asylum seekers would be suitable.

## Accessibility

Accessibility in assessment design ensures that no student or group of students is disadvantaged in their capacity to access an assessment.

### Reasons for non-endorsement by priority of assessment

| Accessibility priority | Number of times priority was identified in decisions |
|------------------------|--|
| Bias avoidance         | 5  |
| Language               | 5  |
| Layout                 | 0  |
| Transparency           | 18   |

### Effective practices

Accessibility priorities were effectively demonstrated in assessment instruments that:

- did not repeat or redefine information in the scaffolding section that had already been provided in the assessment instrument. The 'to complete this task' instructions only need to be provided once in the task section — they do not need to be repeated in the scaffolding section
- contained context statements that provided an introduction to the concept of human rights or the task focus and avoided unnecessary jargon, specialist language and colloquial language.

## Practices to strengthen

It is recommended that assessment instruments:

- provide clear and specific directions that align with the assessment objectives. These should be provided in the task section, under a 'to complete this task' stem, with a bullet point provided for each cognitive verb to be assessed. The Comprehending objective should also be included to provide clear instructions to students that this is a requirement of the task.

## Additional advice

- The 'to complete this task' section should be ordered to align with the wording and sequence of the ISMG to help students access and demonstrate the task objectives.
- No stimulus materials are permitted in the IA3.
- Requiring students to discuss multiple cases may pose challenges for students in being able to find appropriate sources and achieve at the highest performance level. Instead, tasks should direct students to refer to legislation and/or case law in their responses.



## Assessment decisions

### Reliability

Reliability is a judgment about the measurements of assessment. It refers to the extent to which the results of assessments are consistent, replicable and free from error.

### Agreement trends between provisional and confirmed marks

| Criterion number | Criterion name      | Percentage agreement with provisional | Percentage less than provisional | Percentage greater than provisional | Percentage both less and greater than provisional |
|------------------|---------------------|---------------------------------------|----------------------------------|-------------------------------------|---|
| 1                | Comprehending       | 97.57                                 | 1.52                             | 0.91                                | 0   |
| 2                | Selecting           | 96.66                                 | 2.74                             | 0.61                                | 0   |
| 3                | Analysing           | 94.53                                 | 4.86                             | 0.61                                | 0   |
| 4                | Evaluating          | 80.85                                 | 18.24                            | 0.91                                | 0   |
| 5                | Creating a response | 96.05                                 | 3.65                             | 0.30                                | 0   |

### Effective practices

Accuracy and consistency of the application of the ISMG for this IA was most effective when:

- for the Comprehending criterion, there were clear links in the responses between the contemporary international human rights issue in which Australia has an interest (e.g. foreign citizens in Australia, or Australians overseas) and Australia's international obligations
- for the Selecting criterion, the choice of legal information was both current and relevant to the investigated international human rights issue in which Australia has a legal interest. In order to match evidence to the top performance level, the choice of information focused on more than one particular type of information source (e.g. news articles) making use of information from a range of reliable and relevant sources (e.g. legislation, law journals and case decisions)
- for the Analysing criterion, the examination of different viewpoints and their consequences was based on the interpretation of legal information at the top two performance levels. Responses that only described stakeholders or only provided information about other jurisdictions' responses to the issue, without linking the analysis to Australia's legal interest, could only be matched to the second descriptor at the lowest performance level.

### Practices to strengthen

To further ensure accuracy and consistency of the application of the ISMG for this IA, it is recommended that:

- for the Evaluating criterion, legal alternatives presented must lead to a decision and/or recommendation that is justified using legal criteria. A match to the top performance level is achieved by explaining how the decision will result in fair and more equitable outcomes, or how the decision satisfies specific elements of the rule of law rather than the use of a simple statement naming a legal criterion.

## Samples

The following excerpt has been included to demonstrate relevant legal alternatives presented from the analysis. It also demonstrates the:

- proposal of an insightful recommendation from the legal alternatives presented
- synthesis of information that justifies the recommendation through discerning use of legal criteria
- fluent discussion of the implications of the recommendation.

