

2018 PLEAWA Mock Exam

**POLITICS  
AND LAW  
ATAR UNITS 3 AND 4**

**SUGGESTED ANSWER GUIDE**

**This is a suggested answer guide only.  
Alternative answers to questions may be possible.**

**Assessment key words used include:**

<b>Analyse:</b>	Identify components and the relations between them; draw out and relate implications
<b>Assess:</b>	Make a judgement of value, quality, outcomes results or size
<b>Define:</b>	State meaning and identify essential qualities
<b>Describe:</b>	Provide characteristics or features
<b>Discuss:</b>	Identify issues and provide points for and/or against
<b>Distinguish:</b>	Recognise or note/indicate as being distinct or different from; note differences between
<b>Explain:</b>	Relate cause and effect; make the relationships between things evident; provide why and /or how
<b>Evaluate:</b>	Make a judgement based on criteria; determine the value of;
<b>Identify:</b>	Recognise and name
<b>Outline:</b>	Sketch in general terms; indicate the main features of

## Section One: Short response

30% (30 Marks)

## Question 1

(10 marks)

- (a) Explain what is meant by the term 'Federal Executive Council' in Australia. (2 marks)

Description	Marks
Explains with reference to the Australian context the role and make-up of the Federal Executive Council.	2
Identifies one point of information regarding the Federal Executive Council.	1
<b>Total</b>	<b>2</b>
<p><b>Answers could include information such as this:</b></p> <ul style="list-style-type: none"> <li>The Federal Executive Council (EXCO) is a body established by Section 62 of the Australian Constitution to advise the Governor-General. The EXCO is made up of all government ministers. The Governor-General is not a member but presides over the meetings. The main role of the EXCO is to affirm government decisions (not decide or devise policy or government direction)</li> <li>The full membership of the EXCO rarely meets and matters mostly deal with recommendations by Ministers which require the approval of the GG in Council. It is often considered a 'rubber stamp', however, the processes involved ensure that Minister's actions are properly documented and constitutionally valid.</li> </ul>	

- (b) Identify and briefly describe **three (3)** conventions that reflect the principle of responsible government in Australia. (3 marks)

Description	Marks
Identifies and describes 3 conventions relevant to the principle of responsible government in Australia.	3
Identifies and describes 2 conventions relevant to the principle of responsible government in Australia.	2
Identifies and describes 1 convention relevant to the principle of responsible government in Australia <b>or</b> defines correctly the principle of responsible government.	1
<b>Total</b>	<b>3</b>
<p><i>Responsible government means that the executive government is responsible to the parliament which is accountable to the people through elections.</i></p> <p><b>Answers could include but not limited to:</b></p> <ul style="list-style-type: none"> <li>The political executive is drawn from the legislative branch – in this case, the party which secures a majority of seats in the House of Representatives (lower house)</li> <li>A government who does not hold the confidence of the House, is expected to resign and elections called (Collective Ministerial Responsibility)</li> <li>The Governor General is obliged to act on the advice of the elected government</li> <li>In practice, the Prime Minister as the elected leader of the majority party, not the Governor-General is the head of government</li> <li>Ministers for the Federal Executive Council are chosen by the Prime Minister</li> <li>Ministers, including the Prime Minister are accountable to the parliament and subject to Individual Ministerial Responsibility</li> <li>Reserve powers are given to the Governor-General to act independently in exceptional circumstances to maintain good governance.</li> </ul>	

- (c) Discuss **two (2)** powers of the executive arm in a non-Westminster system compared to the powers of the Governor-General in Australia. (5 marks)

