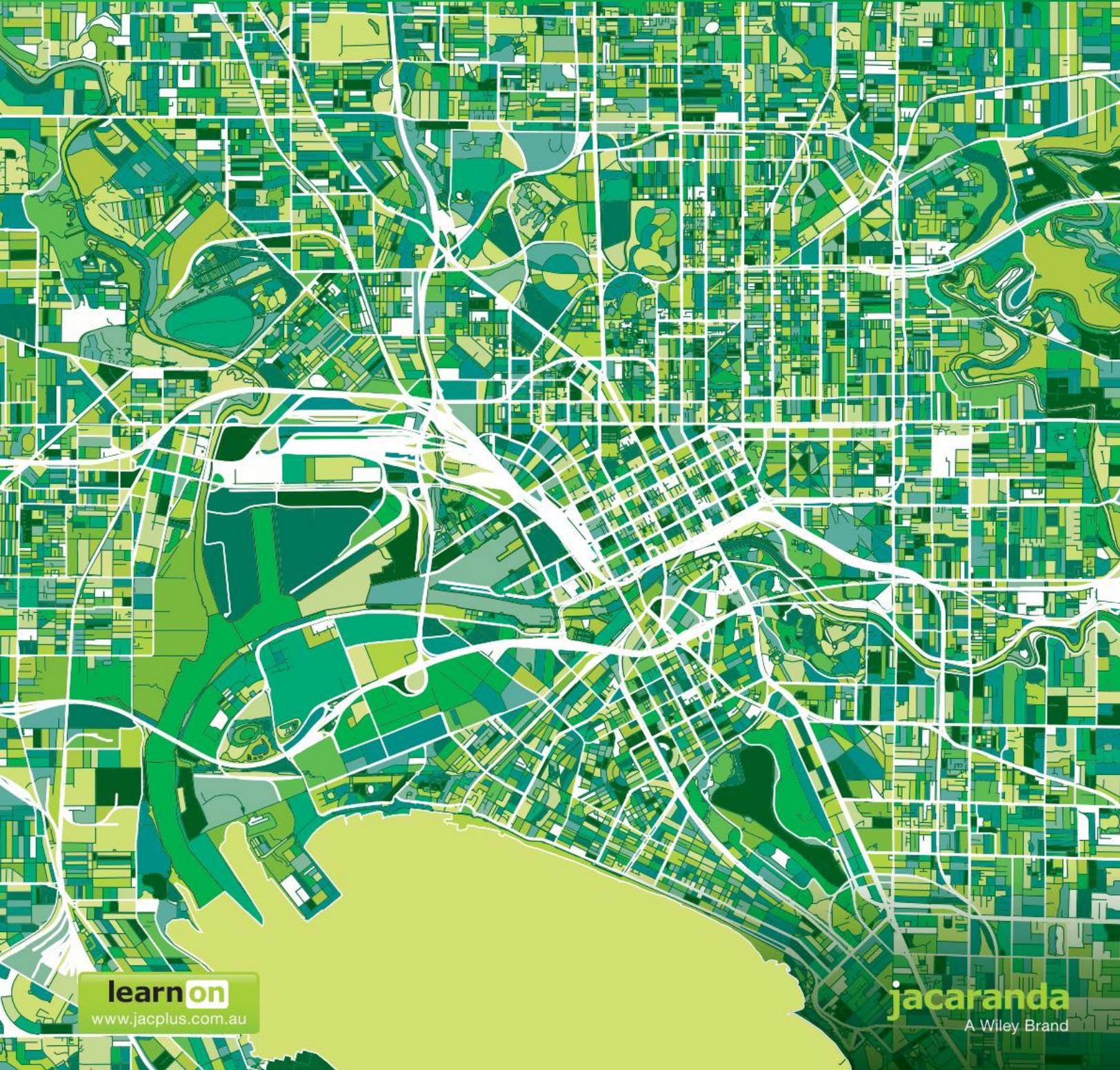


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JACARANDA
**CIVICS AND
CITIZENSHIP ALIVE** 9
VICTORIAN CURRICULUM | SECOND EDITION



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HOW TO USE

the *Jacaranda Civics and Citizenship Alive* resource suite

The ever-popular *Jacaranda Civics and Citizenship Alive for the Victorian Curriculum* is available as a standalone Civics and Citizenship series or as part of the *Jacaranda Humanities Alive* series, which incorporates Civics and Citizenship, History, Geography, and Economics and Business in a 4-in-1 title. The series is available across a number of digital formats: learnON, eBookPLUS, eGuidePLUS, PDF and iPad app.

Skills development is integrated throughout, with key skills targeted through SkillBuilders.

This suite of resources is designed to allow for differentiation, flexible teaching and multiple entry and exit points so teachers can *teach their class their way*.

Features

All topics start with an **Overview** which includes a pre-test to gauge students' readiness to begin.

An online **workbook** is available for customisation and printing.

SkillBuilders, Thinking Big research projects and **Reviews** are available online for every topic.

Skills keys identify each question according to the skill targeted, providing insights into skills development. Progress and results can be tracked and filtered by skill online.

3 Identity, the media and global connectedness

3.1 Overview

I am an Australian. What does this mean in our multicultural society and what influences our Australian identity?

3.1.1 Introduction

For tens of thousands of years, Australian society existed without significant influence from the outside world. There is evidence of Indigenous Australian communities trading with their northern neighbours for the best part of 50 000 years. However, living in relative geographical isolation, Australian Indigenous society developed a distinct, yet varied culture free from external influences. This changed with the arrival of European settlers who brought with them their own culture and traditions. For over 200 years, successive waves of immigration have continued to bring new cultures, traditions and customs to Australia, creating a complex tapestry of national identity. The impact of external influences on Australian culture and identity has continued to grow, fuelled in many ways by the influence of popular culture and media. In this topic, we will investigate the development of Australian identity in the context of the global community. We will discuss how Australian identity has evolved and examine the drivers behind this evolution.

Resources

- Workbook** Customisable worksheets for this topic
- Video Lesson** Australia's role in a global community (jcas-2365)

LEARNING SEQUENCE

- 3.1 Overview
- 3.2 Australian democracy and global connections
- 3.3 Shaping Australian identity
- 3.4 Attitudes to diversity
- 3.5 Participating in civic life
- 3.6 **SkillBuilder**: Debating an issue
- 3.7 **Thinking Big** research project: Don't stereotype me!
- 3.8 **Review**

To access a pre-test and starter questions and receive immediate, corrective feedback and sample responses to every question, select your learnON format at www.jacplus.com.au.

Topics open with an **inquiry question** to spark students' curiosity about the topic.

OnResources feature boxes provide guidance about additional resources online.

Corrective feedback and **sample responses** are available online for every question.

FIGURE 3 The High Court is the final court of appeal in Australia.



2.9 ACTIVITIES

- Using the internet or newspapers, look up a case that has gone to appeal. Summarise in writing what the appeal was about and what result was achieved. **Examining, analysing, interpreting**
- Find the website of a court in the Victorian court hierarchy. Research the process for appealing a court's decision. Present this process in the form of a diagram. **Examining, analysing, interpreting**

2.9 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.9 Exercise 1: Check your understanding

- CS1** What is the right of appeal?
- CS1** Why might a party appeal a court's decision?
- CS1** Who can appeal a decision and under what circumstances?
- CS2** Briefly outline what happens in an appeal.
- CS2** Describe the difference between original and appellate jurisdiction.

2.9 Exercise 2: Apply your understanding

- CS2** Explain the process for appealing a court's decision.
- CS5** 'The right of appeal is an important principle of Australia's justice system.' Do you agree or disagree with this statement? Give reasons for your answer.
- CS6** Imagine you have been found guilty of a crime that you did not commit. What would happen to you if there was no right of appeal?
- CS6** Although the High Court is the highest court of appeal in Australia, relatively few appeal cases are heard by this court. Identify and explain one reason why this is the case.
- CS4** Critics of the appeal process say that it allows a guilty person to keep on appealing and avoiding responsibility for their actions. Give reasons as to why you agree or disagree with this view.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

A range of activities is provided to promote deeper inquiry, encourage collaboration and help students to develop their research skills.

Exercise sets at the end of each subtopic allow students to **check and apply** their understanding.

Content is presented using age-appropriate language, and a wide range of engaging sources, diagrams and images support concept learning.

3.5.4 The role of NGOs

Non-government organisations (NGOs) are another important group that works towards goals based on the common good. Australian NGOs must be accredited by the Department of Foreign Affairs and Trade to receive government grants and support. The majority of Australian NGOs are classified as operational NGOs. This means that they actively plan and implement projects on a local, national or global scale. One such operational NGO is the Fred Hollows Foundation (FHF). The founder of this organisation, Dr Fred Hollows, dedicated his life to combating treatable eye disease and blindness in Australian Indigenous communities. From humble beginnings in which Dr Hollows performed most of the surgeries himself, the foundation is now active in many countries across Asia, Africa and the Middle East. Although the FHF employs doctors and other medical professionals, regular Australians can also contribute to its programs through volunteer work and donations. In this way, NGOs such as the FHF provide an opportunity for all members of Australian society to contribute to their community either directly or indirectly.

3.5 EXERCISES
Class and Citizenship skills key: **CB1** Identifying and understanding **CB2** Describing and explaining **CB3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

3.5 Exercise 1: Check your understanding

- CB1** Provide three examples of how someone can be an active participant in civic life.
- CB2** Describe the concept of the common good.
- CB3** What is the goal of Live4 and how does this goal relate to the common good?
- CB4** What does an operational non-government organisation do?
- CB5** Explain how people can contribute to the operation of a non-government organisation?

3.5 Exercise 2: Apply your understanding

- CS1** Why is it important for members of a community to contribute to civic life?
- CS6** Why would a largely Jewish organisation be interested in helping new immigrants from Africa?
- CS2** How can non-government organisations in Australia receive funding?
- CS8** If you were to start a new non-government organisation, what would you focus on and what kinds of projects would you implement?
- CS8** The work completed by small-scale not-for-profits is not as important as that completed by multinational non-government organisations. To what extent do you agree with this statement? Explain your view.

Try these questions in learnON for instant, connective feedback. Go to www.jacplus.com.au.

3.6 SkillBuilder: Debating an issue

What is a debate?
 Debating turns arguing into a sport, complete with set positions, rules and a points system. In a regular debate, two teams of three debaters argue opposing sides of an issue. This issue is presented as a statement that can be researched, analysed and then debated. For example: "Stereotypes decrease social cohesion." After hearing all six speakers, judges decide which side spoke the best and presented the most convincing arguments.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill (Show me)
- an activity to allow you to practise the skill (Let me do it)

Skillbuilders model and develop key skills in context.

FIGURE 5 Unions launched the 'Your rights at work' campaign in response to the Liberal government's WorkChoices laws.



DISCUSS
 Consider this statement: "Interest groups should not be able to donate money to political parties in order to try to influence them or help them win power."

- What would be the different positions that the following groups of people would have on this issue?
 - A Greens politician who has received a large donation from an environmental group to help her campaign
 - A pro-business lobby group that donates to the Liberal party
 - Undecided voters
- What values and beliefs may influence their differing perspectives? **[Ethical Capability, Personal and Social Capability]**

1.4.7 Other political party campaign activities

Political parties have a variety of additional campaign techniques that are used in most elections. These include:

- Literature:** Parties will print and distribute advertising leaflets during an election campaign. These will usually feature a photo and information about the local candidate, as well as information about the party's policies. Local party members then volunteer to walk around the electorate delivering the leaflets to letterboxes.
- Polling:** As well as opinion-polling companies carrying out surveys of voters' opinions, political parties carry out their own opinion polls, particularly during an election campaign. They wait up-to-date feedback on how well their campaign is being received by the voters, whether their policies are popular or not, and how well the leaders are performing. The political parties carry out polling almost every day during an election campaign.

Discuss features explicitly address Curriculum Capabilities.

1.7 SkillBuilder: Creating and analysing a table

What is a table?
 A table is a way of displaying information, or data, in an organised way. The data is arranged in columns (reading down) and rows (reading across). A table is sometimes also called a grid, because the rows and columns are separated by lines, which form a grid.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill (Show me)
- an activity to allow you to practise the skill (Let me do it)

	2010	2015	2018
NSW	7 060 000	7 510 000	7 660 000
Victoria	5 200 000	5 510 000	5 560 000
Queensland	4 800 000	5 110 000	5 160 000
South Australia	1 800 000	1 720 000	1 700 000
Western Australia	3 400 000	3 670 000	3 720 000
Tasmania	520 000	510 000	500 000
ACT	460 000	470 000	470 000
TOTAL	23 740 000	24 990 000	25 270 000

Resources
 Digital doc: Analysing and interpreting data (30c-14035)

1.8 Thinking Big research project: Founding a political party

SCENARIO
 Imagine you have decided to establish your own political party. What would be your core beliefs? How would you like to improve Australia? What specific policies would you propose to achieve your aims? Prepare a policy document for your new political party, outlining your beliefs, policy priorities and vision for Australia.

Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.

Resources
 ProjectsPLUS Thinking Big research project: Founding a political party (24c-0187)

In each topic, a Thinking Big research project provides opportunities for students to delve deeper, think creatively and work collaboratively.

1.9 Review

1.9.1 Key knowledge summary
 Use this dot point summary to review the content covered in this topic.

1.9.2 Reflection
 Reflect on your learning using the activities and resources provided.

Resources

- Workbook: Reflection (30c-01733)
- Crossword (30c-01738)
- Interactively: Crossing a government crossword (30-0433)

KEY TERMS

Australian Electoral Commission an independent body that organises and runs elections in Australia

coalition an alliance between two or more political parties, formed to improve their chances of winning an election and forming government

eligible voters Australian citizens who are over 18 years old and are on the electoral roll, which is an official register of voters

formal vote a ballot paper that has been filled out correctly

informal vote a ballot paper that has not been filled out correctly and therefore will not be counted

portfolio an area of responsibility given to a minister, such as health, education or defence

private members' bills bills that are proposed by members of the House of Representatives on their own behalf rather than on behalf of the government

quota in the Senate, refers to the share of votes required to be elected. It is calculated using the total number of votes cast and the number of vacancies to be filled

scrutineer a representative of a parliamentary candidate who attends the counting of votes to ensure the count is fair

sway/age or **franchise** the right to vote

A range of questions and a post-test are available online to test students' understanding of the topic.

Key terms are available in every topic review.

learnON

Jacaranda Civics and Citizenship Alive learnON is an immersive digital learning platform that enables student and teacher connections, and tracks, monitors and reports progress for immediate insights into student learning and understanding.