The excerpt responded to the statement: 'Australia's signing of the Universal Declaration of The Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) did little to protect rights of Australians who face the death penalty in foreign countries'.

In the first sentence, the two legal alternatives are identified: to establish a bilateral agreement with China and Australia and to implement sanction tariffs on trade with China. The following paragraph outlines the first legal alternative and explains how the bilateral agreement between Australia and China would work in practice. Further discussion outlines how the countries could advance this alternative through DFAT human rights dialogues, and this is supported by using an example of the strategy used between the UK Government and Barbados, Uganda and Kenya. The paragraph ends by outlining some of the limitations of this legal alternative.

The second legal alternative outlines the implementation of the strategy of placing tariffs on China. It explains how tariffs can be used to signal to China the disapproval of its use of capital punishment and draw international attention to the issue to encourage other countries to place pressure on China to reform. The limitations of this legal alternative that the potential trade repercussions may disrupt Australia's economy and further affect the already tense diplomatic ties between both countries are discussed.

**Note:** The characteristic/s identified may not be the only time the characteristic/s occurred throughout a response.

Two alternatives which would create more equitable and just outcomes for Australian journalists facing the death penalty are developing a new bilateral agreement with China and sanctioning tariffs on trade with China.

Alternate one is to create a bilateral agreement with China whereby the countries can agree on terms involving extraditing Australians who have been penalised with capital punishment and instead dealing with the matter in the country's jurisdiction. The strategy would create an efficient diplomatic stand around capital punishment overseas and inform China and other countries which still retain death penalty. The strategy would be implemented through the creation of the agreement, followed by ratifying the terms into Australia's international law. To extend this alternative further, the countries could discuss and update terms further in annual DFAT human right dialogues. Furthermore, to ensure the model is effective Australia should consult with the UK Government as they implemented the same strategy in 2010 that has seen success with Barbados, Uganda and Kenya. Their strategy outlined key commitments such as lobbying priority nations and advocating through the UN and EU alongside bilateral relationships. A limitation is the likelihood the strategy with China will work as effectively as the UK'S. This is inferred by the fact that China has refused to take meaningful steps towards ratifying 'The Protocol' even after four nations requested them to do so (OHCHR, 2021).

The second alternative is to sanction tariffs on trade with China. Implementing this strategy would further signal to China, Australia's disapproval on their usage of capital punishment and potentially influence China to reconsider its policies as economic interests play a significant role in international relations. Furthermore, the tariffs would draw international attention to the legal issue encouraging diplomatic discussions and negotiations on a global scale. This creates an opportunity for other countries to join and pressure China to reform. A limitation in this strategy is the potential repercussions on bilateral trade relations, economic flow and diplomatic ties especially with the geopolitical tension which already exists between China and Australia. Furthermore, Australia's total trade with China is currently at its highest-ever level with \$219B and up from \$168B in 2019. This rise was influenced by the reduction in tariffs implemented in 2019 due to geopolitical tension. Therefore, this alternative may disrupt Australia's economy influencing citizens greatly (Fildes, 2024).

The recommended strategy to decrease China's use of the death penalty to protect Australian Journalists is to develop a bilateral agreement with China surrounding extraditing offenders in their own jurisdictions. An example of this would be an Australian citizen facing a death penalty in China is instead extradited to Australia for life imprisonment. Furthermore, Australia would fund this allowing China to not be

*Relevant*

*Relevant*

*Relevant*

*Relevant*

*Relevant Implications*

*Relevant Implications*

*Insightful Recommendation*

## Additional advice

- Schools need to have strong internal quality assurance processes in place to ensure uploaded files are accurate.
- While a generic 'Choose any topic' task can meet the endorsement requirements, there is no guarantee that students will be able to meet the upper performance-level descriptors if the chosen international human rights issue does not align with the syllabus specifications.

