



# Legal Studies

Victorian Certificate of Education Study Design

Victorian Curriculum and Assessment Authority  
2010



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Latoya BARTON  
*The sunset* (detail)  
from a series of twenty-four  
9.0 x 9.0 cm each, oil on board



Tarkan ERTURK  
*Visage* (detail)  
201.0 x 170.0 cm  
synthetic polymer paint, on cotton duck



Liana RASCHILLA  
*Teapot* from the *Crazy Alice* set  
19.0 x 22.0 x 22.0 cm  
earthenware, clear glaze, lustres



Nigel BROWN  
*Untitled physics* (detail)  
90.0 x 440.0 x 70.0 cm  
composition board, steel, loudspeakers,  
CD player, amplifier, glass



Kate WOOLLEY  
*Sarah* (detail)  
76.0 x 101.5 cm, oil on canvas



Chris ELLIS  
*Tranquility* (detail)  
35.0 x 22.5 cm  
gelatin silver photograph



Christian HART  
*Within without* (detail)  
digital film, 6 minutes



Kristian LUCAS  
*Me, myself, I and you* (detail)  
56.0 x 102.0 cm  
oil on canvas



Merryn ALLEN  
*Japanese illusions* (detail)  
centre back: 74.0 cm, waist (flat): 42.0 cm  
polyester cotton



Ping (Irene) VINCENT  
*Boxes* (detail)  
colour photograph



James ATKINS  
*Light cascades* (detail)  
three works, 32.0 x 32.0 x 5.0 cm each  
glass, fluorescent light, metal



Tim JOINER  
*14 seconds* (detail)  
digital film, 1.30 minutes



Lucy McNAMARA  
*Precariously* (detail)  
156.0 x 61.0 x 61.0 cm  
painted wood, oil paint, egg shells, glue, stainless steel wire

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## **IMPORTANT INFORMATION**

### **Accreditation period**

Units 1–4: 2011–2017

The accreditation period commences on 1 January 2011.

### **Other sources of information**

The *VCAA Bulletin VCE, VCAL and VET* is the only official source of changes to regulations and accredited studies. The *VCAA Bulletin VCE, VCAL and VET*, including supplements, also regularly includes advice on VCE studies. It is the responsibility of each VCE teacher to refer to each issue of the *VCAA Bulletin VCE, VCAL and VET*. The *VCAA Bulletin VCE, VCAL and VET* is sent in hard copy to all VCE providers. It is also available as an e-newsletter via free subscription on the Victorian Curriculum and Assessment Authority's website at [www.vcaa.vic.edu.au](http://www.vcaa.vic.edu.au)

To assist teachers in assessing School-assessed Coursework in Units 3 and 4, the Victorian Curriculum and Assessment Authority publishes online an assessment handbook that includes advice on the assessment tasks and performance descriptors for assessment.

The current year's *VCE and VCAL Administrative Handbook* contains essential information on assessment processes and other procedures.

### **VCE providers**

Throughout this study design the term 'school' is intended to include both schools and other VCE providers.

### **Photocopying**

VCE schools only may photocopy parts of this study design for use by teachers.

# Introduction

## **RATIONALE**

VCE Legal Studies investigates the ways in which the law and the legal system relate to and serve individuals and the community. This knowledge is central to understanding the workings of contemporary Australian society.

Legal Studies examines the processes of law-making, dispute resolution and the administration of justice in Australia. Students develop an understanding of the impact of the legal system on the lives of citizens, and the implications of legal decisions and outcomes on Australian society. The study provides students with an appreciation of how individuals can be involved in decision-making within the legal system, encouraging civic engagement and helping them to become more informed and active citizens.

Students develop an understanding of the complexity of the law and the legal system and the challenges faced by our law-makers and dispute resolution bodies. They investigate the workings of the Australian legal system and undertake comparisons with international structures and procedures. Students are encouraged to question these systems and develop informed judgments about their effectiveness, as well as consider reforms to the law and the legal system.

Legal Studies also focuses on the development of skills. Students develop an ability to identify, collect and process information from a range of sources and engage in its interpretation and analysis. Skills for independent inquiry, critical thinking and legal reasoning to solve legal problems are also fostered. Students are required to apply legal reasoning and decision-making to contemporary cases and issues. They engage in analysis and evaluation of existing legal processes and form opinions about the operation of the legal system.

## **AIMS**

This study is designed to enable students to:

- understand and apply legal concepts, principles and terminology
- develop an awareness of the impact of the legal system on the lives of individuals and on society
- acquire an understanding of legal rights, responsibilities and ways in which individuals can engage in the legal system

- understand the need for effective laws and legal processes
- investigate the dynamic nature of laws and legal processes
- analyse the processes and procedures involved in law-making and dispute resolution
- understand the operation of the Australian legal system and compare selected aspects with international systems
- develop and use effective methods of legal enquiry and research in order to utilise and communicate information
- apply legal principles to legal problems, explore solutions to these problems, and form reasoned conclusions
- develop the techniques for interpretation and analysis of legal cases.

## STRUCTURE

The study is made up of four units:

Unit 1: Criminal law in action

Unit 2: Issues in civil law

Unit 3: Law-making

Unit 4: Resolution and justice

Each unit deals with specific content contained in areas of study and is designed to enable students to achieve a set of outcomes for that unit. Each outcome is described in terms of key knowledge and key skills.

## ENTRY

There are no prerequisites for entry to Units 1, 2 and 3. Students must undertake Unit 3 prior to undertaking Unit 4. Units 1 to 4 are designed to a standard equivalent to the final two years of secondary education. All VCE studies are benchmarked against comparable national and international curriculum.

## DURATION

Each unit involves at least 50 hours of scheduled classroom instruction.

## CHANGES TO THE STUDY DESIGN

During its period of accreditation minor changes to the study will be announced in the *VCAA Bulletin VCE, VCAL and VET*. The *VCAA Bulletin VCE, VCAL and VET* is the only source of changes to regulations and accredited studies and it is the responsibility of each VCE teacher to monitor changes or advice about VCE studies published in the *VCAA Bulletin VCE, VCAL and VET*.

**MONITORING FOR QUALITY**

As part of ongoing monitoring and quality assurance, the Victorian Curriculum and Assessment Authority will periodically undertake an audit of VCE Legal Studies to ensure the study is being taught and assessed as accredited. The details of the audit procedures and requirements are published annually in the *VCE and VCAL Administrative Handbook*. Schools will be notified if they are required to submit material to be audited.

**SAFETY**

It is the responsibility of the school to ensure that duty of care is exercised in relation to the health and safety of all students undertaking the study.

**USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGY**

In designing courses for this study teachers should incorporate information and communications technology (ICT) where appropriate and applicable to the teaching and learning activities.

**EMPLOYABILITY SKILLS**

This study offers a number of opportunities for students to develop employability skills. The ‘Advice for teachers’ section provides specific examples of how students can develop employability skills during learning activities and assessment tasks.

**LEGISLATIVE COMPLIANCE**

When collecting and using information, the provisions of privacy and copyright legislation, such as the Victorian *Information Privacy Act 2000* and *Health Records Act 2001*, and the federal *Privacy Act 1988* and *Copyright Act 1968*, must be met.

# Assessment and reporting

## **SATISFACTORY COMPLETION**

The award of satisfactory completion for a unit is based on a decision that the student has demonstrated achievement of the set of outcomes specified for the unit. This decision will be based on the teacher's assessment of the student's performance on assessment tasks designated for the unit. Designated assessment tasks are provided in the details for each unit. The Victorian Curriculum and Assessment Authority publishes online an assessment handbook that includes advice on the assessment tasks and performance descriptors for assessment for Units 3 and 4.

Teachers must develop courses that provide opportunities for students to demonstrate achievement of outcomes. Examples of learning activities are provided in the 'Advice for teachers' section.

Schools will report a result for each unit to the Victorian Curriculum and Assessment Authority as S (Satisfactory) or N (Not Satisfactory).

Completion of a unit will be reported on the Statement of Results issued by the Victorian Curriculum and Assessment Authority as S (Satisfactory) or N (Not Satisfactory). Schools may report additional information on levels of achievement.

## **AUTHENTICATION**

Work related to the outcomes of each unit will be accepted only if the teacher can attest that, to the best of their knowledge, all unacknowledged work is the student's own. Teachers need to refer to the current year's *VCE and VCAL Administrative Handbook* for authentication procedures.

## **LEVELS OF ACHIEVEMENT**

### **Units 1 and 2**

Procedures for the assessment of levels of achievement in Units 1 and 2 are a matter for school decision. Assessment of levels of achievement for these units will not be reported to the Victorian Curriculum and Assessment Authority. Schools may choose to report levels of achievement using grades, descriptive statements or other indicators.

### Units 3 and 4

The Victorian Curriculum and Assessment Authority will supervise the assessment of all students undertaking Units 3 and 4.

In VCE Legal Studies the student's level of achievement will be determined by School-assessed Coursework and an end-of-year examination. The Victorian Curriculum and Assessment Authority will report the student's level of performance on each assessment component as a grade from A+ to E or UG (ungraded). To receive a study score, students must achieve two or more graded assessments and receive S for both Units 3 and 4. The study score is reported on a scale of 0–50; it is a measure of how well the student performed in relation to all others who took the study. Teachers should refer to the current year's *VCE and VCAL Administrative Handbook* for details on graded assessment and calculation of the study score. Percentage contributions to the study score in VCE Legal Studies are as follows:

- Unit 3 School-assessed Coursework: 25 per cent
- Unit 4 School-assessed Coursework: 25 per cent
- End-of-year examination: 50 per cent.

Details of the assessment program are described in the sections on Units 3 and 4 in this study design.

# Unit 1: Criminal law in action

The law influences all aspects of society – at home, at work and in the wider community. Laws are used by society to preserve social cohesion, and to ensure the protection of people from harm and from the infringement of their rights. These laws can be grouped according to their source and whether they are criminal or civil in nature. Following an overview of the law in general, this unit focuses on criminal law.

Students examine the need for laws in society. They investigate the key features of criminal law, how it is enforced and adjudicated and possible outcomes and impacts of crime. Through a consideration of contemporary cases and issues, students learn about different types of crimes and explore rights and responsibilities under criminal law. Students also consider the role of parliament and subordinate authorities in law-making, as well as the impact of the Victorian Charter of Rights and Responsibilities on law enforcement and adjudication in Victoria.

Students investigate the processes and procedures followed by courts in hearing and resolving criminal cases. They explore the main features and operations of criminal courts and consider the effectiveness of the criminal justice system in achieving justice.

## **AREA OF STUDY 1**

### **Law in society**

All societies have rules and laws that govern the behaviour of individuals and groups so that order is maintained and individual rights are protected. Students develop an understanding of the role of the law and the need for effective laws, as well as the concept that the law confers rights and responsibilities on members of society in their dealings with each other. Students investigate the difference between legal and non-legal rules through a consideration of who makes, interprets and enforces rules and to whom they apply. Students gain an understanding of the role of parliament and subordinate authorities in law-making, and the types of laws each creates.

### **Outcome 1**

On completion of this unit the student should be able to explain the need for effective laws and describe the main sources and types of law in society.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 1.