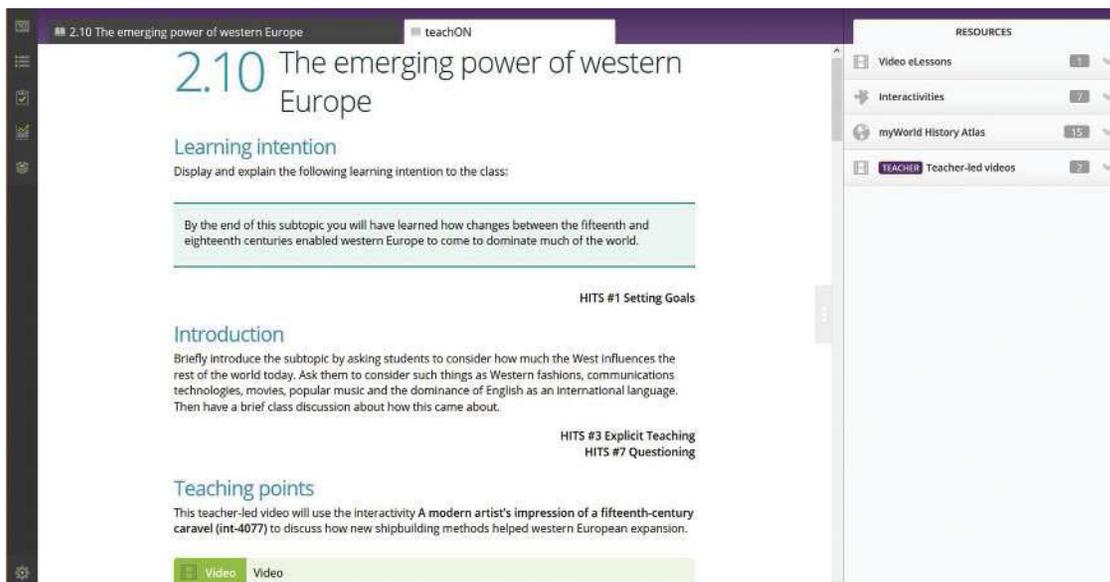
It includes:

- a wide variety of embedded videos and interactivities
- questions that can be answered online, with sample responses and immediate, corrective feedback
- additional resources such as activities, an eWorkbook, worksheets, and more
- Thinking Big research projects
- SkillBuilders
- teachON, providing teachers with practical teaching advice, teacher-led videos and lesson plans.



teachON

Conveniently situated within the learnON format, teachON includes practical teaching advice, teacher-led videos and lesson plans, designed to support, save time and provide inspiration for teachers.



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1 Choosing a government

1.1 Overview

Parliament, elections and opposing parties. Is governing Australia about more than arguing politicians?

1.1.1 Australia's system of government

In Australia we have a form of government known as a representative democracy. This means that people elect representatives to sit in the parliament to make laws on their behalf. Members of parliament (MPs) are elected for a set period of time, so they have to be able to perform well enough to convince the voters to re-elect them after that period of time.

Our federal parliament is made up of the Governor-General, representing the British monarch, and two 'houses' — the Senate (upper house) and the House of Representatives (lower house). Most MPs belong to an organisation known as a political party. The aim of each political party is to win a majority in the House of Representatives and form government. This means winning 76 or more of the 151 electorates (also called seats) in the lower house. Winning government enables the successful political party to run the country until the next election. The party's leader becomes the prime minister, and other senior members of the party become government ministers.

Each government minister is responsible for a government department. These include health, defence, communications, immigration, social services, the environment, education or foreign affairs. Government employees and public servants in these departments then become responsible for carrying out the policies of the government, acting on the instructions of the minister.

Resources

-  **eWorkbook** Customisable worksheets for this topic
-  **Video eLesson** Federal elections (eles-2258)

LEARNING SEQUENCE

- 1.1 Overview
- 1.2 Australia's political parties
- 1.3 Voting and the federal electoral process
- 1.4 Influencing your vote
- 1.5 After the election — the formation of government
- 1.6 The role of the prime minister and Cabinet
- 1.7 **SkillBuilder:** Creating and analysing a table
- 1.8 **Thinking Big research project:** Founding a political party
- 1.9 **Review**



To access a pre-test and starter questions and receive immediate, **corrective feedback** and **sample responses** to every question, select your learnON format at www.jacplus.com.au.

1.2 Australia's political parties

1.2.1 Different political parties represent different views

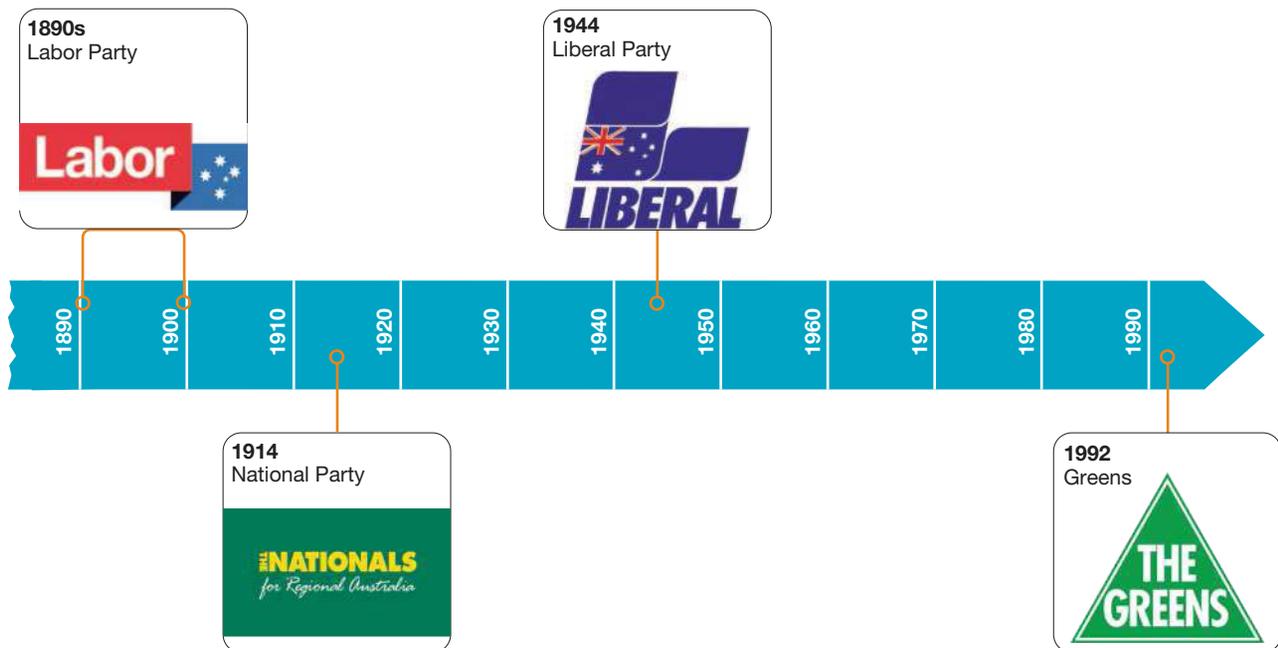
Political parties are groups of people who band together because they share the same views about issues they think are important. People join a political party because they support the party's views. The main aim of a political party is to get its candidates elected so it can control government.

Political parties in Australia range from traditional organisations to special interest groups. They work hard to promote their ideas and encourage members of the public to join them. Their main aim is to have candidates elected to parliament. In this way they can aim to have laws passed that are consistent with their beliefs and values. Use the **Political parties** weblinks in the Resources tab to learn more.

All political parties must be registered with the **Australian Electoral Commission**. There are two requirements for this registration:

1. The aims of the party must be submitted.
2. The party must have at least 500 **eligible voters** unless the party already has a member in parliament at the time it is formed.

FIGURE 1 Timeline of Australia's political parties



1.2.2 Australian Labor Party

The Australian Labor Party (ALP) is the oldest political party in Australia. It was formed in the 1890s. Unemployment was high and living conditions were harsh, so workers relied on their trade unions for support and protection. The unions felt they would be more effective if they could gain a voice in parliament. For this reason they formed their own political party to put forward their own candidates for election. This background has meant that trade unions have always had strong links with the Labor Party.



The Labor Party believes that government has a responsibility to look after the people. Its main aims are to:

- ensure wealth and power are shared evenly and fairly in society
- make sure everyone who wants to work can find a job

- abolish poverty and improve the living standards of all Australians
- ensure that all Australians can obtain the education, housing and community services they need.

TABLE 1 Labor Party governments since World War II

Period of government	Prime Minister
October 1941 to December 1949	John Curtin: 1941–1945 (died July 1945) Ben Chifley: 1945–1949
December 1972 to November 1975	Gough Whitlam
March 1983 to March 1996	Bob Hawke: 1983–December 1991 Paul Keating: December 1991– March 1996
November 2007 to September 2013	Kevin Rudd: November 2007– June 2010 Julia Gillard: June 2010–June 2013 Kevin Rudd: June 2013– September 2013

FIGURE 2 The Australian Labor Party was formed in the late nineteenth century by trade unionists, seen here campaigning for the eight-hour working day.



1.2.3 The Liberal Party of Australia

The Liberal Party of Australia was founded by Robert Menzies in 1944 and first won government in the federal parliament in 1949. The Liberal party has since always formed a **coalition** government with the National Party.

The Liberal Party believes in individual freedom and free enterprise. Its main aims are to work towards:

- a just and humane society in which the family and the role of law and justice are maintained
- equal opportunity for all Australians; and the encouragement and facilitation of wealth so that all may enjoy the highest possible standards of living, health, education and social justice
- a lean government that minimises interference in daily life and minimises taxes
- a government that encourages private businesses and does not compete with them.

FIGURE 3 The Liberal Party was founded in 1944 by Robert Menzies.



TABLE 2 Liberal–National Party governments since World War II

Period of government	Prime Minister
December 1949 to December 1972	Robert Menzies: 1949–January 1966 (retired) Harold Holt: January 1966–December 1967 (died) John McEwen (National Party): Dec 1967–Jan 1968 John Gorton: January 1968–March 1971 William McMahon: March 1971–December 1972
November 1975 to March 1983	Malcolm Fraser
March 1996 to November 2007	John Howard
September 2013–	Tony Abbott: September 2013–September 2015 Malcolm Turnbull: September 2015–August 2018 Scott Morrison: August 2018–

1.2.4 National Party of Australia

The Nationals were established as a federal party in 1920, originally as the Country Party. The Nationals have been able to form government on several occasions as the junior partner in coalition with the Liberal Party since 1949, and with other parties before that. When the National Party is in government with the Liberal Party, the leader of the National Party becomes deputy prime minister.

The Nationals are dedicated to representing people who live, work or operate a business in regional Australia. The Nationals fight for an equality of services, lifestyle and opportunity between the cities and the regions. Their main aims are to:

- provide strong representation of local communities
- ensure security for families through decent health, safety, social and economic welfare standards
- promote individual achievement, free choice and a fair go
- encourage investment, wealth generation and reward for private enterprise.



1.2.5 Australian Greens

The Australian Greens party was formed in 1992. It grew out of the activism of environmental groups in the 1980s and based many of its principles on those of European green parties. Its main aims are to:

- look after the environment and preserve the Earth's resources for the future
- ensure that everyone in our society is treated fairly and with respect
- create a safe, harmonious world in which force is not used to solve differences
- ensure that society is governed by the people, and not run by the wealthy and powerful.



1.2.6 Minor parties

In addition to the major parties, a number of smaller parties have existed in recent times. Often these parties are centred on an individual politician, whose name forms part of the party name. In some cases this party leader and founder has been elected to parliament as an independent and has used their profile as a means to establish a new party and attract other candidates to join them. Examples include:

- Pauline Hanson's One Nation Party — founded by Queensland Senator Pauline Hanson in 1998. Hanson was elected to the Senate in 2016. She was elected as a Liberal member of the House of Representatives in 1996 and founded her own party after having been expelled from the Liberal Party. She unsuccessfully stood for the Senate on several occasions prior to 2016.
- Palmer United Party/United Australia Party — founded by Queensland businessman Clive Palmer as Palmer United Party in 2013, with a name change in 2018.
- Katter's Australian Party — founded by Queensland member of the House of Representatives Bob Katter, who was elected to federal parliament in 1993 as a National Party member, left the party to sit as an independent in 2001, and founded Katter's Australian Party in 2011.
- The Nick Xenophon Team/Centre Alliance — founded by South Australian Senator Nick Xenophon in 2013, who had been an independent member of the Senate since 2008. When Xenophon left the Senate to contest a seat in the 2018 South Australian state election, the party was renamed Centre Alliance, and no longer has any direct involvement with Nick Xenophon.
- Derryn Hinch's Justice Party — founded by media personality Derryn Hinch in 2016, with Hinch elected to the Senate in the federal election of that year. His party was successful in having three members elected to the Victorian upper house in 2018.
- Jacqui Lambie Network — founded by Tasmanian Jacqui Lambie, who was first elected to the Senate as a member of the Palmer United Party in 2013. After leaving that party in 2014, she founded her own party in 2015. She was re-elected in the 2016 election, but had to resign in 2017 because she held dual Australian and British citizenship. Under the Australian Constitution, a member of parliament must be an Australian citizen and cannot hold dual citizenship with any other country.

There have been a number of other minor parties that have had members elected to the Senate, such as the Liberal Democratic Party, the Family First Party and the Motoring Enthusiast Party. The Senate voting system, discussed in the following sections, made it possible for representatives of minor parties to gain a seat in the Senate, by gaining preferences from a wide range of other candidates.

DID YOU KNOW?

When Ricky Muir of the Motoring Enthusiast Party was elected to the Senate in the 2013 election, he won only 0.51 per cent of the primary vote. John Madigan of the Democratic Labour Party won his Senate seat with just 2.3 per cent of the primary vote. These results led for calls to reform the Senate voting and preference system to prevent 'micro-parties' being elected. The reforms came into effect before the next election in 2016, at which Muir and Madigan both failed to retain their seats.

1.2.7 Independents

Members of parliament who do not belong to a political party are called independents. They sit alone in parliament and may choose to vote with one of the major parties or with minor parties, or abstain from voting.

Within the parliament, government members sit on the benches to the right of the Speaker, while Opposition members sit to the left of the Speaker. Independents and minor party members sit on the benches in the middle, at the opposite end of the chamber to the Speaker. They are said to sit on the 'cross-benches', and so are known as 'cross-bench members' or 'cross-benchers'.

It is difficult for independent members to be elected because they do not have a party structure and membership to support them. Independent senators are usually people with a high profile across their whole state. An independent attempting to be elected to the House of Representatives needs to gain strong local community support in the electorate.

Resources

-  **Weblinks** Political parties: Australian Labor Party
Political parties: Liberal Party of Australia
Political parties: The Australian Greens
Political parties: The Nationals

1.2 ACTIVITY

Select one of the political parties described in this section and use the **Political parties** weblinks in the Resources tab to visit the party's website and find answers to the following:

- What is your selected party's vision for the future of Australia?
- Identify and explain six key policies that your selected party believes will help achieve this vision.

Examining, analysing, interpreting

1.2 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.2 Exercise 1: Check your understanding

- CS1** What is a political party?
- CS1** What is a coalition?
- CS2** Why is the trade union movement influential within the Labor Party?
- CS2** Explain what the Liberal Party and National Party have in common that has allowed them to form a coalition in the federal parliament for over 65 years.
- CS3** Outline the similarities and differences of the main aims of the Labor and Liberal parties.

1.2 Exercise 2: Apply your understanding

- CS3** What are the key policies of the Greens? In what ways are they different from the major parties?
- CS2** Why is it difficult for an independent to win a seat in parliament?
- CS6** Explain why the terms of prime ministers do not always coincide with the dates of elections and terms of governments.
- CS5** Why do you think so many minor parties are centred around an individual politician?
- CS6** Why are MPs who are members of minor parties generally referred to as 'cross-benchers'?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.3 Voting and the federal electoral process

1.3.1 The voting system

We elect representatives to state and federal parliaments, as well as to local councils, to make laws and to take other decisions on our behalf. It is important that the voting system is as fair as possible because this ensures that the composition of parliament is a true representation of the voters' wishes.