# External assessment



External assessment (EA) is developed and marked by the QCAA. The external assessment for a subject is common to all schools and administered under the same conditions, at the same time, on the same day.

## Examination — combination response (25%)

### Assessment design

The Legal Studies assessment instrument was designed using the specifications, conditions and assessment objectives described in the summative external assessment section of the syllabus.

The examination assessed subject matter from Unit 4. Questions were derived from the context of:

- Topic 1 Human rights
- Topic 3 Human rights in Australian contexts.

The assessment required students to respond to short response questions that assessed the Comprehending objective and an extended response question that required students to respond to stimulus that assessed Analysing and Evaluating objectives.

The examination consisted of four short response questions and an extended response to stimulus item question (44 marks).

The stimulus included excerpts contained excerpts from United Nations General Assembly report, Australian Human Rights Commission report, journal articles, online articles and a book.

### Assessment decisions

Assessment decisions are made by markers by matching student responses to the external assessment marking guide (EAMG). The external assessment papers and the EAMG are published in the year after they are administered.

### Effective practices

Overall, students responded well when they:

- responded to all instructions and elements of the short response questions
- evaluated the legal issue stated in the extended response to stimulus item.

### Practices to strengthen

When preparing students for external assessment, it is recommended that teachers:

- provide students with opportunities to strengthen their analysis on viewpoints of a legal issue rather than on the view of individual stakeholder/s. In the analysis, viewpoints are not required to be *opposing*. Rather, they must be *different*
- support students to demonstrate the consistent use of legal terminology throughout all responses
- provide students with strategies to respond to both short response and extended response questions to ensure they answer all elements of the questions at the required depth. Both

short and extended response questions often contain more than one element that must be included in the response, e.g. 'describe' and 'use an example to support your response'

- use teaching and learning strategies to guide students in how to use legal criteria throughout the justification of the decision. Rather than simply stating the legal criteria, students must use the criteria within the decision to support the justification.

## Samples

### Short response

The following excerpt is in response to Question 1. It required students to describe the right to self-determination in the context of Article 1 of the ICCPR and to provide an example to support the response.

Effective student responses:

- provided an accurate description of self-determination in the context of the ICCPR
- provided a relevant example of self-determination that linked back to the context of the ICCPR.

This excerpt has been included to demonstrate a successful response to Question 1. It does this by starting with an accurate description of self-determination in the context of the ICCPR and then by adding a relevant example that is linked back to the ICCPR.

Excerpt 2 is in response to Question 3. It required students to describe sovereignty in the context of States' (i.e. countries') rights. Then, in the second part of the question, students had to explain the importance of sovereignty to Australia's integrity as a State. Two examples of this were required to support this response.

Effective student responses:

- accurately described sovereignty in the context of States' rights
- accurately explained the importance of sovereignty to Australia's integrity as a State
- used two relevant examples that supported the explanation.

Excerpt 2 provides an accurate and comprehensive description of sovereignty in the context of State. The second part of the question provides an accurate explanation the importance of sovereignty to Australia's integrity as a state as it, 'allows it not to be included by other states through force or any other form of influence'. The response then explains two relevant examples to support this identifying that Australia will 'choose how it will govern itself' and that Australia is an '...equal member of the international community and will make decisions that best suits its interests...'

## Excerpt 1

Self-determination is the right of all humans to freedom of choice and action. Governments <sup>and states</sup> may not exercise authority over a person's autonomy in certain matters. For example, the ICCPR grants all humans the right to choose and practice religion. Whilst a state may endorse or associate with a particular religion, signatories of ICCPR give their citizens self-determination in choosing which religion to practice, if any.

## Excerpt 2

## QUESTION 3 (4 marks)

- a) Describe *sovereignty* in the context of States' (i.e. countries') rights. [1 mark]

Sovereignty is the ultimate or supreme authority of a state to govern itself without interference from other states

- b) Explain the importance of sovereignty to Australia's integrity as a State. Use two examples to support your response. [3 marks]

Sovereignty is integral in Australia's integrity as it allows it to not be influenced by other states through force ~~or~~ if conflict arises or any other form of influence that will change Australia's integrity & promises under international laws.

