



## NZQA Assessment Support Material

<b>Unit standard</b>	<b>27844</b>				
<b>Title</b>	Demonstrate understanding of litigation and dispute resolution processes in New Zealand				
<b>Level</b>	1	<b>Credits</b>	4	<b>Version</b>	2

### Note

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 students may have access to the assessment schedule or student exemplar material. Use of this assessment resource without modification may mean that students' 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.

See Generic Resources and Guidelines at <https://www.nzqa.govt.nz/providers-partners/assessment-and-moderation/assessment-of-standards/generic-resources/>

## Assessor guidelines

### Context/setting

In this activity, students will demonstrate an understanding of litigation and dispute resolution processes in New Zealand.

Before assessment occurs, the students should understand the key features of litigation and dispute resolution processes for criminal and civil cases in the New Zealand Court and tribunal system. This includes:

- their jurisdiction;
- the key features of roles of at least two key participants;
- civil and criminal law in terms of subject matter, burden and standard of proof.

Students must be able to identify these processes for the District Court, High Court, Court of Appeal, Supreme Court; and one of the – Youth Court, Family Court or Employment Court.

They should understand the court hierarchy and the way in which the courts interrelate.

They must also be able to identify processes for a tribunal which may include but is not limited to one of the – Waitangi Tribunal, Tenancy Tribunal, Disputes Tribunal, Human Rights Review Tribunal.

## A W A R D O F G R A D E S



- For award with **Achieved**, litigation and dispute resolution processes are identified in relation to criminal and civil cases in the New Zealand court and tribunal system.
- For award with **Merit**, litigation and dispute resolution processes are clearly described to demonstrate detailed understanding with relevant supporting detail including:
  - the hierarchy and inter-relationship of the New Zealand courts;
  - the terminology used in civil and criminal law cases;
  - possible outcomes.
- For award with **Excellence**, the description demonstrates thorough understanding of litigation and dispute resolution processes by comparing civil and criminal processes, with reference to specific cases.

## C O N D I T I O N S O F A S S E S S M E N T

Assessors will set the conditions of assessment as appropriate.

### Assessment activity

The assessor may approach this assessment in a number of ways. These may include a simple factual recall test or a series of problem scenarios.

The assessment activity used as an example involves three tasks that use a series of scenarios as opportunities for students to demonstrate their understanding.

### Resource requirements

Assessors may find the following resources useful.

Assessors can provide resources and/or opportunities to understand the Court hierarchy and this may include a trip to the Courts, visits from relevant speakers such as a lawyer or probation officer. Guidelines on any EOTC activities are available from the Ministry of Education at <http://eotc.tki.org.nz/>.

Information on the various aspects of this Standard is available from:

- Ministry of Justice website ([www.justice.govt.nz](http://www.justice.govt.nz)),
- Courts of New Zealand website ([www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz)),
- Legal textbooks such as:
  - Lawrence, Martin (2004), *Legal Studies: A First Book on New Zealand Law*, (7th ed),

- Palmerston North: Dunmore Press;
- McDowell and Webb (2010), *The New Zealand Legal System Structures and Processes* (4<sup>th</sup> ed), Wellington: LexisNexis;
  - Mulholland, Raymond, D. (2001), *Introduction to the New Zealand Legal System*, (10<sup>th</sup> ed) Wellington: Butterworths.

When teaching legal terminology assessors may find the following dictionary useful:

- Spiller, P (2011), *Butterworths New Zealand Law Dictionary*, (7<sup>th</sup> ed), Wellington: LexisNexis.

### **Additional information**

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

## Assessment Schedule

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Judgements for achievement	Judgements for achievement with merit	Judgements for achievement with excellence
<p>Litigation and dispute resolution processes are identified in relation to criminal and civil cases in the New Zealand court and tribunal system.</p> <p>New Zealand court system includes – District Court, High Court, Court of Appeal, Supreme Court; and one of – Youth Court, Family Court, Employment Court.</p> <p>Tribunal may include but is not limited to one of – Waitangi Tribunal, Tenancy Tribunal, Disputes Tribunal, Human Rights Review Tribunal.</p> <p>Litigation and dispute resolution processes include – New Zealand courts and tribunals in terms of their jurisdiction; the key features of roles of at least two key participants; civil and criminal law in terms of subject matter, burden and standard of proof.</p>	<p>Litigation and dispute resolution processes are clearly described to demonstrate detailed understanding with relevant supporting detail including:</p> <ul style="list-style-type: none"> <li>• the hierarchy and inter-relationship of the New Zealand courts;</li> <li>• the terminology used in civil and criminal law cases;</li> <li>• possible outcomes.</li> </ul>	<p>The description demonstrates thorough understanding of litigation and dispute resolution processes by comparing civil and criminal processes, with reference to specific cases.</p>