Description	Marks
Identifies at least two powers of the Governor-General in Australia and makes a clear comparison of the selected powers with the executive of a non-westminster system. The response should clearly identify the two powers and the role of the executive in each system.	5
Identifies two powers of the Governor-General and makes some relevant comparisons between the two systems.	3-4
One or two powers are identified with some attempt distinguish between the two systems.	1-2
<b>Total</b>	<b>5</b>
<p><b>Answers could include but not limited to:</b>            Detail needs to be specific to each selected context. Examples of Westminster systems could include: China; United States of America; Indonesia; France.</p> <p>Discussion of the powers of the Governor-General in Australia may make mention of the following powers:</p> <ul style="list-style-type: none"> <li>• Appoint officers (Ministers) to administer departments of State of the Commonwealth</li> <li>• Dissolve the House of Representatives and Senate (double dissolution)</li> <li>• Dissolve the House of Representatives</li> <li>• Issue writs for general election of members to the House of Representatives</li> <li>• Appoint and dismiss public service officers</li> <li>• Appoint justices to the High Court and other federal courts created by parliament.</li> </ul> <p>The notion that the Governor-General in Australia does not hold any real power, that he or she acts on the advice of the Federal Executive Council, with the exception of reserve powers which could be mentioned as a point of comparison.</p>	

**Question 2****(10 marks)**

- (a) Explain the meaning of the term 'political mandate'. (2 marks)

Description	Marks
Explains what is meant by the term 'political mandate'	2
Outlines the term political mandate <b>or</b> gives an example of a political mandate.	1
<b>Total</b>	<b>2</b>
<p><b>Answer could include but is not limited to:</b></p> <ul style="list-style-type: none"> <li>• A mandate is a moral rather than legal authority to act.</li> <li>• A political mandate is an endorsement of a particular platform or policy generally claimed by a successful political party following an election.</li> </ul> <p>Definition needs to be more than a general definition of the term mandate.</p>	

- (b) Outline **three (3)** ways pressure groups are able to influence law-making processes in the Commonwealth Parliament (Australia). (3 marks)

Description	Marks
Outlines three ways pressure groups influence law-making processes in the Commonwealth Parliament.	3
Outlines two ways pressure groups influence law-making processes in the Commonwealth Parliament.	2
Outlines one way pressure groups influence law-making processes in the Commonwealth Parliament OR identifies one or more more influences on law-making.	1
<b>Total</b>	<b>3</b>
<b>Answers could include but not limited to:</b> <ul style="list-style-type: none"> <li>• Lobbying members of parliament, engaging professional lobbyist</li> <li>• Use of petitions</li> <li>• Challenge existing legislation through the courts (thereby forcing change by the parliament)</li> <li>• Indirectly through media campaigns, protest and rallies</li> <li>• Political donations</li> <li>• Alignment with a political party.</li> </ul>	

- (c) Discuss **one** argument for and **one** argument against minor parties and/or independents in the Senate claiming a 'competing' mandate. (5 marks)

Description	Marks
Discusses one argument for and one argument against minor parties and/or independents in the Senate claiming a 'competing mandate'. With at least one example to support their response.	5
Outlines one argument for and one against <b>or</b> discusses either for <b>or</b> against minor parties and/or independents in the Senate claiming a 'competing mandate' (and outlines the other).	3-4
Identifies one argument for and/or against minor parties and independents in the Senate claiming a 'competing mandate' <b>or</b> makes a general statement regarding the role and/or influence of minor parties and independents in the Senate.	1-2
<b>Total</b>	<b>5</b>
<b>Answers could include but not limited to:</b> <p><i>Arguments for:</i></p> <ul style="list-style-type: none"> <li>• Elected to keep government accountable in relation to a specific issue</li> <li>• Minor parties and independents have been elected on the basis of a clear platform/policy</li> <li>• Enhances the Senate's role as a 'house of review'</li> <li>• Contemporary notions that electors are intentionally voting for independents and minor parties in the Senate to provide for alternative views and greater representation.</li> </ul> <p><i>Arguments against:</i></p> <ul style="list-style-type: none"> <li>• The Senate was not intended to be a 'party house' but one which represents the interests of the States</li> <li>• Degree of power exerted by minor parties and independents compared to the proportion of votes received</li> <li>• Disrupts the ability of elected governments to implement policies endorsed at an election.</li> </ul> <p><i>Some recent examples which could be referred to:</i></p> <ul style="list-style-type: none"> <li>• 2016 Federal election required the Coalition to negotiate legislation with minor parties and independents to pass the Senate - Pauline Hanson/PHON, Derryn</li> </ul>	

- Hinch/Justice Party, Nick Xenophon/NXT; Greens; Jackie Lambie (JLNetwork)
- Wilkie and Xenophon pushing for gambling reforms following the 2016 election.