FIGURE 1 Our democratic system is based on the principle that all Australian citizens over 18 vote to elect members of parliament.



on Resources

 **Video eLesson:** What is parliament? (eles-2077)

1.3.2 The Australian electoral system

The Australian electoral system is based on a number of key principles. These are:

- universal suffrage and secret ballot
- compulsory voting
- fixed or maximum terms for parliament
- one vote, one value
- combinations of single-member and multi-member electorates
- preferential voting and proportional representation.

Universal suffrage and secret ballot

Voting in all parliamentary elections in Australia is through universal adult **suffrage** or **franchise**. This means that all Australian citizens over the age of 18 have a right to vote. There are some exceptions to this. For example, anyone serving a prison term of three years or longer cannot vote while they are in prison, but can resume the right to vote once they are released.

We have not always had universal adult franchise in Australia. In the 1850s, colonial parliaments granted the franchise to white adult males over the age of 21. In 1902, the right to vote in elections for the Commonwealth Parliament was extended to white women over 21. Aboriginal and Torres Strait Islander peoples were excluded from voting until 1962. The legal voting age was lowered from 21 to 18 in 1973.

Australia was one of the first places in the world to introduce a secret ballot for voting. A secret ballot allows every voter to keep their vote private, so that no-one can force them to vote for a particular candidate. Before the introduction of the secret ballot, voters had to announce who they were voting for to an official. This vote was then recorded beside their name, so everyone could see who everyone else voted for. This system often led to the intimidation and bribery of voters. Most of the Australian colonial parliaments introduced the secret ballot in the 1850s. Under this system, voters fill out their voting papers in private, fold them so no-one can see, and place them in a ballot box. Once in the box, there is no way of identifying one voting paper from another.

Compulsory voting

Compulsory voting is not required by the Australian Constitution, and was only introduced in Australia in 1924. Now, voting for federal, state and territory parliaments is compulsory for all eligible citizens over the age of 18. In some states, voting is also compulsory for local council elections. Failure to vote can result in a fine if the voter does not have a reasonable excuse, such as serious illness on the day of the election.

To assist those who may have difficulty voting on election day, a number of alternative methods are available:

- Early voting centres are open in all electorates, often up to three weeks before the actual election. If a voter knows that he or she will be away from their home electorate on election day, it is possible to take advantage of this method.
- Voters can apply for postal votes, which allow them to receive ballot papers before the election and to post them to the appropriate electoral office. Envelopes containing these votes are opened face down to preserve the secrecy of the vote.
- It is possible to vote interstate or overseas if you have not been able to organise early voting or postal voting before travelling.

Australian Electoral Commission and the electoral rolls

All Australian citizens are required to register to vote when they turn 18. This can be done either online or by obtaining an enrolment form from an office of the Australian Electoral Commission (AEC). The AEC is the official body responsible for the conduct of federal elections. It also maintains a record of all registered voters, known as the electoral roll. This record is updated regularly to allow for new

FIGURE 2 Australia was one of the first countries in the world to use the secret ballot.

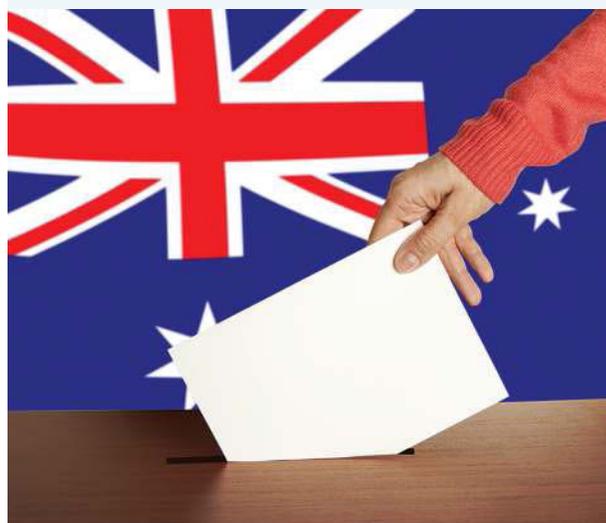


FIGURE 3 All registered voters in an electorate have their names and addresses recorded in the electoral roll.



voters to be added, changes of voter addresses to be recorded, and names to be removed when voters die. You can enrol to vote any time after turning 16, although you will not be able to vote until you have turned 18. Failure to enrol to vote can result in a fine.

Fixed or maximum terms for parliament

The Australian Constitution requires that elections for the House of Representatives be held at least every three years. They can be held before three years have elapsed — usually because the prime minister at the time chooses to hold an early election.

All of the states and territories are required to hold elections every four years. Each state has its own rules for holding these elections. For example, in Victoria the state parliament has a fixed term, with an election held on the last Saturday in November every four years. In some other states, an early election is possible if the state government chooses to do so.

The Senate also has elections every three years, but the rules are different from those in the House of Representatives. All senators are elected for six years (apart from the senators from the ACT and Northern Territory, who are elected only for three-year terms), so normally only half the senators have to face election every three years. The exception occurs when a double dissolution is called. In these circumstances all 76 senators face re-election. Some of the states have similar arrangements for their upper houses, with only half the members facing election at a time.

One vote, one value

Each person has only one vote for each house of parliament, so all voters are equal. However, the numbers of representatives and senators elected to parliament differ because of provisions written into the Australian Constitution at federation.

House of Representatives

As far as possible, all federal electorates for the House of Representatives have a similar number of voters. This is to ensure that all votes have as close as possible to equal value throughout Australia. It also means that each state has a different number of electorates, according to population. The average number of voters is around 95 000 in each electorate, with some anomalies. Because the Constitution allows for a minimum of five electorates in any state, Tasmanian electorates have about 70 000 voters each, as Tasmania has the lowest population of the states. The Northern Territory is divided into two electorates, while the Australian Capital Territory has three electorates. Population differences mean that each ACT electorate has an average of around 85 000 voters, while the Northern Territory electorates average around 60 000 voters. **FIGURE 5** shows the number of electorates in each state and territory.

FIGURE 4 The Australian Constitution requires that elections for the House of Representatives be held at least every three years.

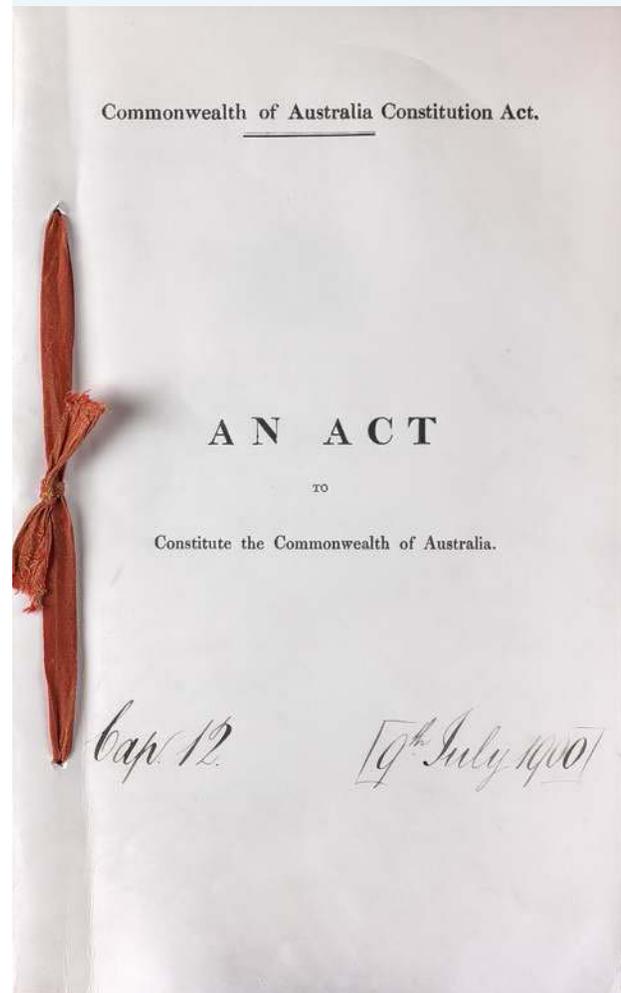


FIGURE 5 Population and the House of Representatives



The Senate

One of the original functions of the Senate was to protect the interests of the six states. The representatives of the less populated states were concerned that they could be out-voted in the House of Representatives by the combined members from Victoria and New South Wales. For this reason, the Senate has an equal number of members from each state. Currently this stands at 12 per state, with two from each of the two territories, making a total of 76. The principle of one vote, one value does not apply to the Senate. Consequently, New South Wales with almost 7.9 million people has the same number of senators as Tasmania, which has a population of just over 520 000.

Combinations of single-member and multi-member electorates

The Commonwealth, state and territory parliaments use a variety of methods to determine the way in which the voters are represented. The House of Representatives has 151 members, with each member representing a single electorate or seat.

The Senate has a different form of representation. Each state and territory is a single electorate for the purpose of electing senators, so all senators effectively represent the entire state or territory rather than a smaller electorate. Each state is effectively a multi-member electorate as it has 12 senators representing it at any given time.

The states and territories have a combination of single-member and multi-member voting systems.

- In Victoria, New South Wales, Queensland, South Australia, Western Australia and the Northern Territory, each lower house is made up of members from single-member electorates.
- Members of the lower house in Tasmania and the ACT are elected from multi-member electorates.
- The upper houses in Victoria, New South Wales, South Australia and Western Australia have multi-member electorates.
- The Tasmanian upper house has 15 single-member electorates.
- There is no upper house in the Northern Territory, ACT and Queensland parliaments.

FIGURE 6 The Victorian lower house, known as the Legislative Assembly, has 88 members elected from single-member electorates.



Preferential voting and proportional representation

The type of voting system used in Australian elections depends on whether the election involves single-member electorates or multi-member electorates. When an election occurs in a single-member electorate, a system known as preferential voting is used. In multi-member electorates, proportional representation voting is applied.

Preferential voting

A preferential system of voting is used for members of the House of Representatives, and state houses of parliament with single-member electorates. This means that voters are usually required to vote for the candidates in order of preference. The voter places the number 1 in the square next to their preferred candidate, the number 2 next to their second preference, and so on down the ballot paper. In House of Representatives elections, voters are expected to place a number in every square. (The process for counting preferences is discussed in subtopic 1.5.)

Proportional representation

Proportional representation is the system of voting used in all elections for multi-member electorates in Australia. It is also used for the Senate. In most cases, voters are required to number their preferences on the ballot paper. The votes are divided up in such a way as to elect the required number of successful candidates based on the proportion of the total vote given to each party.

The counting method is quite complex, but the end result is that the members elected will usually come from a variety of different political parties, including some parties with a relatively small share of the total vote. Candidates are grouped on the ballot paper according to the party they represent. The possibility of being elected with a relatively small share of the vote has usually resulted in a large number of small parties nominating candidates for the Senate. This has meant that Senate ballot papers in recent elections in some states have had as many as 100 candidates!

With the number of candidates increasing over the years, it became very difficult for voters to mark all the squares without the risk of missing a number or mistakenly using a number twice. In order to deal with this problem, a system of 'above-the-line' voting was introduced to Senate elections in 1984. This meant that instead of placing a number in every square, voters simply had to place the number 1 above the group representing the political party they preferred.

Voting rules for the Senate changed again following the 2013 election in which minor parties were able to get candidates elected to the Senate with a very small percentage of the primary vote. (see the Did You Know? box in section 1.2.6). This so-called gaming of the system was seen as undemocratic, and the calls for reform resulted in a new system of voting for the Senate being introduced in the July 2016 election. Voters are now given the option of numbering at least six boxes above the line for the parties of their choice, or at least 12 boxes below the line for the individual candidates of their choice. The sample Senate voting papers in **FIGURES 8** and **9** show the two different methods of voting.

FIGURE 7 In House of Representatives elections, voters are required to number every square next to the candidates' names.

BALLOT PAPER
HOUSE OF REPRESENTATIVES
STATE
ELECTORAL DIVISION OF
DIVISION NAME

Number the boxes from 1 to 8 in the order of your choice.

2 SURNAME, Given names
INDEPENDENT

3 SURNAME, Given names
PARTY

7 SURNAME, Given names
PARTY

4 SURNAME, Given names
PARTY

1 SURNAME, Given names
PARTY

5 SURNAME, Given names
PARTY

6 SURNAME, Given names
PARTY

8 SURNAME, Given names
PARTY

Remember...number every box to make your vote count.

AEC
Australian Electoral Commission

SAMPLE

FIGURE 8 Voting above the line: voters can accept the preferences decided by political parties by voting above the line. Under this option, they must number at least six parties.

Senae Ballot Paper
State – Election of 6 Senators

You may vote in one of two ways
Either
Above the line
 By numbering at least 6 of these boxes in the order of your choice (with number 1 as your first choice).

A	B	C	D	E	F	G
 5 PARTY	 2 PARTY	  1 PARTY	 PARTY	 3 PARTY	  6 PARTY	 4 PARTY

Or
Below the line
 By numbering at least 12 of these boxes in the order of your choice (with number 1 as your first choice).

PARTY	UNGROUPED						
<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names INDEPENDENT						
<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names INDEPENDENT						
<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names INDEPENDENT						

SAMPLE

FIGURE 9 Voting below the line: voters must number at least 12 Senate candidates when choosing to vote below the line.

Senae Ballot Paper
State – Election of 6 Senators

You may vote in one of two ways
Either
Above the line
 By numbering at least 6 of these boxes in the order of your choice (with number 1 as your first choice).

A	B	C	D	E	F	G
 PARTY	 PARTY	  PARTY	 PARTY	 PARTY	  PARTY	 PARTY

Or
Below the line
 By numbering at least 12 of these boxes in the order of your choice (with number 1 as your first choice).

PARTY	PARTY	PARTY	PARTY	PARTY	PARTY	PARTY	UNGROUPED
<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names INDEPENDENT
<input type="checkbox"/> SURNAME Given Names PARTY	8 <input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	6 <input type="checkbox"/> SURNAME Given Names PARTY	10 <input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names INDEPENDENT
1 <input type="checkbox"/> SURNAME Given Names PARTY	5 <input type="checkbox"/> SURNAME Given Names PARTY	3 <input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	9 <input type="checkbox"/> SURNAME Given Names PARTY	11 <input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names INDEPENDENT
<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	2 <input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	12 <input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names INDEPENDENT
<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names PARTY	<input type="checkbox"/> SURNAME Given Names INDEPENDENT

SAMPLE

1.3.3 Federal election day

The procedure for voting in a federal election is shown in **FIGURE 10**.

FIGURE 10 Voting in a federal election

Elections in Australia are always held on a Saturday. On election day polling places are open between 8 am and 6 pm. Polling places are usually set up in schools, church halls and similar community buildings.



As you approach the polling place, representatives of the different parties and independent candidates will offer you how-to-vote cards. These are designed to tell you how each party would like you to vote in order to have their candidate elected. It is not compulsory to follow these cards — you can number the squares on the ballot paper in any order you wish — but many people do follow them.



When you enter, an official will usually direct you to a table where polling clerks sit with blank ballot papers and copies of the electoral roll for your electorate.



The polling clerk will ask you your name, and then locate it in the electoral roll, checking that the address details are correct. The clerk will then ask whether you have voted anywhere else that day.