### *Key knowledge*

This knowledge includes:

- the difference between legal and non-legal rules
- the need for laws
- characteristics of an effective law
- the distinction between criminal law and civil law
- an overview of the role and characteristics of parliament and subordinate authorities in law-making.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- classify rules as either legal or non-legal
- consider the effectiveness of selected laws
- identify legal problems that might be addressed by criminal or civil law
- describe the role of parliament and subordinate authorities in law-making.

## **AREA OF STUDY 2**

### **Criminal law**

Criminal law regulates conduct in society in order to protect the community, as well as sanction those who commit crimes. Students develop an appreciation of the importance of criminal law by investigating its principles, types of crimes and their enforcement, and possible outcomes. Students consider a range of illustrative criminal cases to assist them in their understanding of different categories of crime and the related defences. Students investigate the individual's rights and responsibilities in dealing with the police. Students discuss the purposes of sanctions, the types of sanctions that may be imposed and sentencing trends and approaches. They compare one aspect of sentencing in Victoria with that of an international jurisdiction. Throughout this area of study students apply principles of criminal law to relevant cases and issues.

### **Outcome 2**

On completion of this unit the student should be able to explain the key principles and types of criminal law, apply the key principles to relevant cases, and discuss the impact of criminal activity on the individual and society.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 2.

### *Key knowledge*

This knowledge includes:

- principles of criminal liability, including elements of a crime, the presumption of innocence, the burden and standard of proof, age of criminal responsibility and participants in crime
- crimes against the person and related defences
- crimes against property and related defences
- the criminal investigation process, including police powers and individual rights and responsibilities in dealing with police

- sanctions under criminal law and their effectiveness
- trends in crime, sentencing and recidivism
- a comparison of one aspect of sentencing in Victoria with that of an international jurisdiction
- the impact of criminal acts on individuals and society
- alternative avenues for seeking compensation for victims of crime.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- explain the principles of criminal liability
- research and gather information about criminal cases, using print and electronic media
- apply legal principles to relevant criminal cases and issues
- discuss the effectiveness of criminal sanctions
- analyse data on sentencing and crime trends in Victoria
- compare one aspect of Victoria's sentencing approaches with that of an international jurisdiction
- discuss the impact of criminal acts on individuals and society.

## **AREA OF STUDY 3**

### **The criminal courtroom**

Criminal cases are heard across a number of courts in the Victorian court hierarchy and these are subject to specific processes and procedures. Students investigate procedures that are used prior to bringing a criminal case to trial, as well as the role and jurisdiction of the courts in hearing criminal cases. The adversarial nature of criminal courts is examined, as well as a consideration of the role and operation of juries in criminal cases. Students focus on the concept of a fair trial or hearing and the rights in criminal proceedings protected by the Victorian Charter of Rights and Responsibilities. Students discuss the extent to which features of the criminal justice system contribute to the achievement of justice.

### **Outcome 3**

On completion of this unit the student should be able to describe the processes for the resolution of criminal cases, and discuss the capacity of these processes to achieve justice.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 3.

### *Key knowledge*

This knowledge includes:

- the distinction between summary offences and indictable offences
- reasons for a court hierarchy
- an overview of the criminal jurisdiction of courts in the Victorian court hierarchy
- bail, remand and committal hearings
- features of a fair trial and rights in criminal proceedings guaranteed by the Victorian Charter of Rights and Responsibilities
- overview of the adversarial nature of a criminal trial
- role of court personnel

- advice and assistance available through legal aid
- role and operation of a criminal jury.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- apply legal principles to relevant issues in criminal law
- explain the need for a court hierarchy
- identify the rights in criminal proceedings guaranteed by the Victorian Charter of Rights and Responsibilities
- explain the nature of the criminal courtroom
- discuss the capacity of criminal processes to achieve justice.

## **ASSESSMENT**

The award of satisfactory completion for a unit is based on a decision that the student has demonstrated achievement of the set of outcomes specified for the unit. This decision will be based on the teacher's assessment of the student's overall performance on assessment tasks designated for the unit.

The key knowledge and key skills listed for each outcome should be used as a guide to course design and the development of learning activities. The key knowledge and key skills do not constitute a checklist and such an approach is not necessary or desirable for determining the achievement of outcomes. The elements of key knowledge and key skills should not be assessed separately.

Assessment tasks must be a part of the regular teaching and learning program and must not unduly add to the workload associated with that program. They must be completed mainly in class and within a limited timeframe. Teachers should select a variety of assessment tasks for their assessment program to reflect the key knowledge and key skills being assessed and to provide for different learning styles.

For this unit students are required to demonstrate achievement of three outcomes. As a set these outcomes encompass all areas of study.

Demonstration of achievement of Outcomes 1, 2 and 3 must be based on the student's performance on a selection of assessment tasks. Where teachers allow students to choose between tasks they must ensure that the tasks they set are of comparable scope and demand.

Assessment tasks for this unit are selected from the following:

- structured assignment
- essay
- mock court or role-play
- folio and report
- case study
- test
- report (written, visual, oral or multimedia).

## Unit 2: Issues in civil law

The civil law regulates the rights and responsibilities that exist between individuals, groups and organisations. If legal rights have been infringed, the aggrieved party may pursue legal action through the court system, through a tribunal, or by using one of the methods of dispute resolution.

Students examine the rights that are protected by civil law, as well as obligations that laws impose. They investigate types of civil laws and related cases and issues and develop an appreciation of the role of civil law in society and how it affects them as individuals.

The unit also focuses on the resolution of civil disputes through judicial determination and alternative methods in courts, tribunals and independent bodies. Students examine these methods of dispute resolution and evaluate their effectiveness.

Individuals can influence a change in the law by taking a case to court. Students focus on cases that have had a broader impact on the legal system and on the rights of individuals. Students develop an appreciation of the role played by such cases and undertake an analysis of relevant legal issues.

### AREA OF STUDY 1

#### Civil law

Civil law protects the rights of individuals, groups and organisations in society. Such rights establish responsibilities regarding conduct. Students gain an insight into the importance of civil law in their lives and learn to distinguish between civil and criminal law. They also examine how a situation can result in both criminal and civil action. Students develop an understanding of the process of law-making by judges and courts through the operation of the doctrine of precedent and through statutory interpretation. They explore torts and their related defences. Throughout this area of study students apply civil law principles to relevant cases and issues.

#### Outcome 1

On completion of this unit the student should be able to explain the principles of civil law, law-making by courts, and elements of torts, and apply these to relevant cases.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 1.

*Key knowledge*

This knowledge includes:

- the need for civil law
- key principles of civil law
- the distinction and relationship between civil law and criminal law
- an overview of law-making through the courts
- torts, including negligence, defamation, and related defences.

*Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- research and gather information about civil cases, using print and electronic media
- discuss, interpret and analyse legal information
- describe the process of law-making through the courts, using illustrative cases
- apply civil law principles to relevant cases
- explain types of torts, their respective elements and related defences.

**AREA OF STUDY 2****The civil law in action**

When an individual, a group or an organisation feels that their civil rights have been infringed, they may seek a resolution to the problem. Students investigate the role and operation of dispute resolution bodies and the methods employed in resolving civil disputes. For those disputes that proceed to court, students examine the purpose and operation of civil pre-trial procedures and the adversarial nature of a civil trial, and evaluate the methods of dispute resolution. Students investigate available remedies and examine their effectiveness. They consider the difficulties faced by parties when attempting to resolve disputes.

**Outcome 2**

On completion of this unit the student should be able to explain and evaluate the processes for the resolution of civil disputes.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 2.

*Key knowledge*

This knowledge includes:

- the role of the court hierarchy in civil disputes
- the civil jurisdiction of courts in the Victorian court hierarchy
- methods of civil dispute resolution, including mediation, conciliation, arbitration and judicial determination
- purpose and operation of civil pre-trial procedures
- an overview of the adversarial nature of a civil trial
- civil remedies and their purpose
- difficulties faced by parties when attempting to resolve civil disputes.

### *Key skills*

These skills include the ability to

- define key legal terminology and use it appropriately
- apply legal principles to relevant civil cases and issues
- evaluate methods of dispute resolution relevant to civil cases
- explain and evaluate the procedures used by courts when resolving civil disputes
- analyse the effectiveness of civil remedies
- consider and explain difficulties faced by parties in dispute resolution.

## **AREA OF STUDY 3**

### **The law in focus**

Civil law protects a wide range of rights that exists between parties. The extent and principles of civil rights and responsibilities need to develop along with changes in society, and this creates issues for the law.

Students undertake a detailed investigation of a specific area of the law. To develop knowledge and understanding about contemporary issues in the law and their resolution, students consider one or more of the following areas of law:

- Contract law
- Family law
- Consumer protection laws
- Workplace laws
- Wills and inheritance
- Sports and the law
- Tenancy law
- Environmental law
- Any other relevant area of civil law.

### **Outcome 3**

On completion of this unit the student should be able to explain one or more area/s of civil law, and discuss the legal system's capacity to respond to issues and disputes related to the selected area/s of law.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 3.

### *Key knowledge*

This knowledge includes:

- legal principles relevant to the selected area/s of law
- a contemporary issue for the selected area/s of law
- the capacity of the legal system to respond to demands for change
- methods and institutions for resolving disputes arising under the selected area/s of law.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- research and gather information about legal cases and issues, using print and electronic media
- explain the current law and discuss related legal issues for the selected area/s of law
- discuss the ability of the law to respond to demands for change
- explain the different methods of dispute resolution to resolve legal problems.

## **AREA OF STUDY 4**

### **A question of rights**

Individuals can make an impact on the legal system in a number of ways, one of which is the pursuit of cases through the courts. In this area of study students examine an instance where an individual or group has suffered an abuse of their rights and sought redress through the court system. Students investigate an Australian case and develop an understanding of ways in which individuals can shape the law, and examine instances of people being empowered by the legal system. Students discuss the impact of this case on the legal system and the rights of individuals.

### **Outcome 4**

On completion of this unit the student should be able to describe an Australian case illustrating rights issues, and discuss the impact of the case on the legal system and the rights of individuals.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 4.

### *Key knowledge*

This knowledge includes:

- the specifics of an Australian case that illustrates rights issues and the empowerment of the people, and its impact on the legal system
  - the role of an individual or a group in launching a test case
  - the facts and issues central to the case, including the right/s in question
  - the laws that applied to the case
  - the outcome of the case and its impact on the legal system and the rights of individuals
  - conflicting attitudes in relation to the issues raised in the case.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- research and gather information about a legal case and issues, using print and electronic media
- describe the role of individuals in bringing about changes in the law through launching test cases
- discuss the impact of a test case on the rights of individuals and the legal system.

## ASSESSMENT

The award of satisfactory completion for a unit is based on a decision that the student has demonstrated achievement of the set of outcomes specified for the unit. This decision will be based on the teacher's assessment of the student's overall performance on assessment tasks designated for the unit.

The key knowledge and key skills listed for each outcome should be used as a guide to course design and the development of learning activities. The key knowledge and key skills do not constitute a checklist and such an approach is not necessary or desirable for determining the achievement of outcomes. The elements of key knowledge and key skills should not be assessed separately.

Assessment tasks must be a part of the regular teaching and learning program and must not unduly add to the workload associated with that program. They must be completed mainly in class and within a limited timeframe. Teachers should select a variety of assessment tasks for their assessment program to reflect the key knowledge and key skills being assessed and to provide for different learning styles.