**Question 3****(10 marks)**

- (a) What is meant by the term 'rule of law'? (2 marks)

Description	Marks
Explains what is meant by the term, 'rule of law'.	2
Gives a minimal or general explanation of the term 'rule of law'.	1
<b>Total</b>	<b>2</b>
<b>Answers could include but are not limited to:</b>	
<ul style="list-style-type: none"> <li>• The law applies to all and no one is above the law</li> <li>• People should not be subject to the unchecked or arbitrary discretion of individuals</li> <li>• Laws should be known, predictable and applied impartially</li> <li>• Laws are made by known and accepted procedures and are binding only if these procedures are followed.</li> </ul>	

- (b) Identify and explain briefly **three (3)** factors that help reinforce public confidence in the courts. (3 marks)

Description	Marks
Identifies and explains three factors which reinforce public confidence in the courts.	3
Identifies and explains two factors which reinforce public confidence in the courts <b>or</b> identifies three factors.	2
Identifies and explains one factor which reinforce public confidence in the courts <b>or</b> identifies two factors.	1
<b>Total</b>	<b>3</b>
<b>Answers could include but not limited to:</b>	
<ul style="list-style-type: none"> <li>• Decisions handed down that are not subject to external influence e.g.those which are unfavourable to government – Mabo v Q 1993; Communist Party v CW 1951</li> <li>• Courts adhere to the rule of law whereby everyone is subject to the law e.g. Justice Enfield</li> <li>• Openess of the court system – public viewing and participation</li> <li>• Ability of the media to openly report court decisions</li> <li>• Provision of written reasons for their decisions</li> <li>• Existence of an appeals process</li> <li>• Processes in place to investigate allegations of misconduct of judges</li> <li>• Australian courts operate on principles of natural justice.</li> </ul>	

- (c) Explain **two (2)** processes within the Australian judicial system that strongly reflect the principles of natural justice. (5 marks)

Description	Marks
Explains clearly two processes in the Australian judicial system and identifies how these reflect the principles of natural justice.	5
Outlines two processes and identifies the relevant principles.	3-4
Outlines two processes only <b>or</b> one process and one principle.	1-2
<b>Total</b>	<b>5</b>
<b>Answers could include reference to the following principles but not limited to:</b>	
<ul style="list-style-type: none"> <li>• The right of an individual to argue their case before an unbiased judge – with</li> </ul>	

<p>discussion on the appointment of judges</p> <ul style="list-style-type: none"> <li>• Right of access to due process of court proceedings – with reference to the process leading up to and processes during a trial</li> <li>• Right to be judged by ones peers – with reference to s80 (at the federal level)</li> <li>• Right to appeal – with discussion of the appeal process and court hierarchy in Australia.</li> </ul> <p>Federal, state, territorial jurisdictions could be referred to in the response.</p>
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**Question 4**

**(10 marks)**

- (a) Explain what is meant by the term ‘open government’. (2 marks)

Description	Marks
Explains what is meant by open government <b>OR</b> uses an example to explain open government.	2
Gives a minimal explanation of open government.	1
<b>Total</b>	<b>2</b>
<p><b>Answers could include, but are not limited to:</b></p> <p>Open government:</p> <ul style="list-style-type: none"> <li>• Degree to which processes of government are transparent and accessible to the public</li> <li>• Degree to which processes of government are sufficiently explained to the parliament/public</li> </ul>	

- (b) Identify **three (3)** provisions in the Constitution (Australian) which promote government accountability. (3 marks)

Description	Marks
Identifies three provisions in the Australian Constitution which promote government accountability.	3
Identifies two provisions in the Australian Constitution which promote government accountability.	2
Identifies one provision in the Australian Constitution which promote government accountability or gives an example of government accountability underpinned by the Constitution.	1
<b>Total</b>	<b>3</b>
<p><b>Answers could include but not limited to:</b></p> <ul style="list-style-type: none"> <li>• Chapters 1, 2 and 3 provide for a separation of powers</li> <li>• Section 53 – requires legislation to pass through two elected houses of parliament</li> <li>• Sections 24 and 7 – provides for representative government, elections for the two houses</li> <li>• The establishment of the Senate as a 'house of review'</li> <li>• Section 75 provides for judicial review</li> <li>• Section 57 provides the mechanism for resolving a deadlock in order to restore good governance.</li> <li>• Section 64, provision that states that members of the EXCO be elected members of the parliament</li> <li>• Section 128, any changes to the Constitution to be approved by a majority of the people (and the States).</li> </ul> <p>There are a range of examples which can be drawn upon in this response, however, there should be a link to the Constitution (provision can be described, not necessary to state the section as long as the description is correct) and a brief explanation as to how this promotes government accountability.</p>	