An example of this, is if conflict arises, sovereignty gives Australia the right & protection to choose how it will govern itself in response to these issues, either by remaining impartial or by supporting ~~any~~ other countries, without being influenced to do so. Another example is although Australia is ~~a~~ continent with a small population than other states it still holds the power of being an equal member of the international community & will make decisions that best suits its interests, such as ratifying human rights agreements & conventions.

## Extended response

The following excerpts are from Question 5. This question required students to respond to 'examine two different viewpoints and their consequences to analyse the legal issue of age discrimination in employment', and 'present two legal alternatives from your analysis and justify a decision about the effectiveness of the *Age Discrimination Act 2004* (Cth) in addressing workplace age discrimination in Australia'.

Effective student responses:

- provided an accurate explanation of the nature and scope of the legal issue
- provided a perceptive explanation of two valid viewpoints and the consequences of those viewpoints, related to the legal issue
- made discerning use of a range of relevant information from the stimulus to support the analysis
- effectively used information from the analysis to present two relevant legal alternatives
- justified a valid decision through effective use of relevant legal criteria
- effectively discussed a plausible implication of the decision.

These excerpts have been included:

- to demonstrate a response that matches to the upper performance-level descriptors of the EAMG. Excerpt 1 shows a response that provides an accurate explanation of the nature and scope of the legal issue of age discrimination in employment
- to illustrate a perceptive explanation of a valid viewpoint and its consequence/s, related to the legal issue. Excerpt 2 has been included to demonstrate one way a viewpoint and its consequences could be examined on the legal issue of age discrimination in employment. The paragraph discerningly uses a range of relevant information from the stimulus to support the explanation of the viewpoint.

## Excerpt 1

Age is a prohibited ground of discrimination under the ICESCR, however Australia's Age Discrimination Act 2004 (4th) is currently ineffective in preventing age discrimination in employment and thus providing a significant legal issue in Australia. By 2050, one quarter of the country's population is estimated to be aged over 65, proving this issue will only increase as 1 in 5 Australians already claim age is a major barrier to finding paid work.<sup>(53)</sup> The primary purpose of the Age Discrimination Act is to ensure people of all ages have the same fundamental rights to equality before the law and protect individuals from discrimination in certain areas of public life, such as employment <sup>(52)</sup>. However, 69.2% of complaints ~~made~~<sup>made</sup> under the Act between 2004/05 and 2009/10 were in the area of employment with the majority claim<sup>^</sup> that people were 'too old',<sup>(52)</sup> illustrating the significance of this issue.



## Excerpt 2

One viewpoint is that the current standard of the ADA 2004 is limited & general<sup>(stimulus 4)</sup>. Furthermore, it is 'subject to a 'significant number of exemptions' (stimulus 7). This viewpoint ~~is~~<sup>is</sup> ~~is~~<sup>is</sup> held by various law review organisations & <sup>within</sup> law & journals, including an Australian Human Rights Commission report, & affects all those who could face discrimination based on age. By being limited to a general ~~duty~~ or prescriptive duty this creates compliance issues & ambiguity within the system particularly with employer obligations as the laws currently impose very few obligations on employers (stimulus 4 & 5). This limits the law's power to address <sup>& prosecute</sup> discriminatory behaviour & its consequences <sup>as</sup> ~~the~~ the exemptions afforded ensure that any claim against them must successfully be made before they are addressed (stimulus 5). This viewpoint is valid as stimulus 1, an excerpt from the United Nations General Assembly report 2021, states that legislation '~~shall~~' must avoid exceptions... that mask ageist biases' & that laws can 'only be effective if they contain a wide definition of discrimination' & is not general as is currently being seen.