



THE COURSE DOCUMENT

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LEARNING STATEMENT

Courses in the study of society and the environment examine human interrelationships, and the diverse relationships that exist between humans and their environments over time. The breadth of the learning area includes the study of spatial patterns and processes, human behaviour, ethics, beliefs, social justice, sustainable development, political, economic and legal systems, cultural and environmental heritage, and the nature of business and work cultures.

Study methodologies call for informed personal appraisals based on research that has rigour and integrity, and involves thorough, objective, and sensitive investigation of human heritage and beliefs in an authentic learning environment. Disciplines within the study of society and the physical environment contribute to a life-long capacity for rational understanding and tolerant viewpoints to be reached in the contexts of the present-day, or of other environments and times.

Courses in this area enable students to apply the knowledge, skills, and values they acquire to make sound judgements in their role as active and informed citizens in the work-place, and within a global society.

The law and the legal and political systems represent a cornerstone of the structure and function of society. A rudimentary understanding of these systems and their operation is essential for any person who wants to be able to contribute in an intelligent, rationale and effective way to the operation and improvement of the society in which they live.

The study of Legal Studies promotes the pursuit of equity and justice under the rule of law and has encouraged students to become active and informed citizens.

COURSE SIZE AND COMPLEXITY

This course has been assessed as having a complexity level of TQA level 3.

At TQA level 3, the student is expected to acquire a combination of theoretical and/or technical and factual knowledge and skills and use judgment when varying procedures to deal with unusual or unexpected aspects that may arise. Some skills in organising self and others are expected. TQA level 3 is a standard suitable to prepare students for further study at the tertiary level. VET competencies at this level are often those characteristic of an AQF Certificate III.

The TQA level 3 course has a size value of 15.

COURSE DESCRIPTION

Legal Studies is the study of the aims, functions and nature of legal and political structures and processes and the delivery of justice in Australia. Students will develop an understanding of the rights and responsibilities of citizens in Australia's legal and political systems. It involves objective, creative and wide-ranging enquiry into the legal and political system and its dynamic operation in society. It requires students to analyse and evaluate both the operation of those systems and proposals for their improvement. This study is to be undertaken against the back drop of contemporary and topical legal issues in order to enable students to apply their understanding to their own local, national and international environments and become informed and engaged citizens.

PATHWAYS

This course is designed for students looking for pathways to work and further study. Some vocational links include: government positions; the legal profession; policing; journalism; court administration; and social worker.

ADVICE FOR PROVIDERS

Although there is a separate section in the course in relation to topical legal issues, teachers should try to ensure that the study of all elements of the course are supported by contemporary examples to help in the consolidation of student understanding.

Particular attention should be paid to the criteria dealing with research, in particular, relevant academic integrity policies.

LEARNING OUTCOMES

Through studying this course, students will develop knowledge and skills that enable them to:

1. develop an understanding of the central and dynamic role the Australian legal and political systems have in shaping Australian society and their importance to Australian society
2. develop an understanding of how law and politics inter-relate in Australian society
3. objectively analyse legal issues by identifying the arguments and counter arguments relating to the issues
4. evaluate the effectiveness of the main legal structures and processes of the Australian legal and political systems, against the purported aims of the law and the legal system, and proposals for improvement
5. develop clear and coherent communication skills.

COURSE CONTENT

The course will be studied through the following concepts:

- the context of the nature and functions of law
- the rule of law
- due process of law
- natural justice
- changing the law
- strengths and limitations of the law
- topical legal issues.

Students will study the following topics, with an equal amount of time being spent on each major topic (numbered 1 – 5 below).

1. GOVERNMENT

- **Federalism**

How is power divided in the Australian federal system of government?
How and why does the division of law making power of the Commonwealth and the States alter over time?
What are the advantages and disadvantages of a federal system of government?

- **The Westminster system of government in Australia**

What are the features of the Westminster system of government?
What is representative and responsible government?
What is the Doctrine of Separation of Powers and how does it operate in Australia?
What is understood by the independence of the judiciary and why is it important?

- **Australia's international legal and political links**

Why has international law developed?
What are the main international legal and political structures?
How is international law enforced?
How is international law made and how does it become part of the domestic law of Australia?

2. SOURCES OF LAW

a) LEGISLATION

- **Law making role of parliament**

How are parliaments and the executive structured and what is their role in law making?
Does parliament keep the Executive Government accountable?
What are the roles of upper houses of parliament and are they too powerful?
Briefly outline the process of passing a bill through parliament.

