Legal Studies Assessment Support Material

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Unit standard** | 27845 | | | | |
| **Title** | Explain litigation and dispute resolution processes | | | | |
| **Level** | 2 | **Credits** | 4 | **Version** | 3 |

Page 3 of 1

Page 3 of 1

**Ākonga/Learner Guidelines**

Introduction

People credited with this unit standard are able to explain litigation and dispute resolution 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. Legal system(s) may include – national, tikanga Māori, international, historical, traditional. Selected legal systems are one litigation and one dispute resolution process from the same, or from two different, legal system(s).
* For award with ***Merit*** the explanation of the litigation and dispute resolution processes is demonstrated by:
* describing one strength and one weakness for each process
* selecting and applying relevant supporting detail that may include but is not limited to any one of:
  + particular facts and legislation
  + past or present events
  + case studies, actual examples, statistics
  + news media reports.
* For award with ***Excellence*** the fully developed explanation of each litigation and/or dispute resolution process is demonstrated by:
* discussing a strength and weakness in relation to an actual example
* 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**

**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.

1. 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.

1. 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 events to illustrate at least one of these principles.

1. In as much depth as you can, discuss 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, actual 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.

1. 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.

1. 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 cases to illustrate at least one of these principles.

1. 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 discuss the strengths and weakness of civil litigation processes by including relevant detail such as: formal reports, actual cases, and statistics.