- (c) Discuss **two (2)** international covenants, protocols or treaties which have influenced the protection of rights within the Australian political and/or legal system. (5 marks)

Description	Marks
Discusses two international covenants, protocols or treaties <b>and</b> how each has influenced a specific law/s or judgement/s in Australia. At least one example should be included in the response.	5
Outlines two international covenants, protocols or treaties and makes a link to a specific legislation or judgement, an example may not be evident.	3-4
Outlines at least one statute or court decision which has been influenced by international covenants, protocols or treaties <b>or</b> identifies an international covenant, protocol or treaty relevant to Australian law.	1-2
<b>Total</b>	<b>5</b>
<b>Answers could include but not limited to discussion in relation to:</b>	
<ul style="list-style-type: none"> <li>• International Convention on the Elimination of all forms of Racial Discrimination or Convention on the Elimination of all forms of Discrimination against Women - Racial Discrimination Act (1975); Sex Discrimination Act (1984)</li> <li>• Teoh (1995); Mabo (1992)</li> <li>• Age Discrimination Act (2004)</li> <li>• Convention on The Rights of Persons with Disabilities – Disability Discrimination Act (1992)</li> <li>• The International Covenant on Economic, Social and Cultural Rights (ICESCR) commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) including labour rights and the right to health, the right to education, and the right to an adequate standard of living. Influences on – Fair Work Act (2009) and Work Health and Safety laws (CW) .</li> </ul>	

## Section Two: Source analysis

20% (20 Marks)

### Source 1:

#### Question 5

(20 marks)

- (a) Explain the term 'constitution' (2 marks)

Description	Marks
Explains the term 'constitution'.	2
Outlines what is meant by the term constitution <b>or</b> gives an example of a constitution.	1
<b>Total</b>	<b>2</b>
<b>Answers could include but not limited to:</b>	
<ul style="list-style-type: none"> <li>• The set of basic laws by which a state or nation is governed</li> <li>• Constitutions may be written or unwritten and include the principles, powers and processes of a specified political system</li> <li>• Constitutions are generally underpinned by the principle of constitutionalism which is based on the belief that the powers of government should be limited and subject to the rule of law.</li> </ul>	

- (b) With reference to the source, identify and explain **two (2)** criticisms of Section 44 which were highlighted by the dual citizenship crisis. (4 marks)

Description	Marks
Identifies and explains two criticisms of Section 44 with direct reference to the source.	4

Outlines two criticisms of Section 44 with direct reference to the source	3
Outlines two criticisms of Section 44 but limited or no reference to the source.	2
Identifies one criticism of Section 44 <b>or</b> correctly identifies a criticism in the source.	1
<b>Total</b>	<b>4</b>
<p><b>Answers could include but not limited to:</b></p> <ul style="list-style-type: none"> <li>• ‘rejected every attempt to read exceptions and qualifications into Section 44’ - When read literally, Section 44 has resulted in the disqualification of five elected parliamentarians.</li> <li>• As a ‘result of legal changes’ a parliamentarian may inadvertently be disqualified from office due to changes beyond their control or knowledge</li> <li>• ‘Opponents may be emboldened’, protagonists may be motivated to seek out others who may not be eligible for office and this could threaten government stability</li> <li>• “ill-suited to modern times” and Section 44 no longer fulfils the needs from the 1890s and requires amendment via referendum</li> <li>• “the current crisis was predictable” – that efforts should have been made some time before to avert such a crisis.</li> </ul>	

- (c) Identify and discuss **two (2)** separate legal cases that demonstrate the different jurisdictions of the High Court of Australia. (6 marks)

