VCE Legal Studies 2024­–2028 Frequently asked questions

##### What does the word ‘including’ in key knowledge mean? For example, does it mean that students are not able to consider other things that may not be specifically listed?

Anything listed in key knowledge after the word ‘including’ must be explicitly taught, and can be specifically examined. For example, in relation to the rights of an accused in Unit 3, Area of Study 1, it is possible for an examination question to ask specifically about any of the three rights listed (for example, “*Explain the right of an accused to remain silent in a criminal case*”).

However, the use of the word ‘including’ is not intended to exclude other correct responses or knowledge. For example, in Unit 3, Area of Study 1, whilst there are three rights of the accused listed, there are many other rights of the accused, (including those listed in the *Charter of Human Rights and Responsibilities Act 2006* (Vic). The Study Design should not be read as being exclusive or exhaustive. For example, in response to a general question such as “*Explain one right of an accused in a criminal case*”, a student could explain a right other than that listed in the Study Design, such as the right to have adequate time and facilities to prepare a defence.

In addition, the use of the word ‘including’ means that students cannot be specifically asked about things not specifically named within key knowledge or key skills. For example, a student cannot be asked to explain the right of an accused to examine witnesses at trial. This right however could be discussed in response to a question asking about the rights of an accused person generally.

What does the term ‘such as’ in key knowledge mean? For example, does it mean that students are not able to consider other things that may not be specifically listed?

Anything listed in key knowledge after the words ‘such as’ is an examples of what could be taught when covering the particular key knowledge dot point. Other examples, not specified, could be substituted and the named examples are not mandatory.

Can a legal practitioner be considered as ‘key personnel’ in a criminal or civil case in Unit 3, even though they are not identified as key personnel in that specific key knowledge?

Consistent with FAQ Question 1 (see above), the use of the word ‘including’ immediately before the list of key personnel in this specific key knowledge means the roles of judges and magistrates, the jury and the parties in a criminal case (in Unit 3, Area of Study 1) and in a civil dispute (in Unit 3, Area of Study 2) must be explicitly taught. This means it is possible for a question in the examination to be asked specifically about the roles of any one of these key personnel in the exam (for example, “*Explain the role of the judge*” or “*Compare the role of the jury with the role of a judge*”).

It therefore follows that an examination question about the role of key personnel cannot specifically ask about the role of key personnel *not* included in that key knowledge (such as other court staff).

There are however other key personnel involved in a criminal case and a civil dispute, including legal practitioners. Students may choose to write about or refer to those other key personnel in response to a question about key personnel in a criminal case that does not ask about specific key personnel. (For example, “*discuss the role of two key personnel in a criminal case*”). That is, key knowledge that has the word ‘including’ is not intended to *exclude* othercorrect responses.

In Unit 3, do students need to know specifically about the roles of legal practitioners, or just the need for them,?

The focus of this key knowledge is about the *need* for legal practitioners. Students should therefore consider why legal practitioners are needed, and be able to analyse that need and evaluate in relation to the principles of justice. Students therefore should explore issues such as when legal practitioners are needed and why, whether they are always needed, the benefits and downsides of engaging legal practitioners, and whether they can assist in achieving the principles of justice.

For students to understand the needfor legal practitioners, they will need to understand their role in criminal cases and civil disputes. It is therefore expected that students will appreciate legal practitioners are often key personnel in a case (see FAQ Question 1). Any question however about legal practitioners will focus on the need for legal practitioners and not specifically about their role (e.g. “*Explain the advantages/ importance  of legal representation*”).

In Unit 3, Areas of Study 1 and 2, the Study Design refers to the judge or magistrate in relation to key personnel. Do students look at either the judge or the magistrate, or both?

Students are expected to explore both the judge and the magistrate, because they are expected to understand the Magistrates’ Court, County Court, and Supreme Court. The ‘or’ refers to the fact that in a criminal or civil case, either the judge in the County or Supreme Courts or a magistrate in the Magistrates’ Court will manage the case and preside over the trial or hearing.

In Unit 3, Areas of Study 1 and 2, are the roles of key personnel limited to trial roles?

No. These roles may be pre-trial, trial or even post-trial (for example, the role of the judge in a criminal case to conduct the sentencing hearing and sentence the offender is post-trial). Some roles, however, are exclusively trial roles, such as the roles of the jury.

Will students be expected to discuss or evaluate all the key knowledge in relation to the principles of justice? If not all, specifically which key knowledge is to be applied to the principles of justice?

The principles of justice are relevant to, and must be applied to, specified key knowledge only, (as specified within the Study Design). Within Unit 1, Area of Study 3, Unit 2, Area of Study 2, and Unit 3, Areas of Study 1 and 2, the sub-headings within the key knowledge refer specifically to ‘the principles of justice’. Therefore, the key knowledge sitting under these sub-headings is relevant to the key skills referring to the principles of justice. For example, in Unit 3, Area of Study 1, there is a heading ‘*the principles of justice during a criminal case*’, and a key skill which asks students to ‘*evaluate the ability of the criminal justice system to achieve the principles of justice during a criminal case*’. The key knowledge sitting beneath the heading ‘*the principles of justice during a criminal case*’ is relevant to this evaluation skill. Key knowledge sitting outside that key knowledge sub-heading is not required to be evaluated against or linked to the principles of justice.

In Unit 1, Area of Study 1, students are required to discuss the principles of justice, but there is no sub-heading in the key knowledge. The level of this discussion is not expected to be detailed and can be in relation to appropriate Unit 1, Area of Study 1 key knowledge, such as the court system or the costs of accessing the justice system.

Are students expected to use the specific definitions of the principles of justice as written in the Study Design, or can other definitions or features of fairness, equality and access be cited or used?