Once these details have been verified, the clerk will place a small mark next to your name in the electoral roll and issue you with two ballot papers.



The House of Representatives ballot paper is always pale green in colour, while the Senate ballot paper is usually white. You take the ballot papers to one of the cardboard polling booths located in the polling place to cast your vote. Pencils are provided for you to fill in your ballot paper.



If you have decided to vote for a particular political party, you can then vote in accordance with the relevant how-to-vote card handed to you outside the polling place. If you wish to number the squares differently from the how-to-vote card, you are free to do so.

All squares must be numbered on the green ballot paper to record a formal vote.

There are two choices for filling out the white Senate ballot paper.



If you want to indicate your party preferences, you can place the numbers 1 to 6 in the labelled boxes above the black line.

If you wish to vote for particular candidates, you can fill in a minimum of 12 squares below the line.

If you miss any squares, or accidentally use the same number twice, your vote may be informal. Great care must be taken if you choose to vote below the line, so few people tend to vote this way.

Once you have voted, you fold the ballot papers to keep your vote secret, and take the completed ballot papers to the ballot boxes. These are clearly marked for Senate and House of Representatives ballot papers, and are supervised by a polling official. There are also usually bins or recycling boxes near the door for you to discard how-to-vote cards as you leave the polling place.



1.3 ACTIVITIES

- Using internet resources, research and provide a brief summary of the electoral system for Victoria.
 - What is the name of the lower house, and what voting system is used in this house?
 - How many seats are there in the lower house, and are they single-member or multi-member electorates?
 - What is the name of the upper house, and what voting system is used in this house?
 - How many seats are there in the upper house, and are they single-member or multi-member electorates?

Examining, analysing, interpreting
- The Australian Constitution does not make voting compulsory. Compulsory voting was introduced by the federal parliament in 1924. Most other countries with parliamentary systems similar to Australia's have voluntary voting. These include Great Britain, New Zealand, the United States and Canada. Over the years many people in Australia have argued that it is undemocratic to force people to vote, and that Australia should switch to voluntary voting.
 - Working in groups of four or five, use the internet to research the arguments both in favour of and against compulsory voting.

Examining, analysing, interpreting
 - Discuss these arguments within your group and decide where your group stands on the issue (in favour, against or undecided).

[Ethical Capability]
 - Each group should then present its findings to the rest of the class.

Communicating, reflecting
 - How easy was it to come to a consensus in your group? In what ways did the different values and beliefs in the group lead to different perspectives?

[Personal and Social Capability]

1.3 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.3 Exercise 1: Check your understanding

- CS1** What is the meaning of the term *universal adult suffrage*?
- CS1** What is the electoral roll? How do people get their name and other details included in the electoral roll?
- CS1** Identify two houses of parliament in Australia that have single-member electorates.
- CS1** Identify two houses of parliament in Australia that have multi-member electorates.
- CS2** What are how-to-vote cards?

1.3 Exercise 2: Apply your understanding

- CS2** What is the importance of the secret ballot?
- CS2** Explain two ways in which you can vote if you are not going to be in your home electorate on election day.
- CS4** Why is it important to have a maximum period of time between parliamentary elections?
- CS2** Explain how the method of electing members to the House of Representatives upholds the principle of one vote, one value. Why is this not the case with the Senate?
- CS2** Explain the difference between preferential voting and proportional representation.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.4 Influencing your vote

1.4.1 Political campaigns

The key aim of the major political parties is to win government. In order to achieve this, the parties devote a lot of effort and resources to convincing voters to support their candidates. In particular, the parliamentary leaders of the parties will be very visible in these campaigns.

1.4.2 Public debate

During an election campaign, representatives of the parties will often seek opportunities to debate issues with representatives of different parties. Such debates can take a number of formats.

Leaders' debates

It has become a regular feature of election campaigns for the leaders of the two major parties to take part in televised debates. This means that the leader of the Liberal Party and the leader of the Labor Party will meet face-to-face for an hour in a previously agreed format. Usually each leader has the opportunity to make an opening statement for a set period of time. This is followed by questions directed to both leaders by a panel of journalists who specialise in writing about political issues. Each leader then has an opportunity to make a final statement to conclude the debate.

Other debates

In addition to the party leaders, other representatives will often appear on TV and radio during an election campaign. Current affairs programs will invite party spokespeople on to debate issues that are within their area of responsibility. For example, the Minister for Health may appear representing the government while the Shadow Minister for Health will represent the Opposition. Both will be asked questions and given the opportunity to explain their respective party's policies for improving health services. Each representative will try to convince the voters that they will be better off by voting for their party.

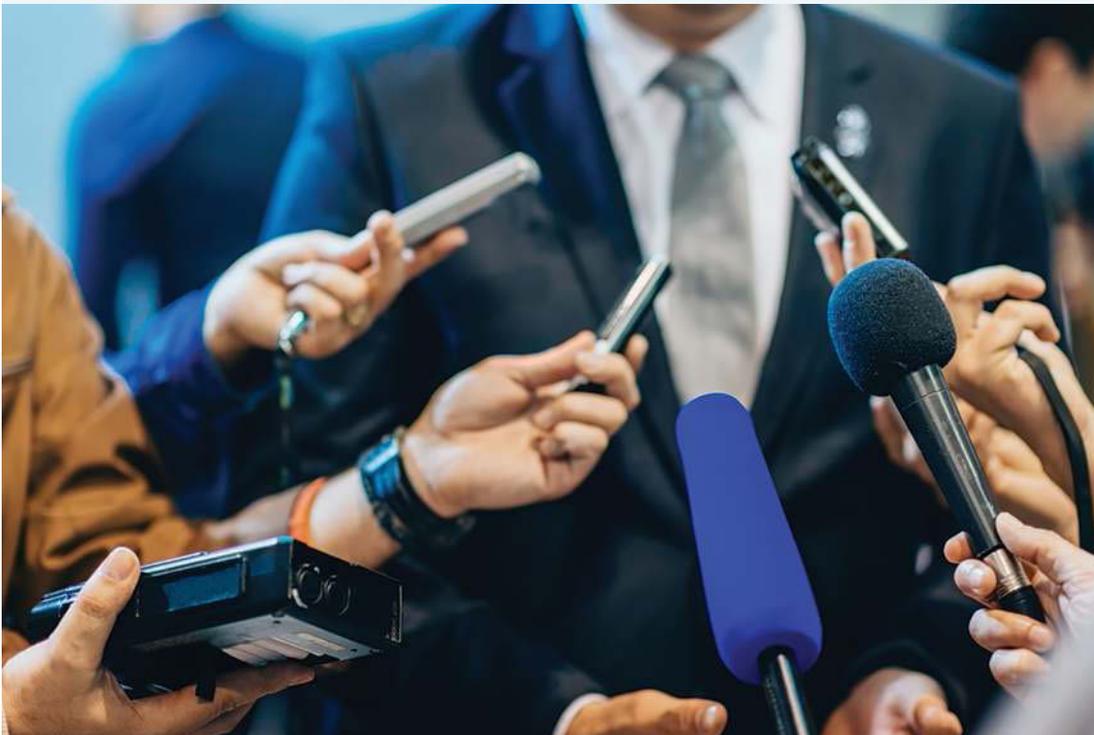
1.4.3 Traditional media

In addition to appearing on current affairs programs to answer questions and debate issues, political parties and their leaders will attempt to use the full range of the media to get their message across. This includes the traditional media outlets of television news, newspapers and radio.

Television news

During an election campaign the two leaders travel around the country, accompanied by journalists and camera crews from all the television stations. Each day they attempt to make a significant announcement or promise that they hope will be broadcast on that evening's television news. This is a recognised strategy that all parties use to ensure they receive daily media coverage.

FIGURE 1 Political leaders make use of daily television news broadcasts to spread details of their policies during election campaigns.



Newspapers

Just as they make use of television, political parties and their leaders also try to have their message put before voters in daily newspapers. Political parties provide detailed documentation to journalists on every policy and promise. Whether in print or online, newspapers provide an opportunity for these policies to be published in greater detail. Newspapers often use their online editions to allow their readers to comment on stories and issues of the day. Daily online opinion polls also allow newspapers to gain speedy feedback from readers on a variety of issues.

FIGURE 2 Newspapers allow politicians and their parties to communicate political promises and policies in greater detail.



Radio

Radio provides another opportunity for political leaders and other party representatives to present their policies to the public. Current affairs programs on ABC Radio such as *AM* and *PM* carry out regular interviews with leaders, government ministers and Opposition spokespeople. During an election campaign, large portions of these programs are given over to discussing political issues. Talkback radio programs also give political leaders a chance to engage with the public. In addition to being interviewed by the host of the radio program, politicians will often have the opportunity to respond to listeners who phone in and ask them questions.

FIGURE 3 During election campaigns, talkback radio hosts regularly interview political leaders.



1.4.4 Opinion polls

Opinion polls are surveys taken of people from all over Australia and from all walks of life. They are conducted by different polling companies. Most of these conduct their surveys by telephoning people and asking them a series of questions. They often also ask the person being surveyed their age and level of income. This is done to ensure that a broad range of people is surveyed.

FIGURE 4 Opinion polling companies conduct surveys by phoning large numbers of people.



A small but important part of their business is to conduct surveys on people's attitudes to government policies and actions. To achieve this, they will survey people to find out whether they support or oppose a particular policy or political promise. When an election is close, they will also conduct surveys to find out who people intend voting for. It is this polling that can provide the political leaders with feedback on how well they are performing. Opinion polls also alert the leaders to issues that voters are concerned about, and in this way can influence the policies and promises the leaders make during an election campaign.

1.4.5 Advertising

All political parties put together an advertising program as part of their election campaign. Television advertising is the most common form used, but parties will also advertise on radio and in the newspapers. Most advertising has to be short, with a message that is easy to understand. Political parties make use of slogans they hope will be easy to remember. They also try to create a negative impression of their opponents. The party leaders feature heavily in these advertisements because they want voters to identify with that leader as the next prime minister.

1.4.6 Interest groups

Each party has support among a number of interest groups throughout the community. The Liberal Party has support from a number of business groups, and many of these will donate money to help cover the cost of that party's advertising. In the same way, the Greens often get support from environmental groups, who will provide time and resources to help that party's campaign. Labor has strong links with the trade union movement, so the union movement donates large amounts to that party's campaign. Unions will also often campaign directly against the Liberal Party. In the 2007 election, for example, the unions campaigned strongly against the Liberal government's WorkChoices laws in the belief that the laws harmed ordinary workers, who were often union members.

FIGURE 5 Unions launched the ‘Your rights at work’ campaign in response to the Liberal government’s WorkChoices laws.



DISCUSS

Consider this statement: ‘Interest groups should not be able to donate money to political parties in order to try to influence them or help them win power.’

- a. What would be the different positions that the following groups of people would have on this issue?
 - (i) A Greens politician who has received a large donation from an environmental group to help her campaign
 - (ii) A pro-business lobby group that donates to the Liberal party
 - (iii) Undecided voters
- b. What values and beliefs may influence their differing perspectives?

[Ethical Capability, Personal and Social Capability]

1.4.7 Other political party campaign activities

Political parties have a variety of additional campaign techniques that are used in most elections. These include:

- *Letterboxing.* Parties will print and distribute advertising leaflets during an election campaign. These will usually feature a photo and information about the local candidate, as well as information about the party’s policies. Local party members then volunteer to walk around the electorate delivering the leaflets to letterboxes.
- *Polling.* As well as opinion-polling companies carrying out surveys of voters’ opinions, political parties carry out their own opinion polls, particularly during an election campaign. They want up-to-date feedback on how well their campaign is being received by the voters, whether their policies are popular or not, and how well the leaders are performing. The political parties carry out polling almost every day during an election campaign.

- *Doorknocking.* A traditional method of campaigning has been for a candidate to walk around the electorate, knocking on doors to talk to voters. This is less likely to occur during the official campaign, but some candidates may have spent many hours doing this between elections, particularly if they are challenging a well-known member of parliament.
- *Letters to editor and talkback calls.* During an election campaign, there is always a strong emphasis on political issues in the letters pages of the newspapers as well as on talkback radio programs. Members and supporters of political parties regularly send letters to the newspapers, and phone up talkback radio programs during this time. They usually pretend to be ordinary members of the public and do not reveal their party membership.
- *Handing out how-to-vote cards.* On election day, political parties rely on volunteers and ordinary party members to stand outside polling places and hand out how-to-vote cards.

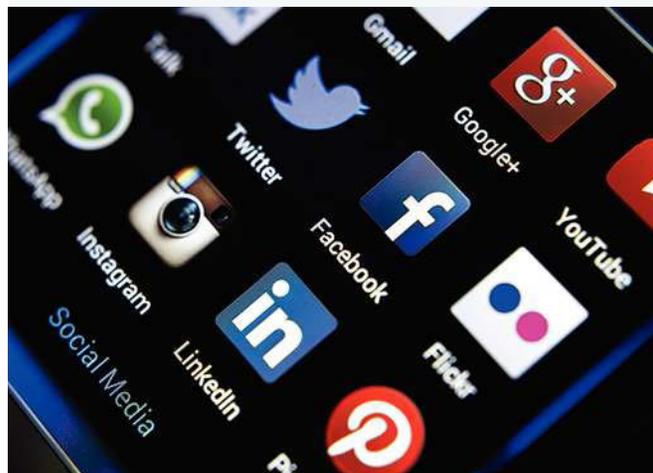
1.4.8 Social media

In today's world it seems that millions of people are almost constantly connected. Your ability to access websites, email and social media from almost anywhere through your smartphone means that you can express an opinion on any issue, to almost anyone, anytime, anywhere. Political parties and their leaders are very aware of the significance of social media, and have been adopting it to appeal to the public, particularly younger voters. In recent years they have expanded their efforts on social media in a variety of ways:

- All of the major parties have Facebook pages to keep their supporters updated, and most individual members of parliament have their own Facebook pages. As well as providing information about party policies, individual members use their Facebook pages to provide updates on their activities within their electorates.
- Almost every member of parliament in Australia today has a Twitter account. Every prime minister since Kevin Rudd in 2007 has had an account, and they have all made extensive use of it to promote their political messages on a daily basis.
- The use of social media has been shown to carry risks. In some recent elections in other countries, Facebook profiles have been analysed and used for targeted political advertising. In some cases this advertising has been misleading, or contained false information, designed to appeal to particular voters, based on their Facebook or other social media profiles. This has involved breaches of privacy, and a distortion of democratic processes, because it attempts to fraudulently influence the way people vote.

Members of parliament, supporters of particular political parties and opponents of the same political parties, as well as people campaigning for changes in the law, can all use social media to get their message across. Members of parliament and candidates for election can publicise their activities and gain immediate feedback from followers through the use of different social media platforms.

FIGURE 6 Everyone can use social media to get their message across.



1.4 ACTIVITIES

1. Locate the Facebook page or Twitter account of the leader of one of the major parties.
 - (a) What kind of information is made available through this medium?
 - (b) How does the leader use social media to promote his or her image to voters?
 - (c) Do you think it is successful or not? Give reasons for your answer.

Examining, analysing, interpreting

2. Find your local member of parliament's Facebook page or Twitter account.
 - (a) What information does the member provide in relation to his or her local community activities?
 - (b) How does the member use the social media to promote his or her party's policies?