Description	Marks
Identifies and discusses two legal cases which demonstrate the different jurisdictions of the HCA. A clear explanation of each jurisdiction is evident along with two relevant legal cases.	5 - 6
Outlines two legal cases and the relevant jurisdictions of the HCA with some attempt to define each jurisdiction.	3 - 4
Identifies one legal case and one jurisdiction of the HCA <b>or</b> identifies two legal cases with limited or no clear explanation of the relevant jurisdiction.	1 - 2
<b>Total</b>	<b>6</b>
<p><b>Answers could include but not limited to the following legal cases:</b></p> <p>Original jurisdiction (as outlined in Sections 75 and 76):</p> <ul style="list-style-type: none"> <li>• Mabo 1992; 1993</li> <li>• Williams 2012; 2014</li> <li>• Roach 2007; Rowe 2010</li> <li>• Pape 2009</li> <li>• Totani 2010</li> <li>• Plaintiff M70/2011 (Malaysia Solution) 2011</li> <li>• Day 2016</li> <li>• Culleton 2017</li> </ul> <p>Appellate jurisdiction (as outlined in Section 73):</p> <ul style="list-style-type: none"> <li>• Li 2013</li> <li>• Mallard 2006</li> <li>• Baden-Clay ats The Queen 2016</li> <li>• Kable Case 1996</li> <li>• Any cases on appeal from Nauru (up until March 2018)</li> <li>• Patel 2012</li> </ul>	



- (d) Evaluate the impact of the High Court of Australia in its role as a 'constitutional court' on the Australian political and/or legal system. (8 marks)

Description	Marks
Evaluates, drawing on relevant constitutional cases, the impact of the HCA in its role as a constitutional court on the the Australian political and/or legal system.	7 - 8
Discusses the role of the HCA in its role as a constitutional court on the Australian political and legal system, some examples evident.	5 - 6
Outlines the role of the HCA in its role as a constitutional court on the Australian political and legal system, some attempt to include an example.	3 - 4
Identifies the role of the HCA and its role as a constitutional court <b>or</b> describes an impact of the HCA with reference to a HCA decision.	1 - 2
<b>Total</b>	<b>8</b>
<p><b>Answers could include reference to, but are not limited to:</b></p> <p><b>Relevant to the federal balance of power:</b>            Engineers Case 1920            Tasmanian Dams Case 1983            Work Choice 2006            Uniform Tax Cases 1942, 1956            Ha 1997            Marriage Equality 2014</p> <p><b>Relevant to Individual rights</b>            Dietrich 1992            Rowe            Roach.</p> <p><b>Relevant to Common law:</b>            Mabo            Norrie</p> <p><b>Relevant to executive and parliamentary accountability (judicial review):</b>            Li 2013            Plaintiff M70/2011 (Malaysia Solution) 2011            Williams 2012; 2014            Re Canavan 2018            Murphy 2016</p> <p>The key difference between questions c and d in this section is that question c) draws on cases to distinguish between the different jurisdictions of the HCA and question d) requires students to focus on the impact of the decision. Similar cases could be used in both questions</p>	

**Source 2:**

**Question 6**

**20 marks**

- (a) Explain the term 'Privileges Committee' and its role in the Commonwealth Parliament (Australia). (2 marks)

Description	Marks
Explains what is meant by a privileges committee within the context of the Commonwealth Parliament (HOR and/or Senate) and outlines at least one role undertaken by the committee.	2
Outlines what is meant by a privileges committee <b>or</b> identifies a role of the privileges committee in the House and/or the Senate.	1
<b>Total</b>	<b>2</b>

**Answers could include but are not limited to:**

- Parliamentary privilege refers to special legal rights and immunities which apply to each house of the parliament, its committees and members
- The House and the Senate have standing committees which operate to investigate specific complaints of breach of privilege
- Their role is to investigate and report to the House or the Senate whether or not a breach of privilege or contempt has been committed, and it usually recommends what action, if any, should be taken.