For this unit students are required to demonstrate achievement of four outcomes. As a set these outcomes encompass all areas of study.

Demonstration of achievement of Outcomes 1, 2, 3 and 4 must be based on the student's performance on a selection of assessment tasks. Where teachers allow students to choose between tasks they must ensure that the tasks they set are of comparable scope and demand.

Assessment tasks for this unit are selected from the following:

- structured assignment
- essay
- mock court or role-play
- folio and report
- case study
- test
- report (written, visual, oral or multimedia).

## Unit 3: Law-making

In this unit students develop an understanding of the institutions that determine our laws, and their law-making powers and processes. They undertake an informed evaluation of the effectiveness of law-making bodies and examine the need for the law to keep up to date with changes in society.

Students develop an appreciation of the complex nature of law-making by investigating the key features and operation of parliament, and influences on law-making, with a focus on the role of the individual.

Central to the investigation of law-making is the role played by the Commonwealth Constitution. Students develop an understanding of the importance of the Constitution in their lives and on society as a whole, and undertake a comparative analysis with another country. They learn of the importance of the role played by the High Court of Australia in interpreting and enforcing the Constitution, and ensuring that parliaments do not act outside their areas of power nor infringe protected rights.

Students investigate the nature and importance of courts as law-makers and undertake an evaluation of their effectiveness as law-making bodies. They also investigate the relationships that exist between parliaments and courts.

Throughout this unit, students examine relevant cases to support their learning and apply legal principles to these cases.

### AREA OF STUDY 1

#### Parliament and the citizen

Parliaments are the supreme law-making bodies in the Australian legal system; their role is to make laws that reflect the views and values of Australian society. This area of study focuses on the principles that underpin the Australian parliamentary system as well as an investigation of parliament as a law-making body. Students explore the factors that may influence parliament in bringing about changes in the law by examining the role that individuals and groups may play. Through an investigation of the structure and role of parliament, and the processes it follows in passing legislation, students evaluate the overall effectiveness of parliament as a law-making body.

#### Outcome 1

On completion of this unit the student should be able to explain the structure and role of parliament, including its processes and effectiveness as a law-making body, describe why legal change is needed, and the means by which such change can be influenced.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 1.

### *Key knowledge*

This knowledge includes:

- principles of the Australian parliamentary system: representative government, responsible government, and the separation of powers
- the structure of the Victorian Parliament and the Commonwealth Parliament and the roles played by the Crown and the Houses of Parliament in law-making
- the reasons why laws may need to change
- the role of the Victorian Law Reform Commission
- the means by which individuals and groups influence legislative change, including petitions, demonstrations and use of the media
- the legislative process for the progress of a bill through parliament
- strengths and weaknesses of parliament as a law-making body.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information and data
- explain the principles and structures of the Australian parliamentary system
- use contemporary examples to explain the influences on legislative change
- evaluate the effectiveness of methods used by individuals and groups to influence change in the law
- critically evaluate the law-making processes of parliament.

## **AREA OF STUDY 2**

### **The Constitution and the protection of rights**

In this area of study students investigate the role of the Commonwealth Constitution in establishing and restricting the law-making powers of State and Commonwealth Parliaments. Students examine how these law-making powers can be changed and analyse the impact of these methods. They investigate the role of the High Court with respect to law-making powers and the protection of rights contained in the Constitution. Students explore the means by which the Commonwealth Constitution protects rights in Australia and develop an awareness of the rights and responsibilities of Australian citizens. They engage in a comparison of the constitutional approach used to protect their rights in Australia with that of another country, raising their awareness of an alternative model for the protection of rights.

### **Outcome 2**

On completion of this unit the student should be able to explain the role of the Commonwealth Constitution in defining law-making powers within a federal structure, analyse the means by which law-making powers may change, and evaluate the effectiveness of the Commonwealth Constitution in protecting human rights.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 2.

### *Key knowledge*

This knowledge includes:

- the division of law-making power between state and Commonwealth parliaments under the Commonwealth Constitution, including specific (concurrent and exclusive) and residual powers, and the impact of Section 109
- restrictions imposed by the Commonwealth Constitution on the law-making powers of the state and Commonwealth parliaments
- the process of change by referendum under Section 128 of the Commonwealth Constitution and factors affecting its likely success
- the way in which one successful referendum changed the division of law-making powers
- the role of the High Court in interpreting the Commonwealth Constitution
- the significance of two High Court cases involving the interpretation of the Commonwealth Constitution in terms of their impact on the law-making power of the state and Commonwealth parliaments
- the capacity of the states to refer law-making power to the Commonwealth Parliament
- the means by which the Commonwealth Constitution protects rights, including structural protection, express rights, and implied rights
- the significance of one High Court case relating to the constitutional protection of rights in Australia
- Australia's constitutional approach to the protection of rights and the approach adopted in one of the following countries: Canada, New Zealand, South Africa, or the United States of America.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information and data
- apply legal principles to relevant cases and issues
- explain the role of the Commonwealth Constitution with respect to law-making powers and the protection of rights
- identify the types of law-making powers
- explain the methods and processes of changing constitutional power
- analyse the impact of referendums, High Court interpretation of the Constitution, and the referral of powers on the division of law-making powers
- evaluate the means by which rights of Australians are protected by the Commonwealth Constitution, and the extent of this protection
- compare the approach used to protect rights in a selected country with the approach used in Australia.

## **AREA OF STUDY 3**

### **Role of the courts in law-making**

In this area of study students develop an understanding of the role that courts play in developing the law. Students investigate the doctrine of precedent and statutory interpretation and consider their operation and effect. They evaluate the effectiveness of courts as a law-making body. Using relevant cases, students explore the relationships between courts and parliament in law-making.

**Outcome 3**

On completion of this unit the student should be able to describe the role and operation of courts in law-making, evaluate their effectiveness as law-making bodies and discuss their relationship with parliament.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 3.

**Key knowledge**

This knowledge includes:

- the ability of judges and courts to make law
- the operation of the doctrine of precedent
- reasons for interpretation of statutes by judges
- effects of statutory interpretation by judges
- strengths and weaknesses of law-making through the courts
- the relationship between courts and parliament in law-making.

**Key skills**

These skills include the ability to:

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information
- apply legal principles to relevant cases and issues
- describe the nature, importance and operation of courts as law-makers
- analyse the impact of courts in law-making
- critically evaluate the law-making processes of courts
- discuss the relationships between law-making bodies.

**ASSESSMENT**

The award of satisfactory completion for a unit is based on a decision that the student has demonstrated achievement of the set of outcomes specified for the unit. This decision will be based on the teacher's assessment of the student's overall performance on assessment tasks designated for the unit. The Victorian Curriculum and Assessment Authority publishes online an assessment handbook for this study that includes advice on the assessment tasks and performance descriptors for assessment.

The key knowledge and key skills listed for each outcome should be used as a guide to course design and the development of learning activities. The key knowledge and key skills do not constitute a checklist and such an approach is not necessary or desirable for determining the achievement of outcomes. The elements of key knowledge and key skills should not be assessed separately.

**Assessment of levels of achievement**

The student's level of achievement in Unit 3 will be determined by School-assessed Coursework and an end-of-year examination.

*Contribution to final assessment*

School-assessed Coursework for Unit 3 will contribute 25 per cent.

The level of achievement for Units 3 and 4 is also assessed by an end-of-year examination, which will contribute 50 per cent.

**School-assessed Coursework**

Teachers will provide to the Victorian Curriculum and Assessment Authority a score representing an assessment of the student's level of achievement.

The score must be based on the teacher's rating of performance of each student on the tasks set out in the following table and in accordance with the assessment handbook published online by the Victorian Curriculum and Assessment Authority. The assessment handbook also includes advice on the assessment tasks and performance descriptors for assessment.

Assessment tasks must be a part of the regular teaching and learning program and must not unduly add to the workload associated with that program. They must be completed mainly in class and within a limited timeframe. Where teachers provide a range of options for the same assessment task, they should ensure that the options are of comparable scope and demand. Teachers should select a variety of assessment tasks for their program to reflect the key knowledge and key skills being assessed and to provide for different learning styles.

Outcomes	Marks allocated*	Assessment tasks
<p><b>Outcome 1</b> Explain the structure and role of parliament, including its processes and effectiveness as a law-making body, describe why legal change is needed, and the means by which such change can be influenced.</p>	25	<p>The student's performance on each outcome will be assessed using one or more of the following:</p> <ul style="list-style-type: none"> <li>• A case study</li> <li>• Structured questions</li> <li>• A test</li> <li>• An essay</li> <li>• A report in written format</li> <li>• A report in multimedia format</li> <li>• A folio of exercises.</li> </ul>
<p><b>Outcome 2</b> Explain the role of the Commonwealth Constitution in defining law-making powers within a federal structure, analyse the means by which law-making powers may change, and evaluate the effectiveness of the Commonwealth Constitution in protecting human rights.</p>	50	
<p><b>Outcome 3</b> Describe the role and operation of courts in law-making, evaluate their effectiveness as law-making bodies and discuss their relationship with parliament.</p>	25	
<b>Total marks</b>	<b>100</b>	

\*School-assessed Coursework for Unit 3 contributes 25 per cent.

## Unit 4: Resolution and justice

The legal system provides mechanisms by which legal disputes of both a criminal and a civil nature can be resolved in a fair and just manner. Dispute resolution bodies such as courts and tribunals employ a range of means and processes that enables the resolution of legal disputes.

Students examine the institutions that adjudicate criminal cases and civil disputes. They also investigate methods of dispute resolution that can be used as an alternative to civil litigation. Students investigate the processes and procedures followed in courtrooms and develop an understanding of the adversary system of trial and the jury system, as well as pre-trial and post-trial procedures that operate in the Victorian legal system. Using the elements of an effective legal system, students consider the extent to which court processes and procedures contribute to the effective operation of the legal system. They also consider reforms or changes that could further improve its effective operation.

Throughout this unit, students examine current or recent cases to support their learning, and apply legal principles to these illustrative cases.

### **AREA OF STUDY 1**

#### **Dispute resolution methods**

There is a range of methods by which legal disputes can be resolved. Criminal cases are determined through the courts, whereas civil disputes can be resolved through a range of methods in courts and tribunals. Students investigate the jurisdictions of selected courts in the Victorian court hierarchy, and develop an understanding of the need for a hierarchy of courts. They examine the methods of dispute resolution used by courts and the Victorian Civil and Administrative Tribunal (VCAT) as a means of resolving civil disputes, and the way the institutions operate to resolve the disputes. Throughout their investigation, students compare and evaluate the operation of these dispute resolution methods.

#### **Outcome 1**

On completion of this unit the student should be able to describe and evaluate the effectiveness of institutions and methods for the determination of criminal cases and the resolution of civil disputes.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 1.

### *Key knowledge*

This knowledge includes:

- the reasons for a court hierarchy
- original and appellate jurisdictions of the Victorian Magistrates' Court, County Court, and Supreme Court (Trial Division and Court of Appeal)
- the role of VCAT
- dispute resolution methods used by courts and VCAT, including mediation, conciliation, arbitration and judicial determination
- strengths and weaknesses of dispute resolution methods used by courts and VCAT
- strengths and weaknesses of the way courts and VCAT operate to resolve disputes.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information
- justify the existence of a court hierarchy in Victoria
- describe the jurisdiction of specific courts within the Victorian court hierarchy
- compare and evaluate the strengths and weaknesses of dispute resolution methods and the way courts and VCAT operate to resolve disputes.