- **Delegated legislation**

What is delegated legislation?
What are the advantages and disadvantages of delegated legislation?
What are the checks and balances on the development of delegated legislation?

- **An evaluation of legislation**

What are the advantages and limitations of legislation as a source of law?

- **Law reform**

How effectively do the following groups initiate law reform and interact with each other to influence government policy and the legislative process?

- Political parties
- Law reform bodies
- Royal Commissions and Commissions of Inquiry
- Statutory bodies
- Parliamentary committees
- Individuals
- Interest/pressure groups
- Institutions

b) COURTS

- **Judges in the law making process**

What is common law?

What is the role of the Doctrine of Precedent in developing the common law and in the interpretation of legislation?

Why do judges have to interpret legislation and why should judges interpret legislation?

- **An evaluation of judges as law makers**

What are the advantages and limitations of judges in the law making process?

3. DISPUTE RESOLUTION PROCESSES

- **Structure of the Commonwealth and State court systems**

Briefly outline the hierarchies and jurisdictions of the Tasmanian and Commonwealth court systems.

- **The Adversary Trial System**

What are the main features of the adversary system of trial (including, contest, party control, impartial adjudicator, strict rules of evidence and procedure and a single event process)?

What are the advantages and disadvantages of the adversary trial system?

What are some possible reforms of the adversary trial system?

- **The Jury System**

What are the roles and composition of criminal and civil juries in Tasmania?

How are juries selected and empanelled in Tasmania?

How do juries reach verdicts and what are the verdicts they are able to reach?

What are the strengths and weaknesses of the jury system?

What are some of the reforms and/or alternatives to the jury system?

- **What are the essential differences between a criminal and a civil legal action?**

- **Legal Services**

To what extent do the following legal services improve access to the legal system and promote justice and equality:

- Lawyers
- Legal Aid Commissions
- Community Legal Services
- Ombudsman
- Pro bono services?

- **Alternative dispute resolution processes**

In relation to criminal matters the following should be studied:

- Diversory conferencing
- Circle sentencing

In relation to civil matters the following should be studied:

- Tribunals
- Arbitration
- Conciliation
- Mediation
- Negotiation
- Investigation, self help and conceding or abandoning.

How are ADRs being used in the adversary process?

What are the advantages and disadvantages of ADRs?

4. **CRIME IN SOCIETY**

- **Types of crime**

What are the elements of a crime (including mens rea, actus reus and crimes of strict liability)?

What are the main differences between summary offences and indictable offences?

How does the Criminal Code Act 1924 categorise crime?

What are some of the more common categories of crime, e.g., organised crime, white collar crime, technological crime, terrorism, war crimes etc.?

- **The crime rate**

Undertake a general study of the incidence of criminal activity.

- **Police roles and power**

What power do the police have to investigate crime?

What power do the police have to arrest, detain and charge suspects?

- **Criminal procedure**

What safe-guards are built into the criminal justice system to protect the accused (including: exercise of police powers, bail, preliminary proceedings, principles of natural justice, the right to silence, the presumption of innocence, double jeopardy etc.)?

How are the rights of the victim protected in the criminal justice system?

- **Treatment of offenders**

What laws regulate punishment and sentencing?

What are the purposes/aims of punishment and sentencing?

What are the principles of punishment and sentencing?

What are the options for treatment of offenders?

To what extent do the options for treatment of offenders meet the purposes/aims of punishment?

5. TOPICAL LEGAL ISSUES

Students should study at least two topical legal issues from the current calendar year and link them to the appropriate elements of the other four main course topics. Students should ensure that they focus on the legal and political dimensions of their issues and not be distracted by the sociological and economic dimensions of their issues. The historical context of issues may well be very important but students must ensure that they clearly establish the current context of the issues on which they choose to focus.

In summary, students must be able to demonstrate a knowledge and understanding of:

- the selected issues and why they are topical
- how the law relates to their issues
- how their issue relates to the Australian legal and political system.

ASSESSMENT

Criterion-based assessment is a form of outcomes assessment which identifies the extent of student achievement at an appropriate end-point of study. Although assessment – as part of the learning program - is continuous, much of it is formative, and is done to help students identify what they need to do to attain the maximum benefit from their study of the course. Therefore, assessment for summative TCE reporting should focus on what both teacher and student understand to reflect end-point achievement.