- (b) With reference to the source, identify and explain **two (2)** matters that the Privileges Committee investigated in the Federal Parliament. (4 marks)

Description	Marks
Identify two matters from the source investigated by the Privileges Committee and explains each of these.	4
Identifies two matters from the source investigated by the Privileges Committee and explains one of the matters.	3
Identifies two matters from the sources investigated by the Privileges Committee <b>or</b> Identifies and explains one matter.	2
Identifies one matter from the source investigated by the Privileges Committee.	1
<b>Total</b>	<b>4</b>
<b>Answers could include, but are not limited to:</b>	
<ul style="list-style-type: none"> <li>• Corruption of a Member's office as a Member of the House of Representatives – Billson receiving a direct benefit by way of a salary by a company while a member of the parliament</li> <li>• Lobbying for reward or consideration – in terms of a possible conflict of interest between Billson's role as Small Business Minister and his actions in the parliament</li> <li>• Failure to disclose payments from an organization – this being in reference to a payment from a lobby group during Billson's time in parliament. Members are expected to disclose any financial interests, payments or conflicts of interest.</li> </ul>	

- (c) Identify and discuss **two (2)** processes or procedures of the Commonwealth Parliament that contribute to its accountability. (6 marks)

Description	Marks
Identifies two relevant processes or procedures. Discusses (with reference to at least one example) to show how each process contributes to the accountability of the Commonwealth Parliament.	5 - 6
Identifies two processes or procedures. Discusses generally how one (or both) contributes to the accountability of the Commonwealth Parliament. Some attempt at an example.	3 - 4
Identifies one or two processes or procedures <b>or</b> makes a general statement about processes or procedures and the idea of accountability	1 - 2
<b>Total</b>	<b>6</b>
<b>Answers could include, but are not limited to:</b>	
<ul style="list-style-type: none"> <li>• Standing Orders which control the conduct in the chamber, could result in a Member's suspension from the chamber but which is dependent on the role of the President or Speaker (e.g. Bronwyn Bishop)</li> <li>• Parliamentary Privileges Committees for breach of parliamentary standards (e.g. Craig Thomson, Peter Slipper, Susan Ley, Bob Day, Derryn Hinch, Pauline Hanson)</li> <li>• Censure motions against a Member or Senator (in terms of parliamentary, not executive accountability)</li> <li>• Grievance and/or adjournment debates (in terms of parliamentary, not executive</li> </ul>	

accountability).
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- (d) Evaluate the extent to which elections can hold Members of the House of Representatives and/or Senators accountable. (8 marks)

Description	Marks
Makes a clear statement regarding the extent elections hold Members and/or Senators accountable. Discusses how elections relate to the accountability of Members/Senators and issues regarding the effectiveness of elections as a mechanism of accountability. At least one specific example should be used to support their discussion.	7 - 8
Addresses the question, identifying at least two aspects related to elections for the House/Senate. Discusses how the identified aspects relate to the accountability of Members/Senators. An example should be evident.	5 - 6
Identifies one or two aspects of elections for the House/Senate. Outlines how one of two of the aspects relate to the accountability of Members/Senators.	3 - 4
Identifies one or two aspects of elections relevant to the House/Senate <b>or</b> makes one or two general statements regarding elections as a mechanism of accountability.	1 - 2
<b>Total</b>	<b>8</b>
<p><b>Answers could include, but are not limited to:</b></p> <p><b>As a mechanism for accountability:</b></p> <ul style="list-style-type: none"> <li>• Elections are considered to be the most powerful mechanism of accountability – and can result in a Member or Senator losing their seat when the electorate loses confidence (e.g. Thomson, Mirabella)</li> </ul> <p><b>Limited mechanism of parliamentary accountability</b></p> <ul style="list-style-type: none"> <li>• Electors generally vote along party lines, rather than individual candidates and this limits the effectiveness in holding Members to account (Joyce)</li> <li>• It is often claimed that Senators are less accountable due to the nature of the voting system – 12 Senators per state, its difficult to identify who may not be focusing on States' interests in the Senate</li> <li>• Time between elections – how effective are the mechanisms for accountability between elections. Some consideration that election mandates do not always come to fruition</li> <li>• The existence of safe seats means that some members may not be held to account for poor performance due to partisan nature of voting system</li> </ul> <p>Some discussion of elections as a mechanism of accountability and the limitations is expected – focus must be at the Commonwealth level.</p>	

## Section Three: Essay

50% (50 Marks)