Students are expected to know the definitions of the principles of fairness, equality and access as defined on page 6 of the Study Design. Students must therefore develop an understanding of the essential features of each of the three principles as defined. Students can however explore and refer to other features of each principle of justice (for example, by considering the presumption of innocence in relation to fairness) but must still demonstrate understanding of the definitions in the Study Design and the essential elements of each definition (for example, in relation to fairness, the concept of impartiality).

Both Units 1 to 4, and the examination specifications, refer to ‘scenarios’. What is a scenario?

A broad definition can be applied to the word ‘scenario’. A scenario may include a case, parliamentary material, details about a referendum, or a series or set of information or facts (such as data), and may be included in full or as an extract (for example, from legislation), or be a combination of these things (such as these things in two or more sources of information). The use of scenarios is to enable students to directly apply their learning to a set of facts, circumstances, or information. Throughout all Units, as well as within the examination, both hypothetical and actual scenarios, or a combination of both, may be used. Note the synthesis and analysis of scenarios, and application of knowledge and skills to those scenarios, are generally considered to be higher order skills (depending on the content and the nature of the scenarios).

In Units 1 and 2, students consider the difficulties faced by certain groups when engaging with the criminal and civil justice systems. How many groups should students look at? Is it expected they look at all groups listed in the Study Design?

Given the use of the word ‘groups’ in the Study Design, students should consider at least two different groups in each of Unit 1, Area of Study 3 and Unit 2, Area of Study 2. Students are not expected to consider all groups listed in the Study Design. In addition, students are not limited to study only those groups listed. That is, the use of the words ‘such as’ in the relevant key knowledge dot point means these are suggestions only.

There is a reference to ‘recent’ being four years in the Study Design. How should the four years be calculated?

The four years should be calculated by reference to calendar years. For example, if students are sitting the exam in 2024, four years will be calculated by counting back four years starting at the beginning of 2024; therefore, students can explore cases and inquiries from the beginning of 2020 and beyond.

For “recent” cases (for Units 1 and 2), the case does not have to have commenced within the past four years. There only needs to be some ongoing process or proceeding that occurred in the past four years relevant to the case. For example, a case that commenced many years ago but for which there was an appeal in the past four years means the case is still recent.

Similarly, in relation to Victorian Law Reform Commission (VLRC), Royal Commission and parliamentary committee inquiries (Unit 4), in which students study a ‘recent’ inquiry, the inquiry is valid if it was conducted within the past four years, or if there has been some type of recent development, such as discussion in the media about the inquiry or its recommendations, recent law reform, or parliamentary debate about the inquiry or its recommendations. Inquiries that cannot be used are those that occurred more than four years ago and where recommendations have been acquitted, or the inquiry is no longer relevant or being considered.

In relation to law reform inquiries in Unit 4, Area of Study 2, does the inquiry need to have been completed?

No, it does not need to have been completed. The inquiry only needs to be “recent” (see above). It is important that when selecting an inquiry that teachers select an example that enables evaluation of each of the law reform bodies specified (both the VLRC, and one of either Royal Commissions or parliamentary committees).

What is meant by international pressures in Unit 4, Area of Study 1?

International pressures are forces or influences on parliament to change or not change the law that have some connection to international or global events or circumstances or are coming from global or international bodies or forces. An example of a global event or circumstance includes global issues such as a war or a global pandemic. An example of an international body or force includes the United Nations or another country.

What is the distinction between reasons for law reform, and reasons for constitutional reform within Unit 4, Area of Study 2?

Reasons for law reform relate to why law (including statute law) may need to change, and include factors such as technological change, greater protection of rights or the community, and changing values and views of the community. Reasons for constitutional reform are more limited in scope as these are specific reasons why the Australian Constitution may need to change. They include reasons such as the need to protect rights, to recognise First Nations people, and to change the division of law-making powers. Whilst there may be some reasons that are both reasons for law reform and reasons for constitutional reform (for example, greater protection of rights), there are also some reasons for law reform that are not reasons for constitutional reform, and vice versa.

Are students expected to have a detailed understanding of the process in the Commonwealth Parliament to approve a proposal to change the Australian Constitution in Unit 4, Area of Study 2?

No. The Study Design requires that students know that there is a requirement for approval of both Houses of Parliament, but students are not expected to know deadlock processes, or timeframes set out within section 128 of the Australian Constitution.

However, as students are expected to analyse factors affecting the success of a referendum, and discuss the ability of the Australian people to change the Australian Constitution, including in relation to past and future constitutional reform, students could explore in more detail how the Houses of the Commonwealth Parliament can impact on the success of a referendum or on the ability of the people to change the Australian Constitution. For example, students could explore how the refusal of the second house to pass a proposal to change the Australian Constitution could impact on voting behaviours.

Do students need to study a specific proposal for future constitutional reform within Unit 4, Area of Study 2?

No, there is no specific proposal that students are specifically required to study. Rather, students are expected to explore the requirement for approval of both Houses of Parliament and a double majority in a referendum, factors affecting the success of a referendum, and the 1967 and 2023 referendum. They are then required to use that knowledge to consider the factors affecting the success of a referendum and the ability of the Australian people to change the Australian Constitution in the future.

Whilst students may consider potential future proposals as part of this, they cannot be assessed on their understanding of a specific future proposal.

Internal assessment requires that students are assessed using two or more of the following task types within each of Unit 3 and Unit 4:

1. A case study
2. Structured questions
3. An essay
4. A report
5. A folio of exercises

If a single / distinct SAC task is comprised of more than one of these formats does this satisfy the requirement for “two or more”?

Yes it does. A SAC task can be comprised of more than one format / task type. This will meet the requirement that students be assessed using at least two of the format types listed in the study design (Pages 22 and 27).