Examining, analysing, interpreting

3. Imagine that opinion polls indicated that a political party's policy was unpopular with voters during an election campaign. The leader has to take action to change public opinion. What do you think might happen in the following circumstances?
 - (a) The leader refuses to change the policy but initiates a new advertising campaign to better explain it.
 - (b) The leader makes minor changes to the policy to make it more acceptable.
 - (c) The leader drops the policy completely.

Reasoning, creating, proposing

1.4 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.4 Exercise 1: Check your understanding

1. **CS2** Identify two ways in which candidates for parliament can engage in public debate during an election campaign.
2. **CS1** How can candidates use radio programs to help their campaign?
3. **CS** Which interest groups are most likely to support the Australian Greens?
4. **CS2** Outline two ways in which candidates can make direct contact with voters in their electorate.
5. **CS1** How do political leaders make use of the evening television news during an election campaign?

1.4 Exercise 2: Apply your understanding

1. **CS3** What advantage do newspapers have over other media during an election campaign?
2. **CS2** Why are opinion polls an important part of an election campaign?
3. **CS3** What features must a political advertising campaign have to be successful?
4. **CS4** Most of the money spent in political campaigns is spent on TV advertising. Do you think this is an effective way of campaigning? Justify your opinion.
5. **CS4** Doorknocking has been a traditional method of campaigning and it remains a common practice. If a political candidate came knocking on your door, would this impress you or annoy you? Give reasons for your response.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.5 After the election — the formation of government

1.5.1 Counting the votes

After all the polling places close at 6 pm on federal election day, counting of the votes commences immediately. The votes are counted at each polling place in an electorate and then added up for the electorate as a whole. When the votes for all electorates are eventually counted, it will be clear which candidates have won each electorate. The political party that wins at least 76 of the 151 seats in the House of Representatives will be declared the winner of the election and will form government for the next three years.

1.5.2 What's the result?

The vote count is usually carried out by the same electoral staff who have managed the election process at the polling place that day. House of Representatives votes are counted before Senate votes.

Counting the House of Representatives votes

The ballot boxes are opened and the green ballot papers are spread onto tables. The polling clerks then sort the ballots according to first-preferences votes, and count them as they go. Any **informal votes** are put to one side and not included in the count.

FIGURE 1 Polling officials empty ballot boxes in readiness to count the votes.



As well as the polling officials, each candidate is permitted to have at least one **scrutineer** present for the count. Scrutineers are usually members of the candidate's political party. They are required to fill out a form before the polling place closes, and to wear an identification badge while in the polling place. They will carefully watch the count to make sure it is conducted fairly and properly. Scrutineers have the right to challenge any aspect of the count. For example, if a vote is declared informal because the voter appears to have made a mistake in completing the form, a scrutineer may challenge that decision if they disagree with the polling official.

FIGURE 2 The counting of votes is watched carefully by scrutineers representing each candidate.



When first preferences have been counted, the results are phoned through to the Divisional Returning Officer (DRO). This is the official in charge of the voting process for the whole electorate. The DRO then enters the results for each polling place in the electorate on the AEC's computerised election-management system. This system tallies the votes for all electorates across Australia and keeps a running total of seats won by each party. The media also have access to these results, and a number of TV channels run special election-night programs with updates and commentary on the progress of the count.

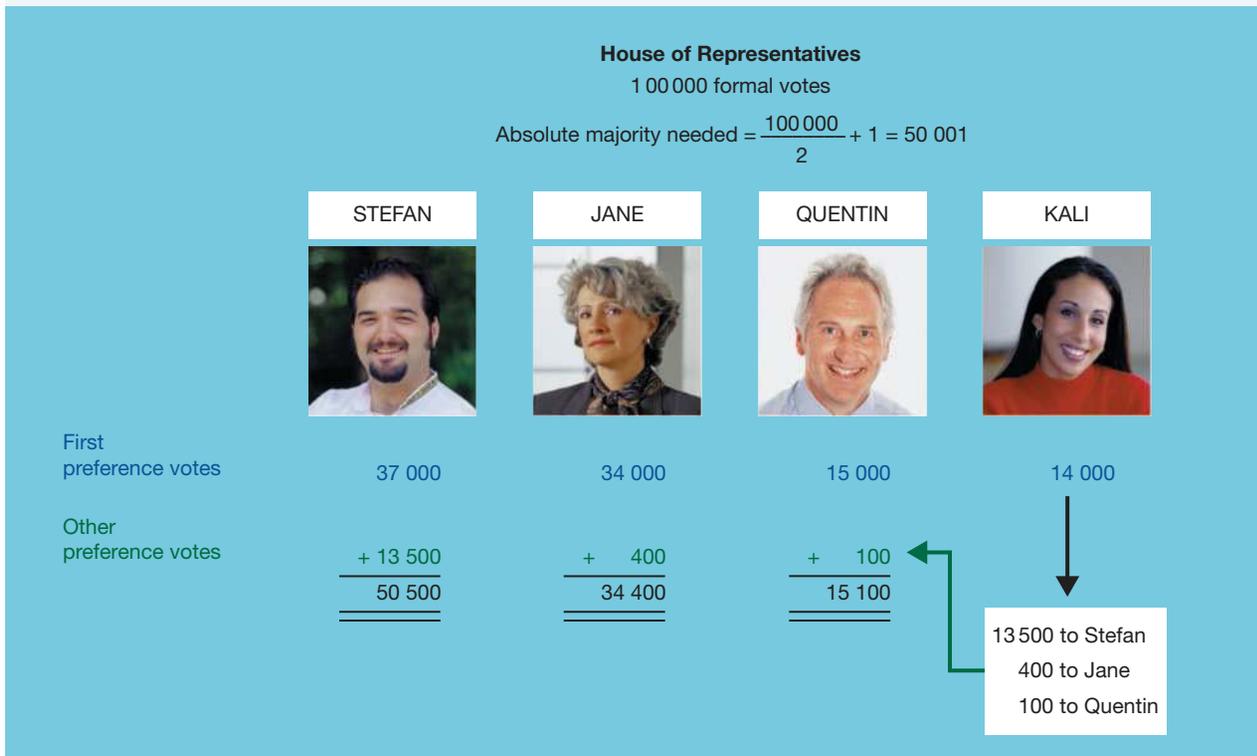
FIGURE 3 Television channels present detailed coverage of vote counting on election night.



In order to be elected, a candidate has to have the absolute majority of votes. This means having 50 per cent of the votes, plus one. For example, if there are 100 000 **formal votes** cast in an electorate, a candidate must have 50 001 votes to win. If one candidate has this number of first-preference votes, then they are declared elected. If no candidate has that number of first-preference votes, then other preferences on ballot papers have to be counted. The process for doing so is illustrated in **FIGURE 4**.

As you can see from the example in **FIGURE 4**, none of the candidates has an absolute majority of 50 001, so preference votes have to be counted. This is done by excluding the candidate with the fewest first-preference votes. In this case, that candidate is Kali, with 14 000 votes. Her votes are counted again, according to her voters' second-preference votes. In this case, 13 500 of those who gave Kali their first preference gave their second preference to Stefan. The other 500 of Kali's second-preference votes were split between Jane and Quentin as shown. This distribution of second-preference votes was enough to give Stefan an absolute majority. If there had been no clear winner after Kali's second-preference votes had been distributed, Quentin's votes would have been distributed in the same way — and so on until there was a clear winner.

FIGURE 4 Counting preferences in the House of Representatives seats



Counting the Senate votes

The proportional representation system used in the Senate is far more complex because it has to elect six senators from each state. Each state operates as one electorate for this purpose. You will notice that candidates on the Senate ballot paper are grouped according to the parties they represent. This is based on the expectation that most voters will support a party rather than individual senators in the election. In below-the-line voting, first preference is usually given to the first candidate in a group, second preference to the second candidate, and so on to the end of that group before moving to the next group.

If a voter votes above the line for a particular party, the vote will then be interpreted as giving the voting preferences in exactly the same way. This means that the first candidate gets all the first-preference votes for that party, while the other candidates only get second- or third-preference votes. In a preferential system like that used in the lower house, this would be a problem because a candidate needs to have a certain number of first-preference votes to stay in the count. The Senate vote-counting system is quite different, however, so this is not an issue.

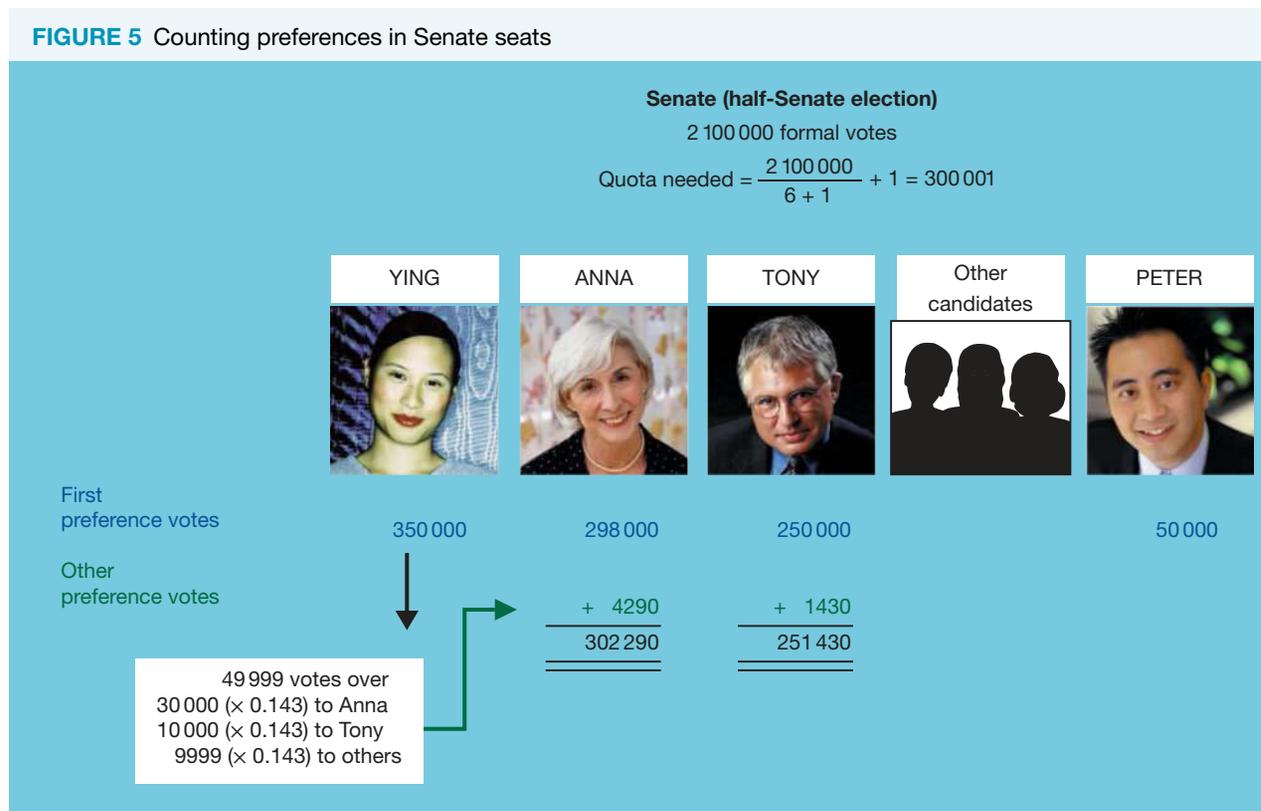
To be elected to the Senate, a candidate has to achieve a **quota** of votes. If a candidate gains more first-preference votes than is required to meet the quota, those surplus votes are distributed to the candidates who have gained second preferences in the votes for the candidate who won on first preferences. Usually that will be the candidate in the same group on the ballot paper whose name appears immediately below the candidate who won on first preferences. If the first candidate within a group gains more than two quotas worth of votes, the second person within that group will usually also be elected even though they might not have received any first-preference votes. To be elected, a candidate has to achieve a whole quota — either in first-preference votes or in the surplus passed on because of second preferences.

If a candidate requires a quota of 300 001 and gains 350 000 first-preference votes, that candidate effectively has a second quota to pass on. Because it is not possible to guarantee that all voters will have given their second preference to the second candidate in the group, we cannot just choose any votes to pass on. Instead, we pass on a proportion of all votes — known as the transfer value — representing the

ratio of surplus votes to the total number of votes received by the first candidate. This means that we divide the surplus above the quota by the total number of first-preference votes received by the first candidate.

Look at the example in **FIGURE 5**. A quota is calculated by dividing the number of formal votes by the number of vacancies plus 1, and then adding 1 to the result. In Australian Senate elections, this usually means dividing the number of formal votes by 7 before adding 1 to the result. In **FIGURE 5**, Ying gets a quota on first-preference votes. Her surplus votes are passed on to other candidates in the order in which second preferences appear on her ballot papers. This means that all the second preferences are passed on at the transfer value. This is calculated by dividing Ying's surplus votes (49 999) by the total of her first-preference votes (350 000). This gives a transfer value of 0.143.

Once these votes are distributed, Anna has a quota and 2290 surplus votes. These will be passed on at a transfer value calculated by dividing her surplus (2290) by her original first-preference total (298 000), which would give a value of 0.008.



Once all the surplus votes have been passed on, if there are not enough candidates with full quotas to fill all the vacancies, the candidate with the fewest first preferences (Peter) is excluded. His preference votes are passed on at full value to those candidates who have not gained a quota. This process continues until the required number have quotas, and all vacancies are filled.

In recent Senate elections in most states, it has been fairly common for the major party candidates listed first in their group to receive two quotas, with some votes left over. As a result, the first two candidates standing for the ALP and for the Liberal–National coalition tend to fill the first four vacancies. It has also been common for the Greens, as the most popular of the minor parties, to have the first candidate in their group gain one quota in their own right. This provides the fifth of the six candidates required. Consequently, there are a number of candidates who have a portion of a quota but none with a whole quota. How is this issue resolved?

Once all quotas have been allocated, the system becomes similar to that used in the House of Representatives vote count. The candidate with the fewest first-preference votes is excluded, and the candidate's second preferences allocated to those other candidates who have not already gained a quota. This often means that the sixth successful candidate may not be known for some time after the election. It often happens that an independent, or a member of a very small party, is elected to the sixth seat in some states.

Resources

-  **Weblinks** [Counting votes in the House of Representatives](#)
- [Counting votes in the Senate](#)

1.5.3 Forming the federal government

Winning the vote in a lower house electorate gives the successful candidate a seat in the House of Representatives. Government is formed in Australia on the principle of parliamentary majority in this house. This means that the party with the majority of seats in the House of Representatives forms the government, and its leader becomes prime minister. In government, the winning party has the power to make laws for governing the country.

An election will result in either the re-election of the existing government for another three-year term, or the defeat of the government and the election of the Opposition to form a new government. If the party in government retains power, its leader remains prime minister and the government continues as before. If the government is defeated, the leader of the Opposition prepares to take over as prime minister. The outgoing prime minister will usually visit the Governor-General to resign early in the week following election day. The newly elected prime minister then visits the Governor-General to be sworn in.

Once counting is complete for all electorates and the result is finalised, government ministers will be appointed and will in turn be sworn into office by the Governor-General. From this point the new government takes control and has three years before having to face the voters again.

