Legal Studies Assessment Support Material

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| **Unit standard** | 27836 | | | | |
| **Title** | Explain concepts of democracy and government in a New Zealand context | | | | |
| **Level** | 2 | **Credits** | 4 | **Version** | 3 |

Assessor Guidelines

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| **Notes** The following guidelines are supplied to enable assessors to carry out valid and consistent assessment using this internal assessment resource.  Assessors must manage authenticity for any assessment from a public source, because ākonga/learners may have access to the assessment schedule or ākonga/learner exemplar material. Use of this assessment resource without modification may mean that ākonga/learners' work is not authentic. The assessor will need to change figures, measurements or data sources or set a different context or topic.  While this ASM lends itself to written assessments, there are other activities and approaches that could be taken. Consider the benefits of using different assessment approaches.  See [Gathering evidence of learner achievement](https://www2.nzqa.govt.nz/tertiary/assessment-and-moderation-of-standards/assessment/resources/gathering-evidence-of-learner-achievement/) and [Online Assessor Support](https://www2.nzqa.govt.nz/ncea/ncea-for-teachers-and-schools/assessor-support/catalogue/online-workshops-courses-and-modules/)  Assessors should use innovative, valid and fair ways of recognising achievement, without overburdening themselves or the ākonga/learner with too much assessment. |

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# **Context/Setting**

In this activity, ākonga/learners will explore two concepts of democracy and government by explaining each in terms of aspects of governance, using actual examples from a New Zealand context.

The two concepts of democracy and government may include but are not limited to – rule of law, separation of powers, liberal democracy, rights and their limitations, constitutional sovereignty.

Aspects of governance may include but are not limited to – Magna Carta and limits on the power of the monarch, relationship between tangata whenua and the Crown as regards te Tiriti o Waitangi, parliamentary sovereignty and statute as highest form of law, absence of a fully written constitution, role of the courts, delegated legislation.

# **Award of Grades**

* For award with ***Achieved***, concepts of democracy and government are explained in a New Zealand context.
* For award with ***Merit***, the explanation of two concepts of democracy and government is demonstrated by selecting and applying actual example(s) and applying relevant supporting detail that may include but is not limited to any one of:
  + case studies;
  + statistics;
  + news media reports.
* For award with ***Excellence*** a fully developed explanation of two concepts of democracy and government is demonstrated by:
  + referring to actual examples;
  + selecting and applying a range of relevant supporting detail;
  + communicating clear conclusions.

# **Conditions of Assessment**

Assessors will set the conditions of assessment as appropriate.

# **Assessment activity**

This assessment activity has three tasks.

**Task One**

Explain the role of the Magna Carta in governing New Zealand’s democracy.

**Task Two**

Explain the importance of the te Tiriti of Waitangi in terms of the governance of New Zealand.

**Task Three**

Explain parliamentary sovereignty as an aspect of governance.

# **Resource requirements**

Assessors may find the following resources useful in gathering information on the concepts of democracy and government which are explored in this assessment.

## <https://www.parliament.nz/en>

# **Additional information**

Teaching and learning guidelines that inform legal studies as it is taught in New Zealand can be found at <https://seniorsecondary.tki.org.nz/Social-sciences/Legal-studies>

# **Assessment Schedule**

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| --- | --- | --- | --- | --- | --- |
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# **Assessment Criteria**

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| --- | --- | --- |
| **Achievement** | **Achievement with Merit** | **Achievement with Excellence** |
| Concepts of democracy and government explained, with actual example(s), in relation to aspects of governance.  Concepts of democracy and government may include but are not limited to – rule of law, separation of powers, liberal democracy, rights and their limitations, constitutional sovereignty.  Aspects of governance may include but are not limited to – Magna Carta and limits on the power of the monarch, relationship between tangata whenua and the Crown with regard to the te Tiriti o Waitiangi, parliamentary sovereignty and statute as highest form of law, absence of a fully written constitution, role of the courts, delegated legislation.  Actual example(s) refer(s) to actual events from New Zealand or overseas, past or present. | For award with Merit, the explanation of two concepts of democracy and government is demonstrated by selecting and applying actual example(s) and applying relevant supporting detail that may include but is not limited to any one of:   * case studies; * statistics; * news media reports. | The explanation of two concepts of democracy and government is fully developed by:   * referring to actual examples; * selecting and applying a range of relevant supporting detail; * communicating clear conclusions. |