## **AREA OF STUDY 2**

### **Court processes and procedures, and engaging in justice**

Dispute resolution through courts operating under the adversary system of trial is characterised by formal processes and procedures that must be adhered to by all parties involved with the case. Students investigate the major features of the adversary system of trial, and aided by a comparison with the inquisitorial system of trial, evaluate the adversarial approach to dispute resolution. They also examine criminal and civil pre-trial and post-trial procedures. Students investigate the role of criminal and civil juries, consider their strengths and weaknesses, and suggest reforms and alternatives applicable to the current jury system.

Throughout their investigation of court processes and procedures, students assess the extent to which these processes contribute to an effective legal system.

### **Outcome 2**

On completion of this unit the student should be able to explain the processes and procedures for the resolution of criminal cases and civil disputes, and evaluate their operation and application, and evaluate the effectiveness of the legal system.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 2.

### *Key knowledge*

This knowledge includes:

- the elements of an effective legal system: entitlement to a fair and unbiased hearing, effective access to the legal system and timely resolution of disputes

- major features of the adversary system of trial, including the role of the parties, the role of the judge, the need for the rules of evidence and procedure, standard and burden of proof and the need for legal representation
- strengths and weaknesses of the adversary system of trial
- major features of the inquisitorial system of trial
- possible reforms to the adversary system of trial
- criminal pre-trial procedures and their purposes, including bail and remand and committal hearings
- general purposes of criminal sanctions
- an overview of three types of sanctions and their specific purpose
- Supreme Court civil pre-trial procedures, including pleadings, discovery and directions hearings, and the purposes of these procedures
- the purpose of civil remedies
- types of civil remedies, including damages and injunctions
- the role of juries, and factors that influence their composition
- strengths and weaknesses of the jury system
- reforms and alternatives to the jury system
- problems and difficulties faced by individuals in using the legal system
- recent changes and recommendations for change in the legal system designed to enhance its effective operation.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information
- apply legal principles to relevant cases and issues
- critically evaluate the adversary system of trial
- compare the operation and features of the adversary system with the inquisitorial system
- describe the pre-trial procedures for the resolution of criminal cases and civil disputes, and compare their relative purposes
- discuss the ability of criminal sanctions and civil remedies to achieve their purposes
- critically evaluate the effectiveness of juries
- suggest and discuss reforms and alternatives to the adversary system and the jury system
- evaluate the extent to which court processes and procedures contribute to an effective legal system.

## **ASSESSMENT**

The award of satisfactory completion for a unit is based on a decision that the student has demonstrated achievement of the set of outcomes specified for the unit. This decision will be based on the teacher's assessment of the student's overall performance on assessment tasks designated for the unit. The Victorian Curriculum and Assessment Authority publishes online an assessment handbook for this study that includes advice on the assessment tasks and performance descriptors for assessment.

The key knowledge and key skills listed for each outcome should be used as a guide to course design and the development of learning activities. The key knowledge and key skills do not constitute a checklist and such an approach is not necessary or desirable for determining the achievement of outcomes. The elements of key knowledge and key skills should not be assessed separately.

### Assessment of levels of achievement

The student's level of achievement for Unit 4 will be determined by School-assessed Coursework and an end-of-year examination.

#### *Contribution to final assessment*

School-assessed Coursework for Unit 4 will contribute 25 per cent.

The level of achievement for Units 3 and 4 is also assessed by an end-of-year examination, which will contribute 50 per cent.

### School-assessed Coursework

Teachers will provide to the Victorian Curriculum and Assessment Authority a score representing an assessment of the student's level of achievement.

The score must be based on the teacher's rating of performance of each student on the tasks set out in the following table and in accordance with the assessment handbook published online by the Victorian Curriculum and Assessment Authority. The assessment handbook also includes advice on the assessment tasks and performance descriptors for assessment.

Assessment tasks must be a part of the regular teaching and learning program and must not unduly add to the workload associated with that program. They must be completed mainly in class and within a limited timeframe. Where teachers provide a range of options for the same assessment task, they should ensure that the options are of comparable scope and demand. Teachers should select a variety of assessment tasks for their program to reflect the key knowledge and key skills being assessed and to provide for different learning styles.

Outcomes	Marks allocated*	Assessment tasks
<p><b>Outcome 1</b> Describe and evaluate the effectiveness of institutions and methods for the determination of criminal cases and the resolution of civil disputes.</p>	40	<p>The student's performance on each outcome will be assessed using one or more of the following:</p> <ul style="list-style-type: none"> <li>• A case study</li> <li>• Structured questions</li> </ul>
<p><b>Outcome 2</b> Explain the processes and procedures for the resolution of criminal cases and civil disputes, and evaluate their operation and application, and evaluate the effectiveness of the legal system.</p>	60	<ul style="list-style-type: none"> <li>• A test</li> <li>• An essay</li> <li>• A report in written format</li> <li>• A report in multimedia format</li> <li>• A folio of exercises.</li> </ul>
<b>Total marks</b>	<b>100</b>	

\*School-assessed Coursework for Unit 4 contributes 25 per cent.

**End-of-year examination****Description**

The examination will be set by a panel appointed by the Victorian Curriculum and Assessment Authority. All the key knowledge and key skills that underpin the outcomes in Units 3 and 4 are examinable.

**Conditions**

The examination will be completed under the following conditions:

- Duration: two hours.
- Date: end-of-year, on a date to be published annually by the Victorian Curriculum and Assessment Authority.
- Victorian Curriculum and Assessment Authority examination rules will apply. Details of these rules are published annually in the *VCE and VCAL Administrative Handbook*.
- The examination will be marked by assessors appointed by the Victorian Curriculum and Assessment Authority.

**Contribution to final assessment**

The examination will contribute 50 per cent.

**Further advice**

The Victorian Curriculum and Assessment Authority publishes specifications for all VCE examinations on the Victorian Curriculum and Assessment Authority website. Examination specifications include details about the sections of the examination, their weighting, the question format/s and any other essential information. The specifications are published in the first year of implementation of the revised Units 3 and 4 sequence together with any sample material.

# Advice for teachers

## **DEVELOPING A COURSE**

A course outlines the nature and sequence of teaching and learning necessary for students to demonstrate achievement of the set of outcomes for a unit. The areas of study broadly describe the learning context and the knowledge required for the demonstration of each outcome. Outcomes are introduced by summary statements and are followed by the key knowledge and key skills which relate to the outcomes.

Teachers must develop courses that include appropriate learning activities to enable students to develop the key knowledge and key skills identified in the outcome statements in each unit.

Units 1 and 2 Legal Studies provides students with an introduction to our legal system and the need for and nature of laws in society. Students then go on to develop an understanding of our two main areas of law: criminal law and civil law. Through the investigation of one Australian case, students also engage in a discussion about our law-makers, including courts and key individuals or groups, that have shaped our legal system.

For Units 1 and 2, teachers must select assessment tasks from the list provided. Tasks should provide a variety and the mix of tasks should reflect the fact that different types of tasks suit different knowledge and skills and different learning styles. Tasks do not have to be lengthy to make a decision about student demonstration of achievement of an outcome.

Units 3 and 4 Legal Studies examine the processes of law-making, dispute resolution and the administration of justice in Australia. Students are encouraged to consider the complexity of the legal system and to develop informed judgments about their effectiveness. In Units 3 and 4, assessment is more structured. For some outcomes, or aspects of an outcome, the assessment tasks are prescribed. The contribution that each outcome makes to the total score for School-assessed Coursework is also stipulated.

Throughout Units 3 and 4, teachers need to ensure students are developing their ability to explain, analyse, and evaluate the content covered. The use of lists and dot points in the revision process is a valuable learning tool; however, students need to develop these points further into coherent and substantiated explanations.

Access to news articles and related media can help to support understanding of a variety of issues related to these units and provide examples which demonstrate a clear understanding of the concepts. The use of flowcharts and concept maps may assist students in learning relevant processes and in understanding the relationship between legal concepts. Glossaries and tables are also a valuable

way in which students can organise the content covered throughout the units. Easy reference to key information and terminology may help students follow class discussion and revise fundamental elements of the course.

Wherever possible and appropriate throughout the study of Legal Studies, teachers should provide students with the opportunity to develop and use effective methods of legal enquiry and research. The use of relevant cases and legislation may assist students in their understanding of the theory by providing practical examples. Students should be given the opportunity to apply their understanding to case studies or contemporary issues.

### Unit 1 Criminal law in action

All units in the VCE are constructed on the basis of 50 hours of class contact time with students. Consistent with this, the following time allocation is suggested for each area of study in Unit 1.

Area of study	Suggested time allocation (hours)
1. Law in society	10
2. Criminal law	24
3. The criminal courtroom	16

#### Area of Study 1: Law in society

Students are introduced to the nature of laws in our society through a discussion of the need for laws, the differences between legal and non-legal rules, and the distinction between criminal law and civil law. Students consider the characteristics which make a law effective, and are expected to apply this knowledge to selected laws to consider their effectiveness. Students are then introduced to the role of parliament and subordinate authorities in law-making. A detailed study is not expected at this stage, with an emphasis on the word ‘overview’ in the key knowledge.

In this area of study, students should be able to use and define legal terminology. They are encouraged to maintain a glossary of legal terms throughout the remainder of the course. Students should also begin collecting newspaper and media clippings of relevant legal issues, as well as maintain a record of relevant websites of key legal bodies. The Commonwealth Parliament website ([www.aph.gov.au](http://www.aph.gov.au)) and the Victorian Parliament website ([www.parliament.vic.gov.au](http://www.parliament.vic.gov.au)) are excellent resources for this area of study.

#### Area of Study 2: Criminal law

Area of Study 2 begins with a study of principles of criminal liability. This provides the framework for students’ investigation of criminal law. Students are expected to study crimes against the person and property, and related defences that could be used. The key knowledge is not prescriptive in this area; therefore, teachers should determine which crimes to study based on their students’ interests.

Students consider the role of police in the investigation of a crime, including rights and responsibilities in dealing with police, before developing an understanding of the aims and types of criminal sanctions. Students study the sentencing approaches used in Victoria in comparison with one international jurisdiction of their choice, before engaging in a discussion about the impact crime has on individuals and society, and compensation alternatives for victims of crime (such as taking civil action or making an application through the Victims of Crime Assistance Tribunal – VOCAT).

In this area of study, students develop further skills, particularly in the application of legal principles to relevant criminal cases and issues. Students should apply their understanding of the principles of criminal law to these cases. This area of study also focuses on students’ ability to compare approaches

in Victoria to those of an international jurisdiction through the discussion of sentencing approaches. One possible sentence they could consider is capital punishment, which continues to be used in some parts of America and Japan.

### Area of Study 3: The criminal courtroom

This area of study focuses on the use and nature of courts to adjudicate criminal cases. Students should be provided first with the structure of the Commonwealth and Victorian court hierarchy. Students should then develop an understanding of the distinction between summary offences and indictable offences, and examples of each type of offence. A discussion of the criminal jurisdiction of the Magistrates', County and Supreme Courts of Victoria should then eventuate.

