

NZQA Assessment Support Material

Unit standard	27845				
Title	Explain litigation and dispute resolution processes				
Level	2	Credits	4	Version	2

Student guidelines

Introduction

In this activity, you will be assessed on your ability to explain the key element(s) of two court processes under current New Zealand law: civil processes and criminal (indictable) processes.

AWARD OF GRADES

- For award with **Achieved**, litigation and dispute resolution processes are explained, with supporting detail, in terms of the key element(s) of selected legal system(s). Supporting detail includes – participants, methods, outcomes and underlying principles, identifying strengths and weaknesses.
- For award with **Merit**, the explanation of the litigation and dispute resolution processes is developed by including relevant supporting detail including:
 - describing a strength and weakness for each process;
 - examples from actual or hypothetical events from New Zealand or overseas, past or present.
- For award with **Excellence**, the explanation of the litigation and dispute resolution processes is fully developed by:
 - discussing a strength and weakness for each process;
 - including relevant supporting detail such as formal reports, specific cases, and statistics.



CONDITIONS OF ASSESSMENT

Assessors will set the conditions of assessment as appropriate.

Assessment Activity

Task One

Criminal (Indictable) Court Processes

Read the scenario below and complete the following instructions.

Frankie, who has a string of convictions for offences of dishonesty and violence, is charged with attempted murder after using a knife on someone during an argument in a pub. It is an indictable offence, and he will be tried in the High Court with a jury.

A) Explain the procedures that will be involved in this criminal court case.

- (i) Pre-trial (the major steps between Frankie being charged and his trial).
- (ii) The trial itself:
 - (a) The Jury
 - Membership and qualifications needed;
 - Empanelling process;
 - Jury's role.
 - (b) Roles of other participants involved:
 - Prosecution;
 - Defence;
 - Judge.
 - (c) Procedures in the trial.
 - (d) Outcomes: two possible verdicts.
- (iii) Sentencing

Assuming that Frankie is convicted:

- (a) state who will sentence him, and;
- (b) explain how the court will arrive at a decision about a suitable sentence;
- (c) Name **one** appropriate sentence and explain why it is appropriate in this case.

B) Explain the following underlying principles of the Criminal Law process in New Zealand and what they mean in practical terms.

- (i) Burden and Standard of Proof;
- (ii) Adversarial system.

Note – in order to achieve this task with a grade of merit or higher, you must provide examples from actual or hypothetical events to illustrate at least one of these principles.

C) In as much depth as you can, describe one strength and one weakness of the indictable criminal process.

Note – in order to achieve this task with excellence, you must develop your description of the strength and weakness of criminal processes by including relevant detail such as: formal reports, specific cases, and statistics.

Task Two

Civil Court Processes

Read the scenario below and complete the following instructions.

Richard is a talented singer and actor. His manager for the past six years has been Annabel, but in the last 12 months relations between them have soured. Richard alleges that Annabel has not been handling his business arrangements competently (he says she has a drinking problem), and that he has suffered considerable financial loss as a result. However, Annabel maintains that she has done everything an agent should and more. Richard has now decided to sue Annabel for breach of contract.

A) Explain the processes that will be involved in this civil court case.

- (i) Pre-hearing (the main steps from the start of the case to the hearing).
- (ii) The hearing itself:
 - (a) Roles of participants involved:
 - Plaintiff;
 - Defendant;
 - Judge.
 - (b) Procedures in the hearing itself.
 - (c) Outcomes: 2 possible decisions.
- (iii) Remedies:
Name one appropriate remedy that Richard is likely to be seeking and explain what the remedy means in practical terms.

B) Explain the following underlying principles of civil litigation in New Zealand and what they mean in practical terms.

- (i) Burden and Standard of Proof
- (ii) Judicial Precedent

Note – in order to achieve this task with a grade of merit or higher, you must provide examples from actual or hypothetical events to illustrate at least one of these principles.

C) Describe, in as much depth as you can, one strength and one weakness of civil litigation processes.

Note – in order to achieve this task with excellence, you must develop your description of the strength and weakness of civil litigation processes by including relevant detail such as: formal reports, specific cases, and statistics.