



NZQA Assessment Support Material

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| Unit standard | 27846 | | | | |
| Title | Evaluate litigation and dispute resolution processes in relation to challenging state power | | | | |
| Level | 3 | Credits | 4 | Version | 2 |

Student guidelines

Introduction

In this activity, students will evaluate litigation and dispute resolution processes in relation to challenging state power.

During your Legal Studies class, you will have worked through a range of litigation and dispute resolution processes by which individuals or groups may challenge state power or attempt to solve problems that arise when dealing with various state organisations and officials.

This assessment requires you to choose two of those processes, apply them to given scenarios and discuss and evaluate their uses, strengths and weaknesses and effectiveness.

AWARD OF GRADES

- For award with **Achieved**, two formal means by which individuals and groups challenge state power are evaluated, with supporting detail, in relation to a specific example. Supporting detail includes – the reason why each formal means could be used, describing the strength(s) and weakness(es) of each formal means.
- For award with **Merit**, the evaluation of the use of the formal means is developed by discussing the strength(s) and weakness(es) of each formal means with reference to any of:
 - legislation;
 - case law;
 - media reports.



AWARD OF GRADES - CONTINUATION



- For award with **Excellence**, the evaluation justifies a position about the litigation and disputes resolution process by using a well-reasoned and convincing argument of the effectiveness of two of the formal means, with reference to specific examples.

CONDITIONS OF ASSESSMENT

Assessors will set the conditions of assessment as appropriate.

“Taking on the State”

Assessment Activity

Task One

On the attached sheet, you will find eight scenarios. Choose **two** of these scenarios and for each one:

1. Choose **one** of the litigation and dispute resolution processes listed below that would be appropriate to use in this scenario.

administrative review, judicial review; habeas corpus; court process; an international law process; complaints to the Ombudsman, Human Rights Commission, Privacy Commission, Independent Police Conduct Authority; Waitangi Tribunal.

Note – you must choose a different litigation and dispute resolution process for each of the two scenarios.

2. Discuss in detail the type of situation/s when the process would be used and explain why it would be appropriate in this scenario.
3. Describe in detail the steps you would take and procedures involved in this process.
4. Describe the strength(s) and weakness(es) of this process.
5. Provide reference to a specific example.
6. For Merit, in respect of each chosen process:
 - a. The strength(s) and weakness(es) referred to in Number 4 are discussed in depth.
 - b. Reference is made to relevant legislation, case law and/or media reports.
7. For Excellence, in respect of each chosen process:
 - a. You take a position/express an opinion on the effectiveness of each process, and
 - b. Justify your position/opinion with a well-reasoned and convincing argument, with reference to specific examples.

(*Specific examples* means real cases in which the chosen process has been used)

Scenarios

Important note – Some scenarios may have more than one appropriate litigation/dispute resolution process.

Scenario One: Prisoner

You are a prisoner serving a 5-year sentence for fraud. You believe that you and other prisoners are being mistreated in a variety of ways, and that the prison conditions are in breach of your basic human rights.

Scenario Two: Maori Language

In order to cut the fiscal deficit, the Government takes drastic steps to reduce expenditure. It rushes legislation through Parliament under urgency to significantly reduce Government funding to support Te Reo Māori. This includes removing all New Zealand on Air funding for Māori broadcasting and reducing funding for Te Reo Māori provision in state funded schools. You teach Te Reo Māori in a secondary school and are furious at this law change.

Scenario Three: Health Protestor

You are a leading member of a very active and vocal pressure group lobbying for an increase in health funding and a change in the way health funds are allocated. You have had some very bitter run-ins with the Minister of Health, Sam Measley. You appear live with Mr Measley on a current affairs programme, and during a heated exchange, Mr. Measley tells you that you shouldn't be complaining about health funding, because your own stomach stapling operation was paid for out of public funds four years ago. You are very embarrassed by this revelation, because you had never previously told anyone about the operation. You want revenge!

Scenario Four: Back Injury

You have a back injury which you say happened in an accident. Your claim for Accident Compensation has been rejected by the Accident Compensation Corporation; they say that the injury is simply deterioration due to old age. You have evidence to show that the injury happened in an accident - including a specialist's report - and you believe that the decision is wrong.

Scenario Five: Using Public Land

You are the leader of a religious group called Disciples of the Sun. You have applied to the local city council to hold a regular event on public land, with market stalls, music and prayer sessions. The council has refused to grant you a permit, and you believe it is because they are prejudiced against your religion.

Scenario Six: Rent Rise

You live in a local council owned apartment. The council plans to put up rents 40%. You and others believe that the council has ignored a lot of data against the rent rise, and has made the decision without taking all proper factors into consideration.

Scenario Seven: Dawn Raid

The police raided your house and held you and your family at gunpoint while they searched the house. It later turns out that they got the right number house but the wrong street. You were given an apology, but you feel that's not enough.



Scenario Eight: Let me out of here!

You have been detained in a mental institution under the Mental Health (Compulsory Assessment and Treatment) Act 1992. You are certain that there is absolutely nothing wrong with you, and you want to be released immediately.