Students then engage in a discussion of pre-trial procedures before developing an understanding of the nature of our courtroom in hearing criminal cases. Students examine the Victorian Charter of Rights and Responsibilities to identify features and rights which are guaranteed in a criminal proceeding. They then look at an overview of trial procedures and systems.

Students continue to develop their skills in application by applying key features of the Victorian Charter of Rights and Responsibilities, the adversary system and the jury system to real cases or scenarios. A trip to one of the courts is also a useful exercise in this area of study. Useful websites include Victoria Legal Aid ([www.legaid.vic.gov.au](http://www.legaid.vic.gov.au)) and the Equal Opportunity Commission ([www.equalopportunitycommission.com.au](http://www.equalopportunitycommission.com.au)), which has a page on the Victorian Charter. A useful case in the consideration of fairness of relevant trials includes *Dietrich v. The Queen* (1992) 177 CLR 292.

### Unit 2: Issues in civil law

All units in the VCE are constructed on the basis of 50 hours of class contact time with students. Consistent with this, the following time allocation is suggested for each area of study in Unit 2.

Area of study	Suggested time allocation (hours)
1. Civil law	11
2. The civil law in action	15
3. The law in focus	14
4. A question of rights	10

### Area of Study 1: Civil law

Students begin this area of study with a refresher on the distinction between criminal and civil law (and an introduction for those who did not do Unit 1). Students then consider the need for and key principles of civil laws.

At this stage it will be necessary to review the nature of the Commonwealth and Victorian court hierarchy before commencing a study of court-made law. Both doctrine of precedent and statutory interpretation should be studied. This will lead into a study of torts: negligence and defamation are specifically identified in the key knowledge. This will enable students to develop their understanding of torts, particularly negligence, which was developed extensively through doctrine of precedent.

It is recommended that students continue with their media folio, with a focus on clippings about civil cases. An important reminder to students in this area is not to confuse elements and terminology used in criminal law and civil law. Also important in this area is to assist students in identifying which case is of a civil nature, and which is of a criminal nature.

**Area of Study 2: The civil law in action**

This area of study examines the methods and bodies that exist to resolve civil disputes. Students review the court hierarchy before developing an understanding of the civil jurisdiction of the Magistrates', County and Supreme Courts of Victoria. Students should look at both original and appellate jurisdiction. Students then study the methods of dispute resolution in order to compare and evaluate these methods to consider how particular civil disputes are best resolved.

Students then consider civil pre-trial procedures. Although the key knowledge is not prescriptive in this area, students could look at procedures such as statement of claim, pleadings, discovery and directions hearings. Students examine trial procedures, particularly remedies such as damages and injunction, and the difficulties that could be faced by an individual, company or group when trying to solve a civil dispute. Such difficulties may include cost, language barriers, and use of legal jargon.

In this area of study, students are expected to start developing their evaluative skills, particularly when considering methods of dispute resolution and the use of courts in adjudicating civil disputes. They are also expected to start using their problem-solving skills, particularly in suggesting solutions that could be used to overcome some difficulties faced by individuals when using the legal system. They should continue to maintain their media folio, as well as explore key websites such as that of the Victorian Civil and Administrative Tribunal (VCAT) ([www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)).

**Area of Study 3: The law in focus**

This area of study allows students to explore in great depth one particular area of civil law. The key knowledge provides students with some guidelines as to which area they could focus on.

Upon selecting their chosen area of civil law, students investigate and research the legal principles relevant to the selected area of law. While developing their understanding of the current law in this area, students consider one contemporary issue that exists in relation to that law, and whether or not that law has the capacity to deal with change to respond to this contemporary issue. Students develop an understanding of the methods and institutions that exist for resolving disputes in this area of law. They should draw on their knowledge from Areas of Study 1 and 2 about courts and methods of dispute resolution to assist them with this.

At least one area of law should be examined; therefore, if students have enough time a second area of law could be studied. Students are encouraged to continue developing research and application skills in this area of study.

**Area of Study 4: A question of rights**

This area of study allows students to examine one individual or group who have suffered an abuse of their rights and sought to restore these rights through our courts. Students choose one test case which illustrates the way people are empowered by the legal system by bringing a case to court.

This area of study requires more than a mere description of the individual, or the facts of the case. Students should develop a deep understanding of what rights were in question, and how the courts sought to redress these rights. An analysis of the impact this case had on our legal system is also required.

Appropriate cases include;

- *Mabo v. Queensland (No. 2)* (Mabo) (1992) 175 CLR 1
- *Wik Peoples v. State of Queensland* (1996) 187 CLR 1
- *Dietrich v. The Queen* (1992) 177 CLR 292
- *Roach v. Electoral Commissioner* (2007) 233 CLR 162
- *Lange v. Australian Broadcasting Corporation* (1997) 189 CLR 520

- *Tuckiar v. R* (1934) 52 CLR 335
- *Croome v. State of Tasmania* (1997) 191 CLR 119
- *R v. L* (1992) 174 CLR 379

### Unit 3 Law-making

All units in the VCE are constructed on the basis of 50 hours of class contact time with students. Consistent with this, the following time allocation is suggested for each area of study in Unit 3.

Area of study	Suggested time allocation (hours)
1. Parliament and the citizen	13
2. The Constitution and the protection of rights	25
3. Role of the courts in law making	12

#### Area of Study 1: Parliament and the citizen

In this area of study students are introduced to the principles that underpin the Australian parliamentary system, the legislative process and the ways in which individuals and groups can influence a change in the law. The principles that underpin the Australian parliamentary system are listed in the key knowledge as: representative government, responsible government and the separation of powers. Students look at the structure of both the Victorian Parliament and the Commonwealth Parliament. Students should consider the role played by the Crown and the Houses of Parliament in relation to law-making.

Throughout this area of study students are expected to use contemporary examples to explain influences on the legislative process. Students can be expected to provide recent examples to illustrate how individuals and groups use petitions, demonstrations and the media to influence a change in the law. Students should be encouraged to maintain a media file of newspaper or magazine articles on legal issues. Students are also expected to study the role of the Victorian Law Reform Commission. Excellent resources on the work of the Victorian Law Reform Commission can be located on the webpage: [www.lawreform.vic.gov.au](http://www.lawreform.vic.gov.au).

#### Area of Study 2: The Constitution and the protection of rights

In Area of Study 2 students investigate the role of the Commonwealth Constitution in establishing and restricting the law-making powers of State and Commonwealth parliaments. Students are expected to be able to describe the law-making powers of the Commonwealth Parliament and should be familiar with specific (concurrent and exclusive) and residual powers, and Section 109. Students should be able to give examples of restrictions on law-making powers of the State and Commonwealth parliaments.

Students analyse the impact of referendum on the division of law-making powers. Students should be able to discuss one successful referendum that has changed the law-making powers of the Commonwealth. It is important to note that not all of the successful referendums altered the division of law-making powers. Students may require some guidance in selecting a referendum – the 1946 and 1967 referendums are excellent examples for this study.

The key knowledge includes three ways in which the Constitution protects human rights – structural protection, expressed rights, implied rights.

Structural protection is the systems or mechanisms in the Commonwealth Constitution that indirectly protect human rights by preventing the abuse of power, such as the separation of powers or representative government. Structural protection reflects the fact that there are checks and balances built into the Constitution, which prevent power being abused and therefore protects human rights. An example of a structural protection is the recognition of the limited right to vote in *Roach v. Electoral Commissioner* (2007).

Students investigate the significance of one High Court case relating to the constitutional protection of rights. This investigation requires more than a description of the facts of the case; students need to be able to state how the case contributed to our understanding of the constitutional protection of a right. Appropriate cases include:

*Cole v. Whitfield* (1988)

*Nationwide News Pty Ltd v. Wills* (1992)

*AMS v. AIF* (1999)

*Attorney General (Vic); ex rel Black v. Commonwealth* (1981)

*Re Loubie* (1986)

*Australian Capital Television Pty Ltd v. Commonwealth* [No. 2] (1992) – Political Advertising Case

*Lange v. Australian Broadcasting Corporation* (1997)

*Roach v. Electoral Commissioner* (2007)

### Area of Study 3: Role of the courts in law-making

An understanding of the doctrine of precedent requires a discussion of the doctrine of stare decisis; that is, that the courts will stand by what has already been decided in higher courts. At this stage it may be necessary to give students an overview of the Victorian court hierarchy. In a discussion of the hierarchy, it should be explained that not all courts have the power to establish new laws. Only courts of record – those courts in which the decisions are formally recorded and written in law reports – formulate precedent.

A discussion of precedent requires students to use specific legal terminology. Students should be familiar with the terms binding precedent and persuasive precedent as well as understand the role of distinguishing, reversing, overruling and disapproving in the development of legal principles. The use of case studies provides students with the opportunity to see how the doctrine of precedent and statutory interpretation operates. Appropriate cases include:

*Donoghue v. Stevenson* (1932)

*Deing v. Tarola* (1993)

*McKenzie v. Stratton* (1971)

Throughout this area of study students should refer to case studies as examples of how the processes of precedent and statutory interpretation are used by the courts. Students should use a case study to describe the relationship between parliament and the courts in law-making. Appropriate case studies include:

*State Insurance Commission v. Trigwell* (1979)

*R v. Davidson* (1969)

*Mabo v. Queensland* (1992)

### Unit 4 Resolution and justice

All units in the VCE are constructed on the basis of 50 hours of class contact time with students. Consistent with this, the following time allocation is suggested for each area of study in Unit 4.

Area of study	Suggested time allocation (hours)
1. Dispute resolution methods	15
2. Court processes and procedures, and engaging in justice	35

**Area of Study 1: Dispute resolution methods**

This area of study examines the range of methods by which legal disputes can be resolved and the institutions for disputes resolution. Teachers who have students who have not studied Units 1 and 2 Legal Studies should outline the difference between a criminal and civil dispute as an introduction to this topic.

Students examine the reasons for a court hierarchy and look at the original and appellate jurisdiction of selected courts. It is important to note that the Supreme Court consists of the Trial Division and Court of Appeal. An excursion to the courts is useful at this stage so that students can visualise the operation of courts.

Students look at the role of the Victorian Civil and Administrative Tribunal (VCAT) in resolving disputes. This study should include a discussion of the range of disputes that can be resolved by VCAT as well as the methods used to resolve disputes. Although students are not required to know the detailed jurisdictions of specific lists, teachers may look at the operation of a list as an example of the role of VCAT.

Students look at a variety of methods that can be used by courts and VCAT to resolve disputes. The methods for dispute settlement that should be discussed are mediation, conciliation, arbitration and judicial determination. It is important to note the use of mediation, conciliation and arbitration both within courts and VCAT. Students should be able to evaluate the strengths and weaknesses of different methods of dispute resolution and institutions.

**Area of Study 2: Court processes and procedures, and engaging in justice**

Area of Study 2 covers a range of processes and procedures. Outcome 2 contributes 60 marks to the knowledge and skills developed in this area. This weighting should be reflected in the class time allocated to the area of study.