Task	Evidence for achievement	Evidence for achievement with merit	Evidence for achievement with excellence
One  Outcome 1  PC 1.1	<p><b>Example student answer for Courts</b></p> <p><b>Task One a:</b> The student correctly identifies the key features of New Zealand Courts in of their jurisdiction.</p> <p><b>Task One b:</b> <i>New Zealand Courts in terms of their jurisdiction</i> A <b>part</b> answer for the jurisdiction of New Zealand courts could include:</p> <p><b>District Court:</b></p> <ul style="list-style-type: none"> <li>• In civil matters jurisdiction up to \$200,000.</li> <li>• In criminal cases general jurisdiction for jury trials (where the maximum sentence is less than life imprisonment e.g. robbery, rape) and all summary criminal matters e.g. common assault, disorderly conduct.</li> </ul> <p><b>High Court:</b></p> <ul style="list-style-type: none"> <li>• Has both the statutory jurisdiction and inherent jurisdiction which is necessary for it to undertake its supervisory function.</li> <li>• Has jurisdiction over serious (indictable) crimes such as murder, serious armed robberies and some sexual violation cases and civil cases involving claims for more than \$200,000, bankruptcies and liquidations of companies.</li> </ul>	<p><b>Example student answer for Courts</b></p> <p><b>Task One c:</b> <i>Hierarchy and inter-relationship of the New Zealand courts.</i> Students diagram correctly shows the hierarchy of the courts. A <b>part</b> answer for Student’s description of the interrelationship of the courts could include the following points:</p> <ul style="list-style-type: none"> <li>• New Zealand’s Courts structured in a hierarchy with decisions of courts higher up the hierarchy binding on the lower courts.</li> <li>• Can appeal decision of court in higher court e.g. District Court appeal heard in High Court if appeal grounds are made out.</li> </ul> <p><b>See Task Three for further examples</b></p>	<p><b>See Task Three for examples</b></p>

	<p><b>Note</b> – this sample answer only covers two courts. For achieved the student would also need to cover the Court of Appeal and Supreme Court of New Zealand as well as one other from Family, Youth or Employment Courts plus one tribunal.</p>		
Two	<p>A <b>part</b> answer for the role of participants could include:</p> <p><b>The Judge:</b> Acts as a type of impartial/ neutral referee. Supervises the proceedings and decides questions of law. Explains law to jury and where jury not present, judge also decides questions of fact.</p> <p><b>The jury:</b> Made up of 12 people. Present in District Court and High Court. Hears evidence in both criminal and civil cases in both the District and High Court. Juries are only involved in criminal cases involving serious offences (electable and indictable) and occasionally in civil cases such as defamation. Their role is to determine the facts of the case and give a verdict based on the evidence presented.</p>		

<p>Three</p>	<p>A <b>part</b> answer for the civil and criminal law in terms of subject matter, burden and standard of proof could include.</p> <p><b>Subject Matter:</b> Civil law cases involve disputes between individuals eg contract, property, insurance, intellectual property, family law disputes. Criminal law cases are brought by the State against individuals in order to maintain law and order and protect society e.g. crimes against the person (murder, assault), crimes against property (arson, trespass, burglary), crimes against morality (sexual offences, drugs), crimes against the state (treason), crimes against the administration of justice (perjury).</p> <p><b>Note</b> – this sample answer only covers subject matter. Standard and burden of proof would also need to be described for achieved.</p>	<p><b>Terminology:</b> in describing civil and criminal law the student may use some of the following relevant terminology:</p> <p><i>Plaintiff; prosecution; electable offence; indictable offence; statement of claim; presumption of innocence; statutes; common law.</i></p> <p><b>Possible outcomes:</b> include in criminal law cases - imprisonment, home detention, fine and in civil cases - compensation, injunction.</p> <p>A brief explanation of these outcomes may be provided. If found liable in a civil case it does not go on your criminal record. The outcome in a civil case seeks to put the plaintiff into the position they would have been in if the respondent had not acted in the way they did.</p> <p>In a criminal case the outcome aims to provide a deterrent both to the offender and other members of society, reform the offender, prevent future crime and seek retribution.</p>	<p><b>Subject matter:</b> Civil law cases involve disputes between individuals eg contract, property, insurance, intellectual property, family law disputes. The claim by a client against Tim’s father’s building company therefore falls within civil law as it is a contractual dispute. This means that the client bringing the claim will have the <b>burden of proof</b> as they are the <i>plaintiff</i> in these proceedings. They will have to present evidence to show on the <i>balance of probabilities</i> that Tim’s father’s building company is guilty of breach of contract as this is the <b>standard of proof</b> in a civil case. This standard basically equates to ‘more likely than not’. For example, a <b>possible outcome</b> in Tim’s father’s civil law case could be that damages are awarded. This award of money is designed, as with all outcomes in civil law cases, to put the plaintiff into the position they would have been in if the respondent had not acted in the way they did.</p> <p><b>Note</b> – this sample answer only covers <b>civil</b> processes. For excellence, the comparison would need to include <b>criminal</b> processes and examples.</p>
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Final grades will be decided using professional judgement based on a holistic examination of the evidence provided against the criteria in the unit standard.