| ****Task**** | ****Achievement**** | ****Achievement with Merit**** | ****Achievement with Excellence**** |
| --- | --- | --- | --- |
| ONE  Outcome 1  PC 1.1 | **Question 1**  It is considered one of the most important legal documents in the history of democracy because:   1. It established the principle that the power of the King could be limited. It was the start of parliamentary rather than royal sovereignty. 2. It protected rights of the people – in particular the right of Habeas Corpus, and the right that everyone has access to the courts. 3. It established the right to trial by one’s peers. 4. It established the right to no undue delays in the court process. | The ākonga/learner develops their explanation of how the King’s powers were limited or of Habeas Corpus. | Magna Carta is thought to be the crucial turning point in the struggle to establish freedom and a key element in the transformation of constitutional thinking throughout the world. |
|  | **Question 2**  *When British colonists came to New Zealand they brought with them British law and the principles of the Magna Carta. Our legal system is still based on many of the legal principles established by the Magna Carta, in particular habeas corpus and that no person (or institution is above the law).*  **Note –** ākonga/learners would need to **identify a specific example** from New Zealand or overseas for an Achieved grade. | The ākonga/learner references particular legislation.  New *Zealand Bill of Rights Act (1990) affirms several of the principles of the Magna Carta into New Zealand law, e.g.*   * *right to a speedy trial;* * *the right to justice in the courts.* | An explanation of how the Magna Carta applies to a specific example(s), e.g.  *Magna Carta is still on NZ statutes – see Statutes of New Zealand, v 30 Zaoui v Attorney-General [2005] - the Supreme Court granted Mr Zaoui bail on the basis that the High Court had an “ancient common law jurisdiction” to grant bail to someone detained.* |
| TWO  Outcome 1  PC 1.1 | **Question 1**  The ākonga/learner includes an explanation of the Treaty of Waitangi as a founding document of NZ governance, e.g.  *Te Tiriti o Waitangi is a broad statement of principles on which the British and Māori made a political compact to found a nation state and build a government in New Zealand.*  *An explanation of what the English version guaranteed in terms of sovereignty, governance, rights privileges and protection.*  *An explanation of why te Tiriti o Waitangi itself is not part of NZ law but does become law when incorporated into Acts of Parliament.*  **Note –** ākonga/learners would need to **identify an actual example** from New Zealand for an Achieved grade. | **Part** evidence of particular facts.  *Third article of te Tiriti o Waitangi extended rights and privileges of British subjects to Māori*. |  |
|  |  | **Question 2**  Reference to a particular piece of legislation, e.g.  *Resource Management Act (1991) which includes reference to the principles of te Tiriti o Waitangi and as such these become legally enforceable.*  *State Owned Enterprises Act (1986) – clearly affirms the importance of te Tiriti o Waitangi as it prohibits actions inconsistent with the principles of te Tiriti o Waitangi.* | The ākonga/learner fully develops their explanation of te Tiriti o Waitangi’s place in New Zealand law by reference to an actual example(s), e.g. New Zealand Māori Council v Attorney General (1992) (Broadcasting Assets). |
| THREE  Outcome 1  PC 1.1 | **Question 1**  The ākonga/learner includes a definition of parliamentary sovereignty, e.g.  *The legislative body (parliament) has absolute sovereignty, and is supreme over all other government institutions, including executive or judicial bodies. It also holds that the legislative body is not binding on its successors and so may change or repeal any previous legislation.* |  | **Question 4**  The ākonga/learner fully develops their explanation of parliamentary sovereignty by reference to *Quilter v Attorney-General.*  A full answer for Excellence would:   * describe the case, e.g. an appeal against Marriage Act 1955 to allow same-sex marriage; * summarise legal arguments; * summarise the decision. |
|  | **Question 2**  *It is an important aspect of governance in a liberal democracy because it means that only the parliament elected by the people can make laws to govern those people.* |  |  |
|  | **Question 3**  An explanation of the role of the following in contributing to parliamentary sovereignty is required for Achieved, e.g.  *Magna Carta – beginning of the move of sovereignty from King to Parliament. Te Tiriti o Waitangi – brought British governance to NZ.*  **Note –** ākonga/learners would need to **identify an actual example** from New Zealand for an Achieved grade. | The ākonga/learner’s explanation of parliamentary sovereignty is developed by including relevant supporting detail, e.g. a media report. |  |

Final grades will be decided using professional judgement based on a holistic examination of the evidence provided against the criteria in the unit standard.