Marking guide to essay answers  
Questions 7 -10

Description	Marks
<b>Explains relevant terms and outlines parameters of discussion</b>	
Explains all relevant terms and outlines parameters of discussion	5
Explains some relevant terms and outlines parameters of discussion	4
Indicates what is to be addressed in the discussion	3
Attempts to provide a focus for discussion	2
Makes a general statement concerning the topic/claim	1
<b>Subtotal</b>	<b>5</b>
<b>Discussion of relevant issues including pertinent examples</b>	
Discusses relevant issues comprehensively using a well-structured format and supportive examples in a cohesive, logical sequence and relevant political and legal terminology	9-10
Discusses some relevant issues incorporating some examples in a cohesive, logical sequence and using relevant political and legal terminology	7-8
Limited discussion with limited examples in a logical sequence and some relevant political and legal terminology	5-6
Limited discussion of the issues with limited political and legal terminology	3-4
Makes general statements concerning the topic	1-2
<b>Subtotal</b>	<b>10</b>
<b>Evaluation / assessment / analysis</b>	
Evaluates/assesses/analyses the claim using specific evidence which demonstrates a comprehensive understanding of the topic	7
Evaluates/assesses/analyses the claim using appropriate evidence which demonstrates an understanding of the topic	6
Evaluates/assesses/analyses the claim using some evidence which demonstrates some understanding of the topic	5
Constructs a relevant but weak evaluation/assessment/analysis	4
Constructs a weak evaluation/assessment/analysis	3
Limited evaluation/assessment/analysis	2
No relevant evaluation/assessment/analysis. A statement only	1
<b>Subtotal</b>	<b>7</b>
<b>Conclusion</b>	
Draws together the argument linking evidence	3
Summarises the argument	2
Makes general/superficial statements	1
<b>Subtotal</b>	<b>3</b>
<b>Total</b>	<b>25</b>

**Question 7****(25 marks)**

“The idea of federalism in contemporary Australia no longer reflects the intent of the founders of the Constitution in 1901”.

Assess the validity of this claim.

**Relevant terms and parameters of discussion:**

Provides an assessment of the key factors, events or issues impacting on Australian federalism, with a focus on a shift from a dual federal system intended at federation to a more coordinate/cooperative (possibly coercive) model which exists today.

**Issues including pertinent examples could include:**

Some discussion of the intent of the Australian federal model at federation, with specific focus on the role and powers of the States and the C/W.

Provides some explanation and reasons for shifts in the federal balance

- HCA decisions
- Financial powers and dominance of the C/W
- Referral of powers
- Unchallenged legislation
- Referendums (to a lesser extent)
- The decline of the Senate as a ‘house for the states’.

Some consideration of the current federal model still preserving the rights of the States:

- HCA decisions
- COAG
- The Senate.

**Assessment:**

Assesses the extent to which the federal model intended at federation is still evident today. Assessments need to take into account the powers of the federal government and the powers of the state governments.

**Question 8****(25 marks)**

“Given the history of past proposals to amend the Commonwealth Constitution (Australia), it is unlikely that any of the current proposals for change will be successful”.

Assess the validity of this claim with reference to one current proposal to change the Constitution.

**Relevant terms and parameters of discussion**

- Identifies that the referendum process is the only way to formally alter the wording of the Commonwealth Constitution and outlines the processes. Some discussion of the history of past proposals, the rate of success and the factors which contributed to the success and/or failure of past referenda
- Outlines a current proposal for constitutional change, describing the detail of the proposal and what would change as a result. Some discussion of why the proposal is considered necessary
  - Australia as a republic;
  - Reference to Indigenous Australians in the Commonwealth Constitution;
  - Changes to the Senate including S: 24, 53, 57;
  - The inclusion of a Charter of Rights
  - Inclusion of local government.
- Discusses the likelihood of success, with reference to the relevant factors which may or may not contribute to its success.