The primary audience for assessment is the student and the teacher, but may also include parents when appropriate.

The standard of achievement each student attains on each criterion is recorded as a rating 'A', 'B', or 'C', according to the outcomes specified in the standards section of the course.

A 't' notation must be used where a student demonstrates any achievement against a criterion less than the standard specified for the 'C' rating. The 't' notation sits outside the continuum of ratings and is thus not described in course standards.

A 'z' notation is to be used where a student provides no evidence of achievement at all.

Providers offering this course must participate in the quality assurance processes.

Internal assessment of all criteria will be made by the provider. Providers will report the student's rating for each criterion to the Tasmanian Qualifications Authority.

The Tasmanian Qualifications Authority will supervise the external assessment of designated criteria (*). The ratings obtained from the external assessments will be used in addition to those provided from the provider to determine the final award.

EXTERNAL ASSESSMENT REQUIREMENTS

The external assessment requirements for this course assess criteria 3, 4, 5 and 6.

Further information regarding external assessment processes and requirements is articulated in the TQA issued Assessment Guidelines.

QUALITY ASSURANCE PROCESSES

The following processes will be facilitated by the TQA to ensure there is:

- a match between the standards for achievement specified in the course and the standards demonstrated by students
- community confidence in the integrity and meaning of the qualification.

Processes – the Authority gives course providers feedback about any systematic differences in the relationship of their internal and external assessments and, where appropriate, seeks further evidence through audit and requires corrective action in the future.

CRITERIA

The assessment for Legal Studies TQA level 3 will be based on the degree to which the student can:

1. plan, organise and complete activities independently and collaboratively
2. conduct research
3. *communicate information and arguments objectively, logically and concisely in different forms
4. *demonstrate knowledge and understanding of the Australian legal and political systems
5. *demonstrate knowledge and understanding of topical legal and political issues
6. *analyse and evaluate issues, knowledge and arguments relating to the Australian legal system.

*= externally assessed

STANDARDS

CRITERION 1 PLAN, ORGANISE AND COMPLETE ACTIVITIES INDEPENDENTLY AND COLLABORATIVELY

Rating 'C'	Rating 'B'	Rating 'A'
<p>A student can:</p> <ul style="list-style-type: none"> complete a majority of significant work on time 	<p>A student can:</p> <ul style="list-style-type: none"> generally complete assigned work on time 	<p>A student can:</p> <ul style="list-style-type: none"> always complete work on time
<ul style="list-style-type: none"> respond positively to authoritative advice about completing tasks 	<ul style="list-style-type: none"> consult and negotiate with relevant others about the nature of individual and collaborative tasks 	<ul style="list-style-type: none"> when necessary, consult and negotiate with relevant others about the nature of individual and collaborative tasks
<ul style="list-style-type: none"> in a group situation, respond to guidance and peer direction and contribute to the planning and completion of tasks 	<ul style="list-style-type: none"> manage time to complete most tasks 	<ul style="list-style-type: none"> initiate, lead and manage a collaborative task
<ul style="list-style-type: none"> participate in collaborative tasks. 	<ul style="list-style-type: none"> actively participate in the planning and completion of group tasks. 	<ul style="list-style-type: none"> reflect upon previous planning and make changes to improve performance.

CRITERION 2 CONDUCT RESEARCH

Rating 'C'	Rating 'B'	Rating 'A'
<p>A student can:</p> <ul style="list-style-type: none"> • use credible sources when directed to them 	<p>A student can:</p> <ul style="list-style-type: none"> • find some credible sources of information 	<p>A student can:</p> <ul style="list-style-type: none"> • use a wide variety of credible sources of information, including community legal information, electronic and hard copy
<ul style="list-style-type: none"> • categorise information using a few organising principles 	<ul style="list-style-type: none"> • generally ask clarifying questions in relation to the task 	<ul style="list-style-type: none"> • ask questions in order to understand the task at hand
<ul style="list-style-type: none"> • present basic information coherently 	<ul style="list-style-type: none"> • in general terms, understand the material found 	<ul style="list-style-type: none"> • identify the salient information from the materials being sourced
<ul style="list-style-type: none"> • record and categorise information 	<ul style="list-style-type: none"> • record and categorise relevant information 	<ul style="list-style-type: none"> • record, analyse and synthesise relevant information
<ul style="list-style-type: none"> • use referencing techniques with supervision 	<ul style="list-style-type: none"> • use referencing techniques with supervision 	<ul style="list-style-type: none"> • use accepted methods of referencing
<ul style="list-style-type: none"> • make a basic application of the relevant academic integrity policy. 	<ul style="list-style-type: none"> • comprehend the general principles of the relevant academic integrity policy and is usually able to apply them. 	<ul style="list-style-type: none"> • meet all of the requirements of the relevant academic integrity policy concerning plagiarism.