The key knowledge and key skills indicate the depth of study required. For instance the features of the adversary trial have been clearly identified. These features can be used as the points of comparison with the inquisitorial system. Criminal pre-trial and civil pre-trial have been listed in the key knowledge.

This area of study requires students to undertake an evaluation of the effectiveness of the processes and procedures studied. Students need to consider the strengths and weaknesses of the adversary trial and the jury system. The elements of an effective legal system can be used as the criteria for measuring the operation of these legal processes and procedures.

Students are also expected to look at recent changes and proposed changes to enhance the effectiveness of the legal system. A proposed change is a change that is being discussed in the community. If students maintained a media file from the start of the year, they will have a number of possible examples to draw upon.

**SUITABLE RESOURCES**

Courses must be developed within the framework of the study design: the areas of study, outcome statements, and key knowledge and key skills.

A list of suitable resources for this study has been compiled and is available via the Legal Studies study page on the Victorian Curriculum and Assessment Authority website: [www.vcaa.vic.edu.au/vce/studies/index.html](http://www.vcaa.vic.edu.au/vce/studies/index.html)

## VICTORIAN ESSENTIAL LEARNING STANDARDS (VELS)

The VCE Legal Studies study design is an interdisciplinary study which builds on the knowledge and skills developed in the VELS domains of Civics and Citizenship, English, Interpersonal Development, Personal Learning, Communication, Thinking Processes and Information and Communications Technology. The key links are as follows:

- In the Civics and Citizenship domain students develop the knowledge of the principles and practices that underpin civic institutions and civic life in communities and societies. Students explore concepts of democracy and the key features of the Australian democracy and other democracies. They develop knowledge and understanding of the origins and key features of the Australian legal systems. They learn about the principles and values which underpin Australian democracy, such as equality before the law, freedom of speech, democratic representation, accountability of government, social justice and respect for others. They develop skills and behaviours to participate in society and to take responsible action in relation to other citizens at a local and broader level.
- In the Interpersonal Development domain students develop their skills of building positive social relationships, working and learning in teams, managing and resolving conflicts.
- In the Personal Learning domain students develop their skills of acquiring self knowledge and dispositions which support learning, can learn with peers, including by seeking and responding appropriately to feedback, increasingly manage their own learning and growth, including by setting goals and managing resources to achieve these.
- In the Communication domain students develop skills of listening, viewing and responding and presenting.
- In the Thinking Processes domain students continue to develop their skills in reasoning, processing and inquiry, creativity and reflection, evaluation and metacognition.
- In the Information and Communications Technology (ICT) domain students continue to develop new thinking and learning skills that produce creative and innovative insights, create information products that demonstrate their understanding of concepts, issues, relationships and processes, understand the implications of the use of ICT and their social and ethical responsibilities as users of ICT.

## EMPLOYABILITY SKILLS

Units 1 to 4 of the Legal Studies study provide students with the opportunity to engage in a range of learning activities. In addition to demonstrating their understanding and mastery of the content and skills specific to the study, students may also develop employability skills through their learning activities.

The nationally agreed employability skills\* are: Communication; Planning and organising; Teamwork; Problem solving; Self-management; Initiative and enterprise; Technology; and Learning.

Each employability skill contains a number of facets that have a broad coverage of all employment contexts and are designed to describe all employees. The table below links those facets that may be understood and applied in a school or non-employment related setting, to the types of assessment commonly undertaken within the VCE study.

\*The employability skills are derived from the Employability Skills Framework (*Employability Skills for the Future*, 2002), developed by the Australian Chamber of Commerce and Industry and the Business Council of Australia, and published by the (former) Commonwealth Department of Education, Science and Training.

Assessment task	Employability skills: selected facets
<b>Structured assignment/questions/essay</b>	<p><b>Communication</b> (reading independently; writing to the needs of the audience)</p> <p><b>Planning and organising</b> (collecting, analysing and organising information)</p> <p><b>Problem solving</b> (testing assumptions taking the context of data and circumstances into account)</p>
<b>Mock court or role-play</b>	<p><b>Communication</b> (reading independently; writing to the needs of the audience)</p> <p><b>Planning and organising</b> (collecting, analysing and organising information)</p> <p><b>Problem solving</b> (using mathematics to solve problems)</p> <p><b>Team work</b> (working as an individual and as a member of a team; knowing how to define a role as part of the team)</p>
<b>Folio and report</b>	<p><b>Communication</b> (listening and understanding; reading independently; writing to the needs of the audience; persuading effectively)</p> <p><b>Problem solving</b> (testing assumptions taking the context of data and circumstances into account)</p> <p><b>Planning and organising</b> (planning the use of resources including time management; weighing up risk, evaluating alternatives and applying evaluation criteria)</p>
<b>Case study</b>	<p><b>Communication</b> (sharing information; speaking clearly and directly)</p> <p><b>Planning and organising</b> (collecting, analysing and organising information)</p> <p><b>Problem solving</b> (testing assumptions taking the context of data and circumstances into account)</p>
<b>Report (oral/written/visual)</b>	<p><b>Communication</b> (sharing information; speaking clearly and directly; writing to the needs of the audience; using numeracy)</p> <p><b>Planning and organising</b> (collecting, analysing and organising information)</p> <p><b>Technology</b> (using IT to organise data)</p>
<b>Test</b>	<p><b>Communication</b> (writing to the needs of the audience)</p> <p><b>Problem solving</b> (using mathematics to solve problems)</p>

## LEARNING ACTIVITIES

Examples of learning activities for each unit are provided in the following sections. Shaded examples are explained in detail in accompanying shaded boxes.

## Unit 1: Criminal law in action

### AREA OF STUDY 1: Law in society

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#### Outcome 1

Explain the need for effective laws and describe the main sources and types of law in society.

#### Examples of learning activities

develop a glossary of key terms to be used throughout the unit

maintain a media file on laws, legal issues and law-makers

present a role-play on different scenarios, demonstrating legal and non-legal rules

brainstorm and complete a mind map on the need for laws

present different legal scenarios and identify whether the scenarios fall within criminal law or civil law

in groups, brainstorm what laws should exist on a remote island with survivors of a plane crash

access a variety of articles on law cases and identify whether they are reporting on a crime or a civil dispute

construct a wall chart or poster outlining the structure of the Victorian Parliament and the Commonwealth Parliament

arrange an excursion to the Victorian Parliament, or organise a Member of Parliament to attend class to speak to the students about the role of parliament

watch a DVD or video showing the role of parliament and subordinate authorities

research a subordinate authority such as a local council and prepare a report on findings

**Detailed example****PARLIAMENT AS LAW-MAKERS**

Arrange an excursion to the Victorian Parliament. Bookings need to be made early and through Parliament of Victoria (see website [www.parliament.vic.gov.au](http://www.parliament.vic.gov.au) for contact details).

If an excursion cannot be arranged, organise a Member of Parliament to attend your school as a guest speaker, or base the assessment task on online research of the parliament's website.

Prior to the excursion (or visit/research task) distribute the assessment task report to students. Students are encouraged to take notes while at the Victorian Parliament. Upon their return, students will need to prepare an individual report.

**Parliamentary report**

During the excursion students should take notes on the following:

- where it is situated
- date of visit
- rooms or arenas they attended
- sketch or diagram of one of the houses of parliament

- any identifiable colours
- identification of key personnel within each house and where they sit
- a summary of the structure of parliament
- a summary of the roles of parliament, as well as roles of the lower and upper houses and the role of the Crown
- any other observations of parliament.

Students prepare a report that discusses the following:

- the need for and nature of laws
- the role of parliament
- the structure of parliament
- how laws are made
- the need for parliament.

The report should also make comments on other interesting observations made during the visit to parliament.

**AREA OF STUDY 2: Criminal law****Outcome 2**

Explain the key principles and types of criminal law, apply the key principles to relevant cases, and discuss the impact of criminal activity on the individual and society.

**Examples of learning activities**

construct a concept map of the principles of criminal liability

prepare different legal scenarios, identifying key principles of criminal liability

gather media clippings on different crimes against the person and against the property

use a wall poster to focus on a particular media article on a crime; use the poster to highlight the key elements of the crime in the article

conduct research on Australian Bureau of Statistics and Department of Justice websites to obtain key data on trends in crime, sentencing and recidivism

visit Loddon Prison or Barwon Prison to consider the sentencing approaches used in Victoria, and complete a written report

undertake individual or group research on the sentencing approaches used in Victoria and in an international jurisdiction and prepare a PowerPoint presentation on findings

watch the film *Dead Man Walking* and discuss as a class the use of capital punishment in various countries

undertake research to identify which countries use capital punishment and the methods used

invite a police officer from the local police station to speak to the class about police powers and individual rights and responsibilities

design a brochure for the public outlining the rights and responsibilities of people when dealing with police

prepare and present graphs and charts outlining data and statistics of trends in crime, sentencing and recidivism

undertake individual research online about a crime and then complete a report about the crime and related defences

undertake research on the Victims of Crime Assistance Tribunal (VOCAT) website about compensation available to victims of crime

attend a Magistrates' Court hearing where a sentence is handed down and write a report outlining the reasons for the Magistrate's decision

write a letter to a victim of crime who has sought advice from you about alternative avenues for seeking compensation

**Detailed example****SENTENCING APPROACHES – A COMPARISON**

Working individually or in groups, students conduct research on the sentencing approaches used in Victoria and in one international jurisdiction.

Students could focus generally on sentencing approaches, or on one type of sentence, such as:

- capital punishment
- imprisonment.

Using a range of resources (including newspaper and magazine articles and appropriate websites), students complete a report which compares the sentencing approaches used in Victoria with those used in one international jurisdiction.

If, for example, capital punishment was chosen, based on their research, students complete a report outlining the following:

- explanation of capital punishment

- when capital punishment was last used as a sentence in Victoria
- why capital punishment is no longer used
- the current sentencing approaches in Victoria (most appropriate sentences based on different crimes)
- identification of one international jurisdiction which uses capital punishment, and the methods involved
- a comparison of recidivism rates in Australia and the international jurisdiction
- a comparison of crime rates in Australia and the international jurisdiction
- an overall opinion on whether capital punishment should be used as a sentence, and justification for this.

**AREA OF STUDY 3: The criminal courtroom**

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**Outcome 3**

Describe the processes for the resolution of criminal cases, and discuss the capacity of these processes to achieve justice.

**Examples of learning activities**

create a wall poster demonstrating the structure of the Victorian and Commonwealth court hierarchy

prepare a table showing types of summary offences and indictable offences

undertake research to identify the features of a fair trial and rights guaranteed by the Victorian Charter of Rights and Responsibilities

invite an employee of the Equal Opportunity Commission to discuss the Victorian Charter of Rights and Responsibilities

write a letter to a friend explaining the processes and characteristics of bail and remand and of a committal hearing

research a criminal case and the procedures of the case (such as committal hearing and bail/remand)

invite a guest speaker from Victoria Legal Aid to discuss access to legal advice and assistance available to defendants

attend the County or Supreme Court to view a criminal case

watch the film *Secrets of the Jury Room* and complete associated worksheets

watch the film *Twelve Angry Men* and complete a report on the role of the jury and the principle of standard of proof

undertake research on the case about Greg Domaszewicz and Jaidyn Leskie, and discuss the role of the jury and the use of committal hearings

complete a multimedia presentation outlining the key features of the adversary system

role-play different court personnel and guess who each character is (e.g. a judge, a solicitor, a juror)

**Detailed example**

## LETTER TO A FRIEND: CRIMINAL PROCEDURES

Students are given the following directions:

A friend of yours, Mark, knows that you study Year 11 Legal Studies and has asked you for some assistance. Mark knows somebody who has just been charged with an indictable offence, and is currently in remand. He doesn't know what this means, nor many of the other words used by the police and the prosecution. Mark is worried and wants to get an understanding of the procedures involved and has asked for your help.