The major party that fails to win enough seats in the House of Representatives to form government becomes the Opposition. Senior members of the Opposition become shadow ministers. For each minister in the government, there is a corresponding shadow minister in the Opposition. A shadow minister is expected to scrutinise the activities of the relevant minister, and will often publicly criticise that minister's performance. This is one way in which ministers and the government remain accountable to the people. If the Opposition then wins the next election, usually shadow ministers become ministers and the Opposition leader becomes prime minister.

1.5.4 Hung parliament

When the two major parties have the same number of seats in the House of Representatives following an election, there is said to be a 'hung parliament'. This means that neither side is in a position to form government on its own. Minor party representatives or independents will decide to support one side or the other, and this will lead to that party forming government. After the 2010 federal election, neither major party had a majority of seats in the lower house. Each won 72 seats, making a total of 144 out of the then 150 seats in the House of Representatives. The remaining six seats were won by independents and representatives of minor parties. It then became necessary for the leader of the Coalition, Tony Abbott, and the leader of the Labor Party, Julia Gillard, to negotiate with these cross-benchers to convince them to support their respective parties. Either side had to gain the support of at least four of the six members to have a majority of votes in the lower house and therefore form government. It took 17 days from the date of the election before the necessary four members agreed to support the Labor Party, which then returned to power. Julia Gillard retained her position as prime minister.

1.5.5 Minority government

It can sometimes occur that a government has fewer seats than the Opposition but is able to govern because it has the support of enough cross-benchers to win important votes in the House of Representatives. In this case it is said to be a minority government. In order to remain in power, a minority government has to be able to gather enough votes to support its spending decisions, and to retain the ‘confidence’ of the House. The first of these is known as ‘guaranteeing supply’, and the second involves having enough votes to survive a motion of no confidence that might be moved by the Opposition. After the 2016 election, the Coalition government led by Malcolm Turnbull won 76 seats, Labor won 69, and there were 5 cross-benchers. In August 2018 the Liberal Party voted for leadership change, and Scott Morrison replaced Malcolm Turnbull as Prime Minister. Turnbull resigned from parliament, and in the ensuing by-election Dr Kerryn Phelps, an independent, was elected to replace him as representative for the New South Wales electorate of Wentworth. In November 2018, Liberal member Julia Banks resigned from that party and chose to complete the remainder of her parliamentary term as an independent. This meant that the Coalition government was reduced to 74 members, with the combined Labor and cross-bench members at 76 members, a situation of minority government. Enough of the cross-benchers were prepared to guarantee confidence and supply for the government to survive, but would not necessarily agree to support all government legislation.

1.5 ACTIVITY

Using internet resources, investigate the most recent Senate results for Victoria and answer the following:

- How many quotas did the highest placed candidate receive?
- How many major party candidates were elected from the passing on of surplus votes above a quota?
- Name any independents or minor party candidates elected.
- How many first-preference votes did these independents or minor party candidates receive?
- What was the final party-by-party breakdown of the six successful candidates?

Examining, analysing, interpreting

1.5 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.5 Exercise 1: Check your understanding

- CS1** What is the role of scrutineers during the counting of votes?
- CS2** How is the result in each polling place communicated to the AEC’s computerised election-management system?
- CS2** What is required to achieve an absolute majority of votes?
- CS2** Outline how each of the following roles is determined following a federal election.
 - Government
 - Opposition
 - Prime minister
 - Leader of the Opposition
 - Ministers
 - Shadow ministers
- CS2** What is the difference between a hung parliament and minority government?
- CS2** Explain what is meant by each of the following terms:
 - guaranteeing supply*
 - guaranteeing confidence.*

1.5 Exercise 2: Apply your understanding

- CS3** How is a quota calculated for election to the Senate?
- CS2** Why are preferences important in counting House of Representatives votes?
- CS2** Why are votes above a quota passed on at a transfer value?

4. **CS2** Explain the method for calculating the transfer value of Senate votes.

5. **CS3** Who would win the seat in the following scenario?

First preference votes were recorded for a House of Representatives seat at an election:

Candidate	Votes
Ahmed	32 000
Michael	21 000
Jan	29 000
Tran	8 000

- Voters who gave first preferences to Jan gave 18 000 second preferences to Ahmed and 11 000 second preferences to Michael.
- Voters who gave first preferences to Michael gave 8 000 second preferences to Ahmed and 13 000 second preferences to Jan.
- Voters who gave first preferences to Tran gave 3 000 second preferences to Ahmed and 5 000 second preferences to Jan.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.6 The role of the prime minister and Cabinet

1.6.1 Policy making in Australian politics

Once the government has been elected, it is charged with the responsibility of running the country. Part of this responsibility is the development and implementation of policy — the rules and regulations which become the laws by which all Australian citizens must live. The policy-making process in Australian politics is complex. All members of parliament have a role to play in this process, although some individuals hold more influence than others.

Backbenchers

The House of Representatives is colloquially divided into backbenchers and frontbenchers. Traditionally backbenchers are young and inexperienced members of parliament who occupy the back seats of the House of Representatives. They are involved in parliamentary debate, can serve on parliamentary committees and can suggest amendments to bills. Backbenchers can also suggest their own bills, which may or may not have the support of their party. Known as **private members' bills**, this form of policy making is rare and these bills are often unsuccessful. The Commonwealth Electoral Bill 1924 (which introduced compulsory voting to Australia) and the Euthanasia Laws Bill 1996 (which outlawed euthanasia) are two notable exceptions.

Frontbenchers and Cabinet

Members of parliament with an allocated **portfolio** are referred to as frontbenchers — because they occupy the front rows of the House of Representatives. Frontbenchers are usually more senior party members and so they can have a significant influence on policy decisions. Frontbenchers are also members of Cabinet, a council of senior members of parliament who are specifically chosen to assist the prime minister with policy decisions and other executive functions. Interestingly, the Cabinet is not mentioned in the Constitution and each government is free to determine its specific functions. As a result, the sitting prime minister has a significant influence on how the Cabinet works. Furthermore, the prime minister is free to shuffle the roles of Cabinet members if he or she feels such a change is necessary.

FIGURE 1 The House of Representatives. Notice the long front bench where Cabinet members usually sit. The prime minister and leader of the Opposition sit on opposite sides of the large table in the middle of the chamber.



A properly functioning Cabinet should direct government policy and make decisions regarding the most important national concerns. During the private and confidential meetings of Cabinet, issues and policies are discussed and votes conducted. Once a Cabinet vote has been cast, the final verdict must be supported by all members of Cabinet, regardless of personal opinion. This is known as Cabinet solidarity.

The prime minister

The final decision-making power in Australian politics is often left with the prime minister. Although the Governor-General can also make important decisions (mainly procedural in nature), the prime minister can develop his or her own policies, sometimes in contrast to the views expressed by the prime minister's Cabinet members. Prime ministerial policies still need to follow the same pathways as regular bills, and in this way the power of the prime minister is kept in check.

1.6.2 Shaping Australian policy and law

Setting the policy agenda

Winning an election gives a government the right and responsibility to set the policy agenda for Australia. This is known as a mandate. Governments are free to decide on which areas they will focus their policy decisions. While all government responsibilities must be carefully administered and regulated, individual prime ministers and their parties may choose to focus on particular aspects. Pressure groups and members of the public can also help set the policy agenda by attempting to influence their local members and other politicians. When successful, this influence can both contribute to the development of new policy and result in the amendment or even complete withdrawal of other policy decisions.

Education funding — an example of government policy development

One method of developing government policy is to set up a review of existing practices, invite submissions from interested parties and the general public, and then have the review panel make recommendations to assist in the development of policy. Although the provision of education has been a state government responsibility since federation, the Commonwealth government has provided additional funding to both government and non-government schools since the 1960s. Different funding models have been attempted over the years, with advocates for government schools, independent schools and Catholic schools all arguing for increased funding for their particular sectors.

Different federal governments have used various models, based on different policy approaches. By the time of the election of the Rudd Labor government in 2007, no real evaluation of funding models had occurred since the 1970s, so the government set up a panel in 2010 to review the issue and make recommendations about educational funding and other educational policy issues.

The review panel was chaired by businessman David Gonski. It received over 7000 submissions, consulted with over 70 education groups, and visited 39 different schools across all states. The panel completed its report late in 2011, and the government announced its policy response in early 2012. The key theme of the Gonski report was the need to allocate school funding on the basis of need, and the government set up a funding model which it believed would achieve this aim. The issue then became one of providing enough money to meet the needs.

FIGURE 2 Funding for all schools is a shared responsibility of state and federal governments.



With the election of the Coalition government in 2013, the incoming government committed to the principles of the Gonski review, but issues arose in relation to the proportion of funds provided by the federal and state governments. By 2017, it was clear that the original aims of the Gonski review were not being met, so Gonski was commissioned to conduct a second review to provide advice to government on changes to education funding policy. This report was presented in 2018 and has provided the basis for

education funding policy by both the Coalition and Labor, although there has been disagreement over the detailed implementation of the recommendations of the review.

Although political considerations have influenced the actions taken by different political parties, the use of an independent review to help develop government policy remains a useful approach for governments to adopt. It allows for input from a wide variety of different groups and individuals from across society, and so can provide government with ideas that reflect community wishes.

Parliamentary debate

Although the exact function of both houses of the Australian parliament differ, their general purpose remains the same — to debate issues of national significance and the laws proposed to deal with these issues. Within the walls of parliament, our elected representatives debate the merit of proposed legislation. Members of the ruling party, the Opposition and members of minor parties all participate in these discussions. Question Time is a designated part of the parliamentary schedule during which all members of parliament can pose questions to other members and ministers. Members of the Opposition are free to question the government but often MPs ask members of their own party questions instead. Designed to provide an opportunity for ministers to promote their opinions or policies, these questions are known as ‘Dorothy Dixers’.

Through these questions and debates, government decisions are scrutinised and the power of the ruling party is closely monitored. The role of the Opposition party, and that of the leader of the Opposition in particular, is crucial as they have the most opportunity to ensure the accountability of the prime minister and Cabinet. This includes maintaining a close watch on the spending of public money and the administrative actions of the government.

1.6 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.6 Exercise 1: Check your understanding

1. **CS1** What are three roles or responsibilities of parliamentary backbenchers?
2. **CS1** Who is final decision-making power in Australian politics often left with?
3. **CS1** During the private and confidential meetings of Cabinet, issues and policies are discussed and votes conducted. Once a Cabinet vote has been cast, who needs to support the final verdict? What is this known as?
4. **CS2** Young or inexperienced members of parliament occupy the back seats of the House of Representatives and the more senior party members occupy the front seats of the House of Representatives. Explain why this is so.
5. **CS2** What is the role of Question Time in Parliament?

1.6 Exercise 2: Apply your understanding

1. Do you believe that the Cabinet has any real power in the decision-making process in Australian politics? Justify your response.
2. Should the power of the prime minister be restricted? What are the positive and negative implications of the prime minister having a large amount of individual power?
3. Identify two sources of influence in the development of government policies.
4. What are the advantages of setting up a review panel to provide recommendations in relation to policy development?
5. **CS6** What is ‘parliamentary scrutiny’ and why is it a significant part of our political system?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.7 SkillBuilder: Creating and analysing a table

online only

What is a table?

A table is a way of displaying information, or data, in an organised way. The data is arranged in columns (reading down) and rows (reading across). A table is sometimes also called a grid, because the rows and columns are separated by lines, which form a grid.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill (Show me)
- an activity to allow you to practise the skill (Let me do it).

	1901		2018	
	Population	Seats	Population	Seats
NSW	1 350 000	26	7 890 000	48
Victoria	1 200 000	23	6 270 000	38
Queensland	498 000	9	4 970 000	30
South Australia	363 000	7	1 720 000	10
Western Australia	184 000	5	2 670 000	15
Tasmania	172 000	5	521 000	5
Northern Territory			245 800	2
ACT			406 700	3
Total	3 767 000	75	24 694 500	151

on Resources

 **Digital doc** Analysing and interpreting data (doc-14635)

1.8 Thinking Big research project: Founding a political party

online only

SCENARIO

Imagine you have decided to establish your own political party. What would be your core beliefs? How would you like to improve Australia? What specific policies would you propose to achieve your aims? Prepare a policy document for your new political party, outlining your beliefs, policy priorities and vision for Australia.

Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.



on Resources

 **ProjectsPLUS** Thinking Big research project: Founding a political party (pro-0197)

1.9 Review

online only

1.9.1 Key knowledge summary

Use this dot point summary to review the content covered in this topic.

1.9.2 Reflection

Reflect on your learning using the activities and resources provided.

Resources



eWorkbook Reflection (doc-31732)

Crossword (doc-31733)



Interactivity Choosing a government crossword (int-5435)

KEY TERMS

Australian Electoral Commission an independent body that organises and runs elections in Australia

coalition an alliance between two or more political parties, formed to improve their chances of winning an election and forming government

eligible voters Australian citizens who are over 18 years old and are on the electoral roll, which is an official register of voters

formal vote a ballot paper that has been filled out correctly

informal vote a ballot paper that has not been filled out correctly and therefore will not be counted

portfolio an area of responsibility given to a minister, such as health, education or defence

private members' bills bills that are proposed by members of the House of Representatives on their own behalf rather than on behalf of the government

quota in the Senate, refers to the share of votes required to be elected. It is calculated using the total number of votes cast and the number of vacancies to be filled.

scrutineer a representative of a parliamentary candidate who attends the counting of votes to ensure the count is fair

suffrage or **franchise** the right to vote

1.7 SkillBuilder: Creating and analysing a table

1.7.1 Tell me

What is a table?

A table is a way of displaying information, or data, in an organised way. The data (text or numbers) is arranged in columns (reading down) and rows (reading across). A table is sometimes called a grid, because the rows and columns are separated by lines, which form a grid.

How are tables useful?

- Tables provide a lot of information in a small amount of space.
- They are a very good way of arranging data so it can be easily understood.
- The column and row headings help tell you what the data is about.
- Graphs can be created from the data in the table.
- The information in a table can be used to help people make decisions.

1.7.2 Show me

You are given a set of figures that provide details of the number of House of Representatives seats in 1901 compared with 2018, and the state-by-state population for 1901 and 2018. You will be required to analyse and interpret this data, so you will need to create a table to assist you.

In 1901, the first Australian parliament had 26 members from NSW, 23 from Victoria, 9 from Queensland, 7 from South Australia, and 5 each from Western Australia and Tasmania. The population breakdown of the states in 1901 was as follows: NSW 1.35 million people, Victoria 1.2 million, Queensland 498 000, South Australia 363 000, Western Australia 184 000 and Tasmania 172 000. In 1901, the Northern Territory population was included in South Australia, and the ACT in New South Wales.

In 2018, the breakdown of seats in the federal lower house was NSW 47, Victoria 38, Queensland 30, Western Australia 16, South Australia 10, Tasmania 5, the ACT 3, and the Northern Territory 2. Australian population in 2018 was: NSW 7.89 million, Victoria 6.27 million, Queensland 4.97 million, Western Australia 2.67 million, South Australia 1.72 million, Tasmania 521 000, Northern Territory 245 800 and the ACT 406 700.

This data can be summarised in a table by placing the dates, population and number of seats along the top as column headings, with the names of the states as labels for the rows (see **TABLE 1**).