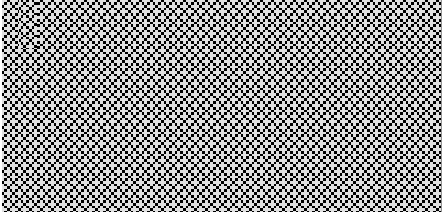
CRITERION 3 *COMMUNICATES INFORMATION AND ARGUMENTS OBJECTIVELY, LOGICALLY AND CONCISELY IN DIFFERENT FORMS

Rating 'C'	Rating 'B'	Rating 'A'
<p>A student can:</p> <ul style="list-style-type: none"> • accurately describe information 	<p>A student can:</p> <ul style="list-style-type: none"> • accurately and adequately describe information 	<p>A student can:</p> <ul style="list-style-type: none"> • accurately and comprehensively describe information
<ul style="list-style-type: none"> • effectively convey central information, including essay form 	<ul style="list-style-type: none"> • communicate effectively using accepted conventions, including essay form 	<ul style="list-style-type: none"> • communicate effectively in a variety of appropriate forms using accepted conventions, including essay form
<ul style="list-style-type: none"> • address the basic intent of a question 	<ul style="list-style-type: none"> • structure a response so as to be readily understood 	<ul style="list-style-type: none"> • demonstrate the ability to sequence information and arguments to create a logical whole
<ul style="list-style-type: none"> • present some points of view other than one's own. 	<ul style="list-style-type: none"> • convey the central aspects of an issue effectively 	<ul style="list-style-type: none"> • focus on the objective of the assigned task and communicate relevantly
	<ul style="list-style-type: none"> • present the essential arguments of both sides of an issue. 	<ul style="list-style-type: none"> • communicate in a balanced and comprehensive way, given the parameters of the task
		<ul style="list-style-type: none"> • set aside a personal perspective in the interests of objective analysis.

CRITERION 4 *DEMONSTRATE KNOWLEDGE AND UNDERSTANDING OF THE AUSTRALIAN LEGAL AND POLITICAL SYSTEMS.

Rating 'C'	Rating 'B'	Rating 'A'
<p>A student can:</p> <ul style="list-style-type: none"> outline basic facts about Australia's legal and political systems 	<p>A student can:</p> <ul style="list-style-type: none"> outline key facts and concepts about Australia's legal and political systems 	<p>A student can:</p> <ul style="list-style-type: none"> describe key facts and concepts about Australia's legal and political systems
<ul style="list-style-type: none"> use appropriate terms in describing the main features of Australia's legal and political systems 	<ul style="list-style-type: none"> use appropriate terms in describing Australia's legal and political systems 	<ul style="list-style-type: none"> use appropriate terms in comprehensively describing Australia's legal and political systems
<ul style="list-style-type: none"> identify some connections between Australia's legal and political systems. 	<ul style="list-style-type: none"> make appropriate connections between relevant facts about Australia's legal and political systems. 	<ul style="list-style-type: none"> make appropriate connections between relevant concepts and facts about Australia's legal and political systems.