Write a letter to Mark using the resources available to you, including:

- court websites
- Victoria Police website

- newspaper and media articles
- journal articles.

Your letter should include the following:

- an explanation of an indictable offence
- an explanation of remand
- definition of bail and from which court his friend can apply to get bail
- definition and purpose of a committal hearing
- an overview of the adversarial nature of trial
- whether a jury is used, and if so, how many members there are and their roles
- where Mark can get more information.

## Unit 2: Issues in civil law

### AREA OF STUDY 1: Civil law

#### Outcome 1

Explain the principles of civil law, law-making by courts, and elements of torts, and apply these to relevant cases.

#### Examples of learning activities

prepare a written speech to present to a younger year level on what civil law is and the need for civil law

create a word puzzle including terminology used in criminal and civil law

undertake a review of the previous week's newspapers to identify at least three civil law and three criminal law cases and highlight the differences in terminology

prepare a multimedia presentation on court-made law

undertake research on important negligence and defamation cases, including *Donohue v. Stevenson*, and prepare a presentation to the class on findings

provide a partner with different scenarios relating to torts, one student asking the other to identify whether all elements exist

conduct role-plays on negligence and defamation and discuss defences that could be used

construct a wall poster outlining key terminology relating to doctrine of precedent

analyse negligence cases to determine whether negligence elements and related defences exist

#### Detailed example

##### TORTS: NEGLIGENCE

Students work in groups of three to four. They are provided with poster paper and textas. Students identify negligence cases from their textbook, or from online research (perhaps on Austlii). Teachers may also provide the cases to students.

Students work in groups to choose and read one case. They identify the elements of negligence in the case, including:

- duty of care
- breach of duty

- causation
- loss or damage.

Students also identify any defences used by the defendant.

Students use their poster paper to highlight the elements and the outcome of the case. They then present this to the remainder of the class.

## AREA OF STUDY 2: The civil law in action

### Outcome 2

Explain and evaluate the processes for the resolution of civil disputes.

### Examples of learning activities

prepare and present a mock civil trial in class

create a civil dispute and research methods or institutions that could resolve the dispute; complete a multimedia presentation

construct a mind map outlining the options available to an individual when attempting to resolve a dispute

research a civil case online and give an explanation of the remedies provided and the purpose of these remedies

conduct a class debate on methods of civil dispute resolution

write a letter to a friend who is asking for advice on which method she should use when resolving her dispute

prepare a wall chart or poster outlining civil pre-trial procedures

conduct research into civil law using the VCAT website and prepare a report on findings

prepare a list of strengths and weaknesses of methods of dispute resolution, and discuss as a class

in groups, brainstorm a list of difficulties that could be faced by individuals when participating in dispute resolution

### Detailed example

#### METHODS OF DISPUTE RESOLUTION

Students create a 'civil dispute'. The civil dispute should centre on one of the following:

- discrimination
- dispute between neighbours
- dispute between consumer and trader
- dispute between owner of a house and builder
- breach of contract.

Once students have developed their scenario, they should conduct research into the methods and institutions that could resolve the dispute. These may include:

- alternative dispute resolution method
- courts
- VCAT ([www.vcat.vic.gov.au](http://www.vcat.vic.gov.au))
- Neighbourhood Justice Centre (located at [www.justice.vic.gov.au](http://www.justice.vic.gov.au))

- Equal Opportunity Commission ([www.eoc.vic.gov.au](http://www.eoc.vic.gov.au))
- Dispute Settlement Centre (located at [www.justice.vic.gov.au](http://www.justice.vic.gov.au))

Students prepare a multimedia class presentation, taking approximately 15–20 minutes.

The class presentation should be structured as follows:

- Students present their scenario to the class and ask them to discuss:
  - Options available to the wronged person.
  - Which option should be chosen and why.
  - What remedies are available and the purpose of the remedies.
  - Strengths and weaknesses of one of the methods of dispute resolution.
  - Difficulties faced by the wronged person in resolving the dispute.

**AREA OF STUDY 3: The law in focus****Outcome 3**

Explain one or more area/s of civil law, and discuss the legal system's capacity to respond to issues and disputes related to the selected area/s of law.

**Examples of learning activities**

complete group or individual research on the area of law and construct one of the following:

- video
- multimedia or overhead projector presentation
- test for peers
- full lesson activities on the area of law
- presentation to class

prepare a brochure for the general public on the area of law

write a letter to the editor of a local newspaper outlining a contemporary issue with the area of law and possible changes to the law

prepare a submission to parliament about problems with the law

organise a speaker for the class relevant to the area of law or changes to be made to the law

create a website for the general community about the area of law

**Detailed example****CLASS PRESENTATION**

Students choose their selected area of law to investigate. Once they have chosen their area of law, they have a week and a half to prepare and plan for a 25-minute presentation to the class.

Examples of specific areas of law may include:

- marriage in Australia
- use of in vitro fertilisation by same-sex couples
- cloning
- drugs in sport.

When preparing and planning for their presentation, students should focus on splitting up their presentation into two parts:

- presentation of theory to class members about the law
- class activity.

Students should first describe their chosen area of law and relevant key knowledge to the remainder of the class. Students will need to cover all key knowledge, including the principles of law, contemporary issues, and problems with the law. Theory could be presented in a variety of ways, such as a PowerPoint presentation, posters and brainstorming with the class. The presentation should cover the legal principles relevant to the area of law, a contemporary issue and methods and institutions for resolving disputes.

Students must then complete a 'class activity' on the theory they have just presented to the class. The activity must include all members of the class and be relevant to the material presented. The class activity could include crosswords, quizzes, class test or a class debate.

**AREA OF STUDY 4: A question of rights****Outcome 4**

Describe an Australian case illustrating rights issues, and discuss the impact of the case on the legal system and the rights of individuals.

**Examples of learning activities**

undertake online research on the Australasian Legal Information Institution (AustLII) website ([www.austlii.edu.au](http://www.austlii.edu.au)) to identify cases that illustrate rights issues

organise a guest speaker from the Castan Centre for Human Rights to speak to the class about a test case that has had an impact on rights

watch the film *Mabo – Life of an Island Man* and complete a report

summarise a case and provide this to other students with questions for them to answer

prepare a multimedia presentation to the class on a test case concerning rights

**Detailed example****MABO – LIFE OF AN ISLAND MAN**

Students watch *Mabo – Life of an Island Man* (1997, ABC) in class.

Students complete a report including answers to the following questions:

- Who was Eddie Mabo?
- Where did he live?
- What does 'Native Title' mean?
- What does 'terra nullius' mean?
- What rights were Eddie Mabo and the Murray Islanders trying to protect? Were they successful?
- When did Eddie Mabo and other Murray Islanders lodge their claim in the High Court?
- Which government protested?
- When did Eddie Mabo die?
- What ruling did the High Court deliver on 3 June 1992?
- What rights were upheld by the High Court?
- What does this case tell us about:
  - the use of the legal system to uphold rights?
  - how people can use the legal system for their empowerment?
  - the benefits involved in bringing a test case?
- What conflicting attitudes existed in relation to the outcome of this case?

## Unit 3: Law-making

### AREA OF STUDY 1: Parliament and the citizen

#### Outcome 1

Explain the structure and role of parliament, including its processes and effectiveness as a law-making body, describe why legal change is needed, and the means by which such change can be influenced.

#### Examples of learning activities

develop a glossary of key terms to be used throughout the unit

maintain a media file on current legal issues and proposed changes in the law

construct a mind map of the principles of the Australian parliamentary system

organise a Member of Parliament as a guest speaker and investigate their duties and responsibilities or collect examples reported in the media of circumstances where it is claimed that Members of Parliament did or did not act representatively and/or responsibly

construct wall charts or posters on the structure of the Victorian Parliament and the Commonwealth Parliament including the role played by the Crown

arrange an excursion to either the Victorian Parliament or Commonwealth Parliament or use the Victorian Parliament or Commonwealth Parliament homepage and complete a written report on the structure of parliament

analyse a range of news articles discussing proposed or recent changes to the law and identify the reasons why the law needs/needed to be changed and the actions taken by individuals to influence change

conduct research online and consider the role of the Victorian Law Reform Commission in changing the law

investigate a case study of a law that has been reviewed by the Victorian Law Reform Commission; prepare a report identifying the methods used by the Victorian Law Reform Commission and assessing the need for change

present students with a case study and debate the effectiveness of the means available to individuals and groups to bring about a change in the law

construct a flowchart of the legislative process

present a role-play of the passing of a bill or view a video or DVD of the legislative process

brainstorm the strengths and weaknesses of parliament as a law-making body; select the four most important strengths and weaknesses and justify this selection

construct PowerPoint or podcast summary notes on law-making in parliament for revision

**Detailed example**

## THE VICTORIAN LAW REFORM COMMISSION – CASE STUDY

Working in groups, students select an area of law that has been reviewed, or is currently being reviewed, by the Victorian Law Reform Commission. Using the information on [www.vlrc.vic.gov.au](http://www.vlrc.vic.gov.au), students undertake research into the selected area of law.

Possible areas of law include:

- Defences to Homicide
- Family Violence
- Sexual Offences
- Assisted Reproductive Technology and Adoption
- Abortion

Students should also research news articles discussing the proposed or recent change to the law.

Based on this research, students prepare a report addressing the following points:

- Outline the role of the Victorian Law Reform Commission in assessing the need for a change in the law.
- Explain the law that has been reviewed by the Victorian Law Reform Commission.
- Why did the law need to be reviewed?
- What processes did the Victorian Law Reform Commission use to review the need for a change in the law?
- What action did individuals and groups in the community take to influence the debate about the need to change the law?
- Evaluate the effectiveness of individuals and groups to influence a change in the law.

**AREA OF STUDY 2: The Constitution and the protection of rights****Outcome 2**

Explain the role of the Commonwealth Constitution in defining law-making powers within a federal structure, analyse the means by which law-making powers may change, and evaluate the effectiveness of the Commonwealth Constitution in protecting human rights.