TABLE 1 Comparison of population and House of Representatives seats, 1901 and 2018

	1901		2018	
	Population	Seats	Population	Seats
NSW	1 350 000	26	7 890 000	47
Victoria	1 200 000	23	6 270 000	38
Queensland	498 000	9	4 970 000	30
South Australia	363 000	7	1 720 000	10
Western Australia	184 000	5	2 670 000	16
Tasmania	172 000	5	521 000	5
ACT			406 700	3
Northern Territory			245 800	2
Total	3 767 000	75	24 693 500	151

Note: 2018 figures represent total number of seats to be contested from 2017 onwards.

We can now use the table to analyse and interpret the data.

1. As the total number of seats in the lower house has doubled since 1901, why hasn't the number of seats in each state simply doubled?

The number of seats has not doubled for each state because the states have grown at different rates. The population of Australia is more than six times larger than it was in 1901, but the parliament is not six times larger. The number of seats per state is proportionate to the population of the state.

2. Compare New South Wales' proportion of the total population in 1901 with that in 2018. Has the state maintained, increased or decreased its share of the seats in the House of Representatives? Explain your response.

New South Wales had a little more than a third of Australia's population in 1901 and just over a third of the seats. Today New South Wales has just under a third of Australia's population with just under a third of the seats, so it has maintained a proportion appropriate to its population.

3. Which state has experienced the greatest increase in its share of the number of seats since 1901? Why has this occurred?

Queensland has experienced the greatest increase in its share of seats because of the rate at which its population has grown since 1901.

4. The number of seats in Tasmania has not increased despite an increase in population. Why is this?

The Constitution dictates that no state can have less than five seats in the House of Representatives, so Tasmania had more than its proportional 'fair share' in 1901. Tasmania's population has not grown enough to justify any additional seats.

5. Which state has the largest average population per electorate? Which state has the smallest average population per electorate?

Western Australia has an average population of 166 875 per electorate (2 670 000 divided by 16), while Tasmania has an average population of 104 200 per electorate (521 000 divided by 5).

1.7.3 Let me do it

Complete the following activities to practise your skills.

1.7 ACTIVITIES

1. Draw up a table using the following data.

In the 2013 election, Labor won 55 seats, the Coalition won 90 seats, and the Greens retained their one seat. Two new parties, Palmer United Party and Katter's Australian Party, each won a seat in Queensland, and two independents were also elected.

In 2016 in the House of Representatives, Labor won 69 seats, the Liberal–National coalition won 76 seats, the Greens won one seat, the Nick Xenophon Team (now Centre Alliance) won one seat, Katter's Australian Party won one seat, and independents won two seats.

2. Now practise your analysing skills by using your table to answer the following questions.
 - (a) Under the principle of majority rule, what was the actual majority of the Coalition over all other parties?
 - (b) How many seats did the Coalition lose in the 2016 election compared with the 2013 election?
 - (c) How many seats did the Labor Party gain in the 2016 election?
 - (d) What is the size of the majority won by the Liberal–National coalition in 2016?
 - (e) By the time of the 2019 election, the Coalition was a minority government, with 74 seats to Labor's 69, and 7 cross-benchers. Assuming the cross-benchers retained their seats, how many seats would the Coalition have had to win from Labor to form government in their own right?
 - (f) Who won the 2019 election? Did they win a majority in their own right, or have they had to rely on cross-bench members?

1.8 Thinking Big research project: Founding a political party

Scenario

For most of the last 70 years, Australia has had two major political groupings — the Australian Labor Party on one side, and the coalition of the Liberal and National parties on the other. Over 80 per cent of voters would vote for one side or the other. Support for the major parties has been falling in recent years, with minor parties gaining greater support.

Imagine you have decided to establish your own political party. What would be your core beliefs? How would you like to improve Australia? What specific policies would you propose to achieve your aims?



Task

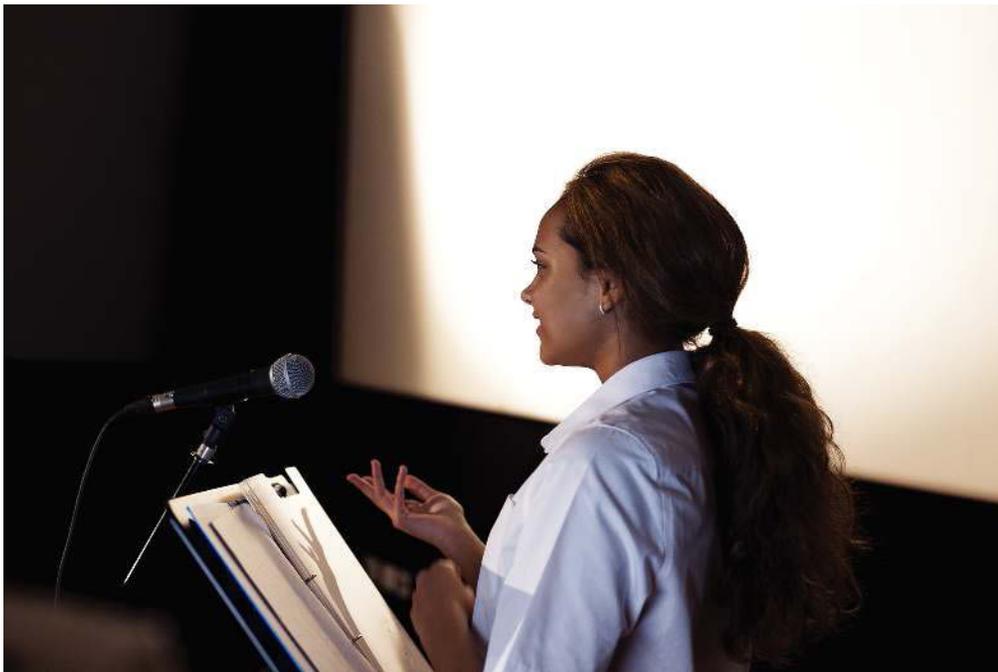
Prepare a policy document for your new political party, outlining your beliefs, policy priorities and vision for Australia.

Your policy document should include:

- your basic beliefs — the principles upon which your party is based
- your policy priorities — the most important things you want to achieve
- policy positions on all major areas of government activity — health, education, taxation, defence, pensions and social services, immigration, the environment, wages and employment, sport, the arts, Indigenous affairs, trade, and any others you particularly wish to address.

Process

- Open the ProjectsPLUS application in the Resources for this topic. Click on the **Start new project** button to enter the project due date and set up your project group if you wish. You may work individually or in pairs, depending on your teacher's preference. Save your settings and the project will be launched.
- Navigate to the **Research forum**, where you will find starter topics loaded to guide your research. You can add further topics to the Research forum if you wish. In the **Media centre** you will find an assessment rubric and some useful weblinks.
- Use the weblinks to start your research.
 - Examine a selection of existing party platforms to get an idea of the type of statements usually included in the basic beliefs or philosophy of a political party. These are usually very broad principles rather than specific policies for action.
 - These principles should be followed by policy priorities. These are the things you think are most important to make Australia a better place — the changes you would like to make.
 - Next consider a broad range of government activity areas. Provide ideas for how these areas should be run, and ways in which they can be improved. For example, how would you improve the health system, or the welfare and pension system?
- Add your research notes to the relevant topic pages in the Research forum. When you have completed your research, you can print out the **Research report** in the Research forum to easily view all the information you have gathered, if you wish.
- Prepare your policy document, clearly outlining the beliefs, policy priorities and policy positions of your party. Be sure to give your party a name!
- Review your work thoroughly, checking for correct spelling and grammar. When you are happy with your work, present your party policy to the class and submit your policy document to your teacher for assessment.



on Resources



ProjectsPLUS Thinking Big research project: Founding a political party (pro-0197)

1.9 Review

1.9.1 Key knowledge summary

1.2 Australia's political parties

- Political parties are groups of people who share similar opinions and values. Parties compete at election time, each hoping to win enough seats in parliament to form government.
- Major political parties include the Australian Labor Party, The Liberal Party of Australia, the National Party and the Australian Greens.
- Many minor parties have participated in the political process in recent years. These are often centred on one high-profile individual.
- In some electorates, independent members have been elected, usually with a high local profile and strong local community support.
- Minor party members and independent members are not part of the government or Opposition, and sit on the cross-benches in both the Senate and the House of Representatives.

1.3 Voting and the federal electoral process

- The Australian electoral system is based on the principles of universal adult suffrage, secret ballot, compulsory voting, regular elections, and preferential and proportional voting systems based on single-member and multi-member electorates.
- Our systems of voting are designed to reflect the will of the voters. This happens through preferential voting, which ensures that the candidate who is preferred by the majority of voters is likely to be elected. Proportional representation is also designed to return candidates who have the greatest support from the greatest number of voters.
- Elections in Australia occur on a Saturday. Voting takes place in polling centres, where individuals present in person, identify themselves, receive ballot papers, fill in their preferences on these papers and place them in the designated ballot boxes.

1.4 Influencing your vote

- All those standing for election will conduct political campaigns in order to influence voters to support them.
- Campaigns can include debates by party leaders, as well as public appearances and advertising campaigns.

1.5 After the election – the formation of government

- Counting of votes commences immediately after polling centres close on election day.
- Counting of House of Representatives votes occur first, with results communicated to Divisional Returning Officers to be totalled for each electorate. If a candidate fails to gain more than 50 per cent of first preference votes, preferences from other candidates are distributed until a candidate achieves more than 50 per cent.
- Television channels often run programs on election night, providing viewers with updates on the progress of the vote count.
- Senate vote counting follows the counting of lower house votes. This can be a long process, as preferences have to be distributed amongst all those candidates who have not achieved a quota on first preferences.
- Following the vote count, a party or coalition of parties that wins a majority in the House of Representatives becomes the government, its leader becomes Prime Minister, and its leading members become government ministers.
- The largest party not elected to government becomes the Opposition, its leader is leader of the Opposition, and other leading members become shadow ministers.

1.6 The role of the prime minister and Cabinet

- The prime minister and Cabinet have an important role to play in developing policies and making decisions on behalf of Australians. Different areas are divided into portfolios, which are managed by frontbenchers (senior members of parliament).
- Backbenchers also have a role to play in policy development as they will often be approached directly by voters with concerns on particular issues.
- Governments often set up inquiries and policy reviews to examine areas of interest or concern, in order to gain public feedback on an issue, and to receive recommendations for future action.

1.9.2 Reflection

Complete the following to reflect on your learning.

1.9 ACTIVITIES

Revisit the inquiry question posed in the Overview:

Parliament, elections and opposing parties. Is governing Australia about more than arguing politicians?

1. Now that you have completed this topic, what is your view on the question? Discuss with a partner. Has your learning in this topic changed your view? If so, how?
2. Write a paragraph in response to the inquiry question, outlining your views.



Resources



eWorkbook Reflection (doc-31732)

Crossword (doc-31733)



Interactivity Choosing a government crossword (int-5435)

KEY TERMS

Australian Electoral Commission an independent body that organises and runs elections in Australia

coalition an alliance between two or more political parties, formed to improve their chances of winning an election and forming government

eligible voters Australian citizens who are over 18 years old and are on the electoral roll, which is an official register of voters

formal vote a ballot paper that has been filled out correctly

informal vote a ballot paper that has not been filled out correctly and therefore will not be counted

portfolio an area of responsibility given to a minister, such as health, education or defence

private members' bills bills that are proposed by members of the House of Representatives on their own behalf rather than on behalf of the government

quota in the Senate, refers to the share of votes required to be elected. It is calculated using the total number of votes cast and the number of vacancies to be filled.

scrutineer a representative of a parliamentary candidate who attends the counting of votes to ensure the count is fair

suffrage or franchise the right to vote

2 Australia's justice system and the courts

2.1 Overview

Jurisdiction, judges and juries – how does the justice system punish and protect Australian citizens?

2.1.1 How does Australia's justice system work?

Australia's justice system values these principles: fair treatment by the courts for everyone, independent judges who are free to make fair decisions, and the right to appeal a decision made by a court. These principles contribute to a democratic and just society.

But how do our justice system and the courts work? Why do we have so many different courts? What different purposes does this variety of courts serve?

Even if we never commit an offence or become involved in a legal dispute ourselves, we could still find ourselves in contact with the court system. This may occur through being a witness to something that might be brought before the courts, or perhaps being called upon to do jury duty, or even just attending court to support someone we know. Our justice system and the courts are important elements of our democratic society, and it is important that we all have a basic understanding of how they work.

Resources

 **eWorkbook** Customisable worksheets for this topic

 **Video eLesson** Going to court (eles-2362)

LEARNING SEQUENCE

- 2.1 Overview
- 2.2 The court hierarchy
- 2.3 The roles of particular courts
- 2.4 Different courts, different jurisdictions
- 2.5 How the courts make laws
- 2.6 **SkillBuilder:** Problem solving and decision making
- 2.7 Equality before the law
- 2.8 The independence of our courts
- 2.9 The right of appeal
- 2.10 When the system fails
- 2.11 **SkillBuilder:** Creating and analysing a survey
- 2.12 **Thinking Big research project:** Protecting human rights
- 2.13 **Review**









To access a pre-test and starter questions and receive immediate, **corrective feedback** and **sample responses** to every question, select your learnON format at www.jacplus.com.au.

2.2 The court hierarchy

2.2.1 Levels of courts within the legal system

Our legal system is made up of many different courts, each with different powers and responsibilities. These courts are arranged in different levels, in order of their power and importance. This arrangement is known as a hierarchy. The higher courts, which hear the most serious matters, are at the top of the hierarchy; the lower courts, which hear less serious matters, are at the bottom of the hierarchy.

FIGURE 1 The higher the court in the hierarchy, the more expensive it will be to bring the case.



2.2.2 Criminal cases and civil cases

Criminal law

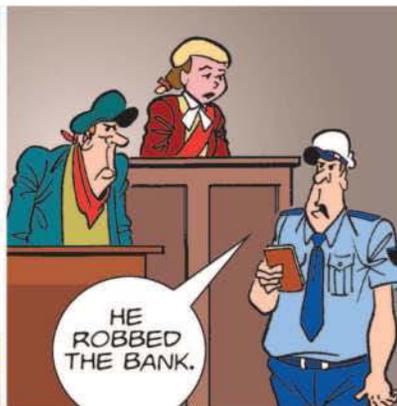
Criminal law protects the community from the harmful actions of others. When a person commits a crime, the state **prosecutes** that person by having them taken before a court. Our courts operate under an **adversary system**. This means that two opposing sides present their arguments to an independent umpire — a **judge** or **magistrate**. The prosecuting side (the prosecution) is required to prove the guilt of the person accused of the crime. The accused person has a right to present his or her side of the argument (known as the defence). In criminal cases, a person found to be guilty will be sentenced to receive a punishment, such as imprisonment or a fine.

FIGURE 2 What happens in criminal cases

In criminal cases...



the police prosecute...



and the courts impose a penalty on the guilty party.



Civil law

Civil law deals with non-criminal disputes between individuals or groups. These can arise in matters related to business dealings, or when a person is harmed by the careless actions of another. Civil cases also operate under the adversarial system, with each side presenting their arguments before an independent judge or magistrate. The person making the complaint is known as the **plaintiff** and the person accused of doing the harm is known as the **defendant**. If the plaintiff is successful, the defendant can be required to provide compensation for the harm done.

An area of law for which a court has responsibility is known as its **jurisdiction**. In criminal cases the higher courts have jurisdiction over the most serious crimes. In civil cases the higher courts have jurisdiction over matters that will affect many people, involve complex legal issues or large sums of money. Cases heard in higher courts will be much more expensive for the community as well as for those bringing the action. If an individual is unhappy with the ruling in a lower court, he or she can apply to have the case heard in a higher court. This process is referred to as ‘making an appeal against a court decision’.