CRITERION 5 *DEMONSTRATE KNOWLEDGE AND UNDERSTANDING OF TOPICAL LEGAL AND POLITICAL ISSUES

Rating 'C'	Rating 'B'	Rating 'A'
<p>A student can:</p> <ul style="list-style-type: none"> describe key facts about topical legal issues 	<p>A student can:</p> <ul style="list-style-type: none"> describe key facts and concepts about topical legal issues 	<p>A student can:</p> <ul style="list-style-type: none"> describe key facts and concepts about topical legal and political issues
<ul style="list-style-type: none"> use appropriate terms in naming the key components of topical legal and political issues 	<ul style="list-style-type: none"> use appropriate terms in describing topical legal and political issues 	<ul style="list-style-type: none"> use appropriate terms in describing topical legal and political issues
<ul style="list-style-type: none"> make some connections between the facts about topical legal and political issues and the structures of the Australian legal and political system. 	<ul style="list-style-type: none"> make appropriate connections between the facts about topical legal and political issues and the structures and processes of the Australian legal and political system 	<ul style="list-style-type: none"> make appropriate connections between the facts about topical legal and political issues and the structures, processes and concepts of the Australian legal and political system
	<ul style="list-style-type: none"> identify some of the different legal views that exist in Australian society in relation to topical legal and political issues. 	<ul style="list-style-type: none"> identify and explain the different legal views that exist in Australian society in relation to topical legal and political issues.

CRITERION 6 *ANALYSE AND EVALUATE ISSUES, KNOWLEDGE AND ARGUMENTS RELATING TO THE AUSTRALIAN LEGAL SYSTEM

Rating 'C'	Rating 'B'	Rating 'A'
<p>A student can:</p> <ul style="list-style-type: none"> use some relevant information in responses 	<p>A student can:</p> <ul style="list-style-type: none"> often use relevant information in responses 	<p>A student can:</p> <ul style="list-style-type: none"> consistently use relevant and salient evidence and information
<ul style="list-style-type: none"> understand that there is a variety of perspectives on an issue 	<ul style="list-style-type: none"> present information logically and coherently to support an argument 	<ul style="list-style-type: none"> assess the merits of competing arguments in a rational and comprehensive way
<ul style="list-style-type: none"> present an argument with a degree of coherence 	<ul style="list-style-type: none"> attempt to assess the merits of competing arguments 	<ul style="list-style-type: none"> reach a logical conclusion after examining a range of arguments
<ul style="list-style-type: none"> identify some strengths and weaknesses of the presentation of an argument. 	<ul style="list-style-type: none"> assess legal topics in terms of the nature and function of the Australian legal system. 	<ul style="list-style-type: none"> consistently assess legal topics in terms of the nature and function of the Australian legal system.

QUALIFICATIONS AVAILABLE

Legal Studies (*with the award of*):

EXCEPTIONAL ACHIEVEMENT

HIGH ACHIEVEMENT

COMMENDABLE ACHIEVEMENT

SATISFACTORY ACHIEVEMENT

PRELIMINARY ACHIEVEMENT

AWARD REQUIREMENTS

The final award will be determined by the Tasmanian Qualifications Authority from 10 ratings (6 ratings from internal assessment and 4 ratings from the external assessment).

EXCEPTIONAL ACHIEVEMENT (EA)

8 'A' ratings, 2 'B' rating (with 3 'A' ratings and 1 'B' rating in the external assessment)

HIGH ACHIEVEMENT (HA)

3 'A' ratings, 5 'B' ratings, 2 'C' ratings (with 1 'A' rating, 2 'B' ratings and 1 'C' rating in the external assessment)

COMMENDABLE ACHIEVEMENT (CA)

5 'B' ratings, 4 'C' ratings (with 2 'B' ratings and 1 'C' rating in the external assessment)

SATISFACTORY ACHIEVEMENT (SA)

8 'C' ratings (2 'C' ratings in the external assessment)

PRELIMINARY ACHIEVEMENT (PA)

5 'C' ratings

A student who otherwise achieves the ratings for a CA (Commendable Achievement) or SA (Satisfactory Achievement) award but who fails to show any evidence of achievement in one or more criteria ('z' notation) will be issued with a PA (Preliminary Achievement) award.

COURSE EVALUATION

Courses are accredited for a specific period of time (up to five years) and they are evaluated in the year prior to the expiry of accreditation.

As well, anyone may request a review of a particular aspect of an accredited course throughout the period of accreditation. Such requests for amendment will be considered in terms of the likely improvements to the outcomes for students and the possible consequences for delivery of the course.

The TQA can evaluate the need and appropriateness of an accredited course at any point throughout the period of accreditation.

COURSE DEVELOPER

The TQA acknowledges the significant leadership of Mr Dale Chen, Ms Sue Hawkins and Mr Jim Morris in the development of this course.

ACCREDITATION

The accreditation period for this course is from 1 Jan 2010 until 31 Dec 2014.

VERSION HISTORY

Version 1 – Accredited on 3 Nov 2009. This course replaces LST5C Legal Studies.