**Examples of learning activities**

- using AustLII ([www.austlii.edu.au](http://www.austlii.edu.au)) examine specific chapters of the Commonwealth Constitution and prepare a brief overview for the class
- prepare a poster or wall chart explaining the division of powers between State and Commonwealth parliaments, including specific (concurrent and exclusive) and residual powers, and the impact of s109
- prepare a chart identifying the restrictions imposed by the Commonwealth Constitution on the law-making powers of the State and Commonwealth parliaments
- construct a flowchart explaining the process of a referendum
- using statistics on referendums, identify successful referendums and suggest reasons why some referendums succeed
- prepare a chart identifying the eight successful referendums; analyse the impact of these referendums on the division of law-making powers in the Constitution
- complete a case study of two High Court cases involving the interpretation of the Commonwealth Constitution; prepare a summary chart of the impact these cases have had on the law-making powers of State and Commonwealth parliaments
- using the Murray-Darling Basin Agreement as an example, discuss the capacity of the states to refer law-making powers to the Commonwealth Parliament
- discuss the means by which the Commonwealth Constitution protects rights, including structural protection, expressed rights and implied rights
- working in groups, complete a worksheet to assess the extent to which structural protections, expressed rights or implied rights provide for the protection of rights
- prepare and present a fact sheet identifying the significance of one High Court case relating to the constitutional protection of rights in Australia
- using online research, investigate the approach to the protection of rights of one of the following countries: United States of America, Canada, New Zealand, South Africa; present a PowerPoint presentation identifying the key features of the approach to the protection of rights
- working in groups, compare the strengths and weaknesses of the Australian approach to the protection of rights with the approach adopted in one other country
- prepare a wall chart summarising the comparison of Australia's constitutional approach to the protection of rights with that of another country
- construct PowerPoint or podcast summary notes on the Constitution and protection of rights for revision

**Detailed example**

## THE HIGH COURT AND THE PROTECTION OF RIGHTS

Students select a High Court case relating to the protection of rights. Cases for investigation could include:

*Cole v. Whitfield* (1988)  
*Nationwide News Pty Ltd v. Wills* (1992)  
*AMS v. AIF* (1999)  
*Attorney General (Vic); ex rel Black v. Commonwealth* (1981)  
*Re Loubie* (1986)  
*Australian Capital Television Pty Ltd v. Commonwealth* [No. 2] (1992) – Political Advertising Case  
*Lange v. Australian Broadcasting Corporation* (1997)  
*Roach v. Electoral Commissioner* (2007)

Students conduct research into their selected case and analyse the significance in relation to the

protection of rights. Reported decisions can be located on AustLII ([www.austlii.edu.au](http://www.austlii.edu.au)).

Students prepare a fact sheet discussing the significance of one High Court case relating to the constitutional protection of rights in Australia. The fact sheet should:

- identify the name of the case and the parties involved
- present a brief outline of the facts in the case
- explain the relevant constitutional right
- discuss the significance of the case in developing our understanding of how the Constitution protects the relevant right.

Students provide copies of the fact sheet and an oral presentation of their selected case to the class.

### AREA OF STUDY 3: Role of the courts in law-making

#### Outcome 3

Describe the role and operation of courts in law-making, evaluate their effectiveness as law-making bodies and discuss their relationship with parliament.

#### Examples of learning activities

discuss the background of the origins of common law

prepare a chart identifying the key terms in relation to the doctrine of precedent

examine cases of negligence to identify key aspects of the doctrine of precedent; apply principles to hypothetical cases and suggest possible outcomes

prepare a flow chart to illustrate how the principles of negligence have evolved over time through the application of precedent

analyse a selection of case scenarios and suggest reasons why the law may need to be interpreted

create a chart identifying the intrinsic and extrinsic aids that may be used in the interpretation of legislation

discuss the effects of interpretation by judges

brainstorm the strengths and weaknesses of law-making through the courts

construct an annotated diagram to illustrate the relationship between courts and parliament in law-making

using a case study (such as the Mabo case, Trigwell case or the Menhennitt case) work in pairs to complete a set of questions to analyse the strengths and weaknesses of courts as law-makers, and the relationship between the courts and parliament in law-making

construct PowerPoint or podcast summary notes on the role of courts in law-making for revision

#### Detailed example

##### COURTS AS LAW-MAKERS – CASE STUDY

Students research a case study of an area of the law that has been developed by the courts and in which parliament has subsequently legislated.

Appropriate case studies could include:

*State Insurance Commission v. Trigwell* (1979)

*R v. Davidson* (1969)

*Mabo v. Queensland* (1992)

Students work through the case as a class and highlight the key issues discussed. Students work in pairs to complete questions based on the case study. Students complete a set of questions examining the role of courts as law-makers, and the relationship between the courts and parliament in law-making.

When researching the case study students should:

- Identify the name of the case and the parties involved.
- Outline the facts of the case.
- Identify the legal issue raised in the case.
- Describe the process used by the court in this case to decide what the law should be.
- Outline what they consider to be the strengths and weaknesses of the role of the court as a law-maker in relation to this case.
- Explain how this case illustrates the relationship between courts and parliament in law-making.

## Unit 4: Resolution and justice

### AREA OF STUDY 1: Dispute resolution methods

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#### Outcome 1

Describe and evaluate the effectiveness of institutions and methods for the determination of criminal cases and the resolution of civil disputes.

#### *Examples of learning activities*

present reasons for the existence of a court hierarchy; rank reasons in order of importance and justify decisions

prepare a poster or wall chart outlining the original and appellate jurisdictions of the Victorian Magistrates' Court, County Court and the Supreme Court (Trial Division and Court of Appeal)

arrange an excursion to courts and note aspects of the jurisdiction and personnel; if possible, visit more than one court and compare the jurisdictions, personnel, level of formality in resolving disputes and structure

research the role of VCAT using [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au); prepare a PowerPoint presentation or set of notes on the role of VCAT

complete a role-play exercise to illustrate the features of the different methods of dispute resolution

collect a folio of newspaper articles about different types of disputes; evaluate the effectiveness of different methods of dispute resolution that may be used to resolve these disputes

construct a concept map to show the different methods of dispute resolution and how each method is used by courts and/or VCAT

evaluate the strengths and weaknesses of the methods of dispute resolution; working in groups prepare an argument about the strengths or weaknesses of a selected method of dispute resolution

conduct a quiz on courts, VCAT and dispute resolution methods

construct PowerPoint or podcast summary notes on dispute resolution methods for revision

**Detailed example****COURT EXCURSION AND OBSERVATION REPORT**

Arrange an excursion to the courts to observe the operation of the court system. Bookings to the County Court and the Supreme Court in Melbourne can be made through the Law Institute of Victoria. To make bookings for other courts, contact the court prior to the excursion.

Where possible arrange to visit the Magistrates' Court and either the County Court or the Supreme Court. This will allow students to compare the nature of the different cases heard.

Prior to the excursion distribute the Court Observation sheet (see below) to students. Students should be encouraged to take notes while they observe the proceedings in court.

Following the excursion, discuss the cases observed. Students prepare an individual report on their court excursion.

**Court Observation sheet**

During your excursion you should take notes that include:

- name and address of the Court
- date of the visit

- sketch or diagram of the courtroom
- a summary of the jurisdiction of the Court
- a summary of the case/s observed on the day you visited the court
- court personnel in attendance
- your impressions of the proceedings, considering their fairness, attitudes of the parties, if all the parties had legal representation and so on.

Prepare a report that discusses the following:

- the jurisdiction of the Court/s
- a summary of the case/s observed
- the court personnel in attendance
- the strengths and weaknesses of the role of the Court in resolving disputes.

Your evaluation should be based on the case/s that you observed during your excursion.

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**AREA OF STUDY 2: Court processes and procedures, and engaging in justice**


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**Outcome 2**

Explain the processes and procedures for the resolution of criminal cases and civil disputes, and evaluate their operation and application, and evaluate the effectiveness of the legal system.

**Examples of learning activities**

- construct a mind map for each element of an effective legal system to illustrate how aspects of the legal system contribute to the achievement of the selected element
- collect and analyse current newspaper articles and other media material from the Internet or TV to illustrate how the elements of an effective legal system apply to the operation of the legal system
- conduct a role-play to illustrate the major features of the adversary trial
- undertake research on the operation of the inquisitorial system of trial in a selected country; prepare a report comparing the features of an adversary trial with the features of an inquisitorial trial
- prepare charts identifying the advantages and disadvantages of both the inquisitorial and adversary system of trial
- investigate problems limiting the effectiveness of the adversary trial and prepare an editorial article evaluating possible reforms
- prepare and present diagrams to describe pre-trial procedures for indictable criminal offences and the purpose of each procedure
- investigate three types of criminal sanction and prepare a multimedia presentation
- apply sentencing principles to case studies using the Sentencing Advisory Council's 'You be the judge' case studies or suggest how the sentencing principles may apply to cases reported in the media
- analyse recent cases or reports to identify problems in criminal pre-trial and sanctions, and prepare a chart to summarise the problems identified and suggest possible solutions to these problems
- conduct a mock civil dispute and prepare a set of civil pre-trial documents
- prepare a flow diagram illustrating the sequence of civil pre-trial procedures
- apply understanding of the purpose of remedies and the types of civil remedies to case studies; justify the appropriate remedy that should be applied
- analyse recent cases or reports to identify problems in civil pre-trial and remedies; prepare a chart to summarise the problems identified and suggest possible solutions to these problems
- examine the roles of the jury system through viewing a film such as *Twelve Angry Men*
- complete a sample jury questionnaire and identify those eligible and those who should be disqualified from jury service
- prepare a flow diagram illustrating the jury selection process, completing sample jury questionnaires

using a 'Think, Pair, Share' thinking routine, analyse statements about the operation of the jury system; classify the statements as strengths or weaknesses of the jury system and justify their classifications

develop a T-chart identifying possible reforms and alternatives to the jury system

using a 'Connect, Extend and Challenge' thinking routine, analyse newspaper articles criticising aspects of the operation of the legal system; identify changes which could enhance the effectiveness of the legal system

### **Detailed example**

#### **THE JURY SYSTEM**

Using a 'Think, Pair, Share' thinking routine students analyse statements about the operation of the jury system, classify the statements as strengths or weaknesses of the jury system and justify their classifications.

Present students with a handout as follows:

1. Think – Students work individually. Ask the students to read through the statements and to jot down whether they consider each statement a strength or a weakness of the operation of the jury system.
2. Pair – Ask students to form pairs. Working in pairs, students discuss and compare their classification of strengths and weaknesses. At this stage the students should note the reasons for the decisions they make.
3. Share – Ask each pair to join with another pair to form a group of four students. Ask each group to decide:
  - the five most important strengths of the jury system and to give reasons for their decision
  - the five most important weaknesses of the jury system and to give reasons for their decision.

#### **The jury system**

Carefully consider each of the following statements in the light of whether you think that it is a strength or a weaknesses of the jury system:

- Juries represent a cross-section of the community.
- Juries are an independent fact-finding body.
- Juries add to the cost and length of time taken to hear a case.
- Juries democratises the courts.
- Juries are easily influenced by emotional bias or rhetoric.
- The jury system educates the public on how our courts work.
- The use of the jury ensures that proceedings are not conducted hastily for administrative or political convenience.
- Juries do not have to give a legal reason for their decisions.
- There is no guarantee that the jury will accurately assess the damages.
- It has been suggested that some cases are too complex to be heard by juries.
- Judges are better able to make decisions.
- Juries do not give reasons.
- Juries understand and predict how an ordinary person would behave in the circumstances.
- The jury ensures that the administration of the law is scrutinised by the community through its representatives.
- Because the jury provides a public presence in a trial, it protects individuals from unfair prosecution by the state.
- The jury spreads the responsibility for the decision made.
- The jury reflects community standards.
- The involvement of the jury means that the law must be simplified so that an ordinary person can understand it.
- Juries are made up of ordinary men and women. They come from various professional and non-professional backgrounds.