**Issues including pertinent examples could include:**

Reference may be made to formal changes made to the Commonwealth Constitution which could include:

- 1928 S105A added to the Constitution giving the Commonwealth Parliament the power to set up a Loan Council responsible for allocating monies borrowed by State and Commonwealth Governments
- 1946 S 51(23A) was added as an extension of S 51(23). It gave the Commonwealth Parliament additional powers to legislate on allowances such as maternity allowances, unemployment benefits and child endowment
- 1967 S127 was deleted and S 51(26) was altered making it possible for the Commonwealth Parliament to make laws relating to Aboriginal people and to include Aboriginal people in the Australia-wide census. Before the change the Commonwealth was excluded from making laws for 'the aboriginal race in any state'
- 1977 S15 was altered to require a Senate casual vacancy to be filled by a person from the party for which the previous senator was elected. Thus the State must in effect choose the party nominee
- 1977 S72 was altered and stated that a High Court Justice was appointed for a term expiring upon attaining the age of seventy years and thus the maximum age for Justices in any court created by the Parliament is seventy years. (It had previously been a lifetime appointment)
- 1977 S128 was altered to allow electors in the ACT and NT (and any other territory under S122) to vote in referendum proposals and be part of the national majority.

Some examples of failed referenda may also be drawn upon, and this could include discussion of:

- 1999 Republic
- 1977 Simultaneous elections

Some discussion of the reasons for the success/failure of past referenda – with reference to political, institutional and attitudinal factors. When justifying their reasoning for the probable success or failure of the current reform proposal, students may link to past successes/failures and/or different factors to support their explanation.

**Assessment:**

Assesses the likelihood of the proposed reform succeeding based on the history of past referenda and the factors which contributed to past success/failure.

The discussion should focus on a current reform proposal and the factors which would contribute to its success/failure. It is not intended to be an argument for or against the reform proposal.

**Question 9 (25 marks)**

Explain how and evaluate the extent to which parliamentary committees, the judicial system and ministerial responsibility hold the executive to account in Australia.

**Relevant terms and parameters of discussion**

Explains how each of: 'parliamentary committees, the judicial system and ministerial responsibility' holds the executive to account.

Evaluates how each of these ways (but not necessarily equally) hold the executive to account, incorporating reference to relevant examples for each method of accountability.

**Issues including pertinent examples could include:**

**Parliamentary committees** could include references and examples from the Senate Estimates Committee, Privileges committees; Joint Committees – e.g. Human rights; Public Accounts and Audit – examples – CSIRO 2016, Dept Immigration and Border 2013 and 2016 Mark Scott

**The Judicial System** – relevant examples could include – Malaysia solution, Williams 2012, Li 2013, Plaintiff S297/2013 and the injunction regarding Sri Lankan refugees in 2014

**Ministerial Responsibility** – in terms of CMR: Gillard 2010, six resignations over leadership, Rudd 2013, six resignations over leadership; Abbott 2015, Turnbull resigns. In terms of IMR: Fitzgibbon 2009, Garret 2014, Nash 2014, Sinodinos 2014, Brough 2015, Briggs 2015, Robert 2016 and Ley 2017.

**Evaluation:**

Presents a reasoned, balanced and coherent evaluation of the extent to which parliamentary committees, the judicial system and ministerial responsibility hold the executive to account.

Students may argue one is more effective than the other or provide a better method of accountability. All of the aspects have their strengths and weaknesses and this should be reflected in the response.

**Question 10****(25 marks)**

Explain how and evaluate the extent to which the political and/or legal rights of a particular group in Australian society have changed over time.

**Relevant terms and parameters of discussion:**

A explanation of the political and/or legal rights at one point in time for a particular group in Australian society and an evaluation of how these rights have changed over time. There needs to be a consideration of both the improvements and remaining issues (as applicable) as part of the evaluation.

Groups could include:

- Aboriginal Australians
- Women
- People with disabilities
- Aged
- Young people
- Migrants
- Refugees.

**Issues including pertinent examples could include:**

Depending on the group, students should draw on a range of specific examples and aspects in their response

- Political rights of the group and their experience over time, which could include: the franchise, right to stand for election; freedom of association; the right to petition
- Legal rights of the group and their experience over time, which could include: procedural fairness; the rights of the accused; right to seek a legal remedy; right to liberty and security; right to freedom from discrimination.
- Particular changes in the law affecting the group.

Some consideration of legislative changes and case law should be drawn upon.

**Evaluation:**

Presents a reasoned, balanced and coherent evaluation of the extent to which the political and/or legal rights of a particular group have changed over time (i.e. improved, stayed relatively unchanged or worsened over time),