FIGURE 3 What happens in civil cases



2.2.3 The lower courts

The lowest court in the Victorian court hierarchy is the Magistrates’ Court. There is a relatively large number of these courts across the state because they hear more than 90 per cent of all cases that go to court. In Victoria there are ten Magistrates’ Courts in metropolitan Melbourne, and over 40 in regional towns and cities. The Federal Circuit Court of Australia is a lower court that deals with matters relating to laws passed by the federal parliament. In Victoria it sits in Melbourne and Dandenong in the metropolitan area, as well as major regional centres such as Geelong, Bendigo, Morwell and Shepparton. It hears matters relating to family law and child support, bankruptcy, copyright, human rights, industrial law, migration, privacy and trade practice.

2.2.4 Intermediate courts

In other states, intermediate courts are generally known as District Courts, but in Victoria the court operating at this level is called the County Court. The County Court hears more serious criminal cases such as armed robbery, serious drug-related offences and serious assaults, including sexual assaults. Murder-related cases are heard in the highest state court, the Supreme Court.

In criminal cases a case will be heard by a judge and a **jury** of 12 people. The jury is required to consider all the facts presented by the prosecution and the defence, and

FIGURE 4 The historic courthouse in Bendigo is one of over 40 courthouses used for Magistrates’ Court hearings throughout regional areas of Victoria.



to decide whether the **accused** is guilty or not guilty. The judge will help the jury if there are complex legal issues to be decided. If the jury decides that the accused is guilty, the judge will determine the appropriate punishment.

Intermediate courts usually have jurisdiction over a wide range of civil disputes, including claims made for workplace and motor vehicle injury, and disputes involving business dealings. A jury is usually not required in a civil case unless either the plaintiff or the defendant requests one. When juries are used they usually consist of between four and seven jurors.

FIGURE 5 Typical layout of a courtroom



- A** The judge's associate is a trained lawyer who manages much of the paperwork.
- B** Anyone whose name is on the electoral roll can be called as a juror. In a criminal case, the jury consists of 12 people. The jury must decide beyond reasonable doubt whether a person is guilty. All the jurors have to agree.
- C** The prosecutor has to convince the jury that the accused person is guilty. This is done by asking questions of witnesses to draw out relevant information.
- D** The judge is addressed as 'Your Honour'. The judge listens to arguments presented by the prosecutor and the counsel for the defence, and is not allowed to ask a witness questions (except to clarify a point). The judge has to make sure jury members understand the proceedings and evidence presented. If a jury announces a guilty verdict, the judge decides the sentence.
- E** The counsel for the defence represents the accused. If the accused pleads guilty, the counsel for the defence presents arguments to try to lessen the punishment. If the client pleads not guilty, defence counsel must convince the judge or jury that the client is innocent.
- F** The tipstaff helps the judge keep order in the court.
- G** Witness box, from which people give evidence
- H** Members of the public, who listen to and observe the court proceedings
- I** A prison officer from the prison where the accused has been held
- J** The accused
- K** Members of the media, who observe proceedings so they can report what happens.

2.2.5 Higher courts

The highest court in Victoria is the Supreme Court. It hears the most serious criminal matters, as well as civil matters involving very large sums of money. The Supreme Court is divided into a trial division and an appeal division. (See subtopic 2.3 for more detail on the role of these divisions.)

On a similar level to state Supreme Courts in the Australian court hierarchy are the Federal Court and the Family Court. (The role of the Family Court is discussed in subtopic 2.3.) The Federal Court of Australia has a largely civil jurisdiction, although it can hear criminal matters if they are part of Commonwealth law. As most criminal law is determined by state governments, most criminal cases are heard in state courts. The Federal Court can hear civil disputes involving large businesses that operate in a number of different states, disputes relating to federal consumer protection laws, disputes over customs or taxation issues, or **industrial relations** matters. The Federal Circuit Court is the relevant lower court in the same hierarchy as the Federal Court.

FIGURE 6 The Australian court hierarchy

Levels in the hierarchy	Victorian state jurisdiction	Commonwealth jurisdiction
Highest Australian court	High Court of Australia	
Higher courts	Supreme Court, including Court of Appeal	Federal Court Family Court
Intermediate courts	County Court	
Lower courts	Magistrates' Court	Federal Circuit Court

2.2.6 High Court of Australia

The High Court of Australia is our highest court. It performs the following roles:

- It is the highest court of appeal from the state court system.
- It has the power to interpret the Australian Constitution. The court reads, interprets and applies the words of the Constitution in disputes when they arise.
- It resolves disputes between state governments, and between state governments and the Commonwealth Government.

FIGURE 7 The High Court of Australia in Canberra is at the peak of the court hierarchy.



2.2 ACTIVITY

Use internet resources to investigate the operation of the Federal Circuit Court and the Federal Court of Australia.

1. Identify and explain two areas of law where each court has jurisdiction.
2. Describe one recent case in each court, including the following.
 - (a) Who was involved?
 - (b) What were the main facts of the case?
 - (c) What area of law was involved?
 - (d) What was the result of the case?

Examining, analysing, interpreting

2.2 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.2 Exercise 1: Check your understanding

1. **CS1** Define the following terms in your own words.
 - (a) Plaintiff
 - (b) Defendant
 - (c) Prosecution
 - (d) Adversary system
 - (e) Jurisdiction
2. **CS1** What is a court hierarchy?
3. **CS1** What is the name of the intermediate court in Victoria?
4. **CS1** What are the three main functions of the High Court of Australia?
5. **CS1** What is the difference between a judge and a magistrate?
6. **CS2** Explain the difference between civil law and criminal law.

2.2 Exercise 2: Apply your understanding

1. **CS6** Do the following cases involve criminal or civil law? Explain your answers.
 - (a) You are disturbed by neighbours loudly renovating their property at 2 am.
 - (b) Your aunty is convicted of driving with a blood alcohol content of 0.09.
 - (c) Your smartphone is stolen by a robber armed with a baseball bat.
 - (d) Your strict-vegetarian friend finds a half-eaten prawn in a salad sandwich bought from a café and realises that she has just eaten the other half.
 - (e) Your leg has to be set in a plaster cast when you slip on some detergent that has been spilled on the supermarket floor.
2. **CS6** Do you think that a court hierarchy is necessary? Explain your answer.
3. **CS2** In which courts and in which types of cases is a jury required?
4. **CS3** If a person was accused of smuggling guns and ammunition into Australia, in breach of Commonwealth law, which court would hear this criminal case?
5. **CS3** In 1983 there was a dispute between the federal government and the Tasmanian state government over the building of a dam on the Franklin River in south-west Tasmania. Which court would have heard this case?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.3 The roles of particular courts

2.3.1 Jurisdiction

The efficiency of our legal system is helped by having different courts with different jurisdictions. This allows the judges and magistrates to specialise in particular areas of law, and to apply the law consistently across all cases. It also allows for serious matters to be given the time they need for a fair trial in the higher courts, while less serious cases can be dealt with more quickly and cheaply in lower courts. To illustrate these principles, we examine the state Supreme Court, the Magistrates' Court, and the federal Family Court.

2.3.2 The Supreme Court

The Victorian Supreme Court has two main types of jurisdiction: an **original jurisdiction** and an **appellate jurisdiction**. There is a clear separation between these two jurisdictions, with some judges specialising in only hearing appeals, and other judges in only hearing original trials.

Original jurisdiction

The original jurisdiction of the Supreme Court is carried out by the trial division. It includes both criminal and civil law cases, and the court sits with only one judge. In criminal matters, there will also be a jury of 12 citizens who have to weigh up the facts and decide on the guilt or innocence of the accused. No jury is required if the accused pleads guilty to the charges, and the main role of the judge then is to listen to arguments from the prosecution and the defence relating to the severity of the punishment. Based on these arguments, the judge decides on the length of a prison term or other appropriate penalty.

In its criminal jurisdiction, the Supreme Court will deal with only the most serious crimes such as murder, attempted murder or **manslaughter**.

Similarly, in its civil jurisdiction, the Supreme Court hears only the most serious cases. In the past this meant it heard cases involving disputes over very large sums of money. There was an upper limit on the amount of money that could be involved in civil cases dealt with in the County Court, with all cases above that limit heard in the Supreme Court. Since 2007, there has been no upper monetary limit on the civil jurisdiction of the County Court, so civil cases heard in the Supreme Court tend to be those involving the most complex legal issues. These cases usually require the higher level of legal knowledge and experience of Supreme Court justices to resolve them.

Appellate jurisdiction

As mentioned earlier, if either party is unhappy with a decision in a lower court, that party can make an appeal to a higher court. These appeals are usually heard by the Court of Appeal. The Court of Appeal hears

FIGURE 1 Jury members in criminal trials have to carefully weigh up the evidence to decide whether or not the accused is guilty.



FIGURE 2 Only civil disputes involving complex legal issues are likely to be heard in the Supreme Court.



appeals from intermediate courts and from the trial division of the Supreme Court. When hearing an appeal, the court usually sits with either three or five judges, depending on the seriousness of the case.

FIGURE 3 When the Supreme Court acts as the Court of Appeal, it usually sits with three or five judges.



2.3.3 The Magistrates' Court

Up to 90 per cent of all cases are heard in the Magistrates' Court, which has both criminal and civil jurisdiction.

Criminal jurisdiction

The criminal jurisdiction of the Magistrates' Court usually covers relatively minor offences, sometimes known as summary offences. These include driving offences; many cases of theft, such as shoplifting; assault cases where the victim has received relatively minor injuries; and public order cases, such as being drunk and disorderly in a public place.

The Magistrates' Court also performs some important roles in more serious criminal cases.

- Most cases heard before the County Court or the Supreme Court take time to prepare, and are expensive to run. Both the prosecution and the defence can take months to organise witnesses and other evidence in readiness for a fair trial. Before resources are dedicated to preparing all this material, it is useful to test whether or not the prosecution case is strong enough to be likely to convince a jury of the guilt of the accused.
- It is also important to find out in advance whether or not the accused is planning to plead guilty or not guilty.
- In our legal system an accused is presumed innocent until proven guilty. In many cases it would be inappropriate to hold an accused in custody for months awaiting a trial.

The Magistrates' Court carries out significant functions in relation to all these issues.

Bail and remand

When a person is charged with an offence that is serious enough to be heard by an intermediate court or the Supreme Court, a decision has to be made to either detain the accused in custody or release them into the community to await trial. Releasing an accused into the community is known as granting **bail**.

If the arresting police officers believe that the accused presents a danger to the community but the accused wishes to be released, a bail hearing will be held. This hearing will often be held at the Magistrates' Court. Both sides will present their arguments to the magistrate, who will then decide whether to grant bail. If bail is granted, the magistrate may require that a **surety** be lodged with the court, and may also impose conditions on the accused. These can include a requirement that the accused regularly report to their local police station. If bail is not granted, the accused will be **remanded in custody** until the case goes to trial.

Committal hearings

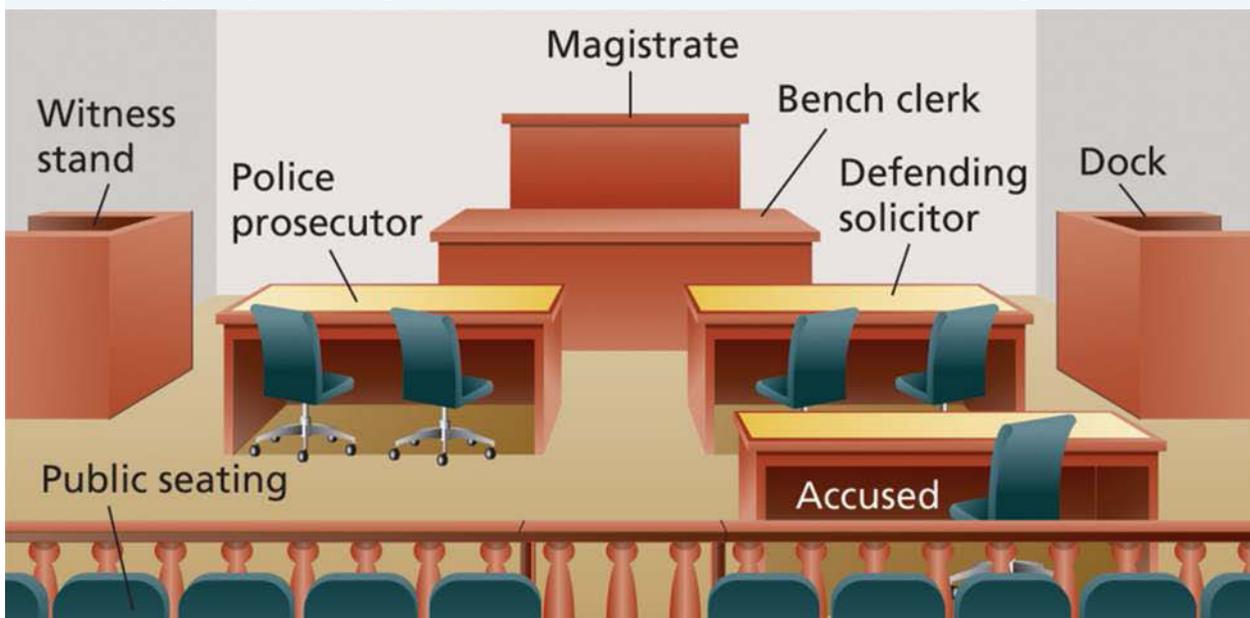
A committal hearing is a preliminary hearing held to determine whether or not the prosecution case is strong enough to justify a full jury trial in the Supreme Court or in the County Court. It also provides an opportunity for an accused to indicate whether he or she intends to plead guilty or not guilty. An accused who pleads guilty will be committed to stand trial in the Supreme Court or County Court.

If the accused pleads not guilty, the prosecution is required to present its evidence to a magistrate, and that evidence can be challenged by the defence. The magistrate does not have to decide whether or not the accused is guilty. Instead, the magistrate assesses whether the accused should be committed to stand trial before a judge and jury, or whether the charges should be dismissed because the evidence is insufficient for a trial. The committal hearing also gives the accused a chance to hear details of the prosecution case, possibly encouraging the accused to plead guilty to some or all of the charges. This can ultimately save time and resources when the case eventually goes to trial.

FIGURE 4 People remanded in custody are held in prison until their case comes to court.



FIGURE 5 Typical layout of a Magistrates' Court, where minor offences and committal hearings are dealt with



Civil jurisdiction

A variety of civil matters can be heard in the Magistrates' Court. These are usually of a less serious nature than those matters heard by intermediate courts or the Supreme Court. The jurisdiction of the Magistrates' Court is limited to hearing cases where the amount of money involved does not exceed a prescribed amount. In Victoria these courts can only hear civil matters involving less than \$100 000. Civil cases involving sums of money that exceed this amount will be held in higher courts in the hierarchy such as the County Court or the Supreme Court.

2.3.4 Family Court of Australia

The Family Court is a federal court that handles disputes over divorce, parenting arrangements, child support, and property disputes following a relationship breakdown. This court was established in 1975 as a result of laws passed by the Commonwealth Parliament. It is on the same level in the court hierarchy as the Supreme Court.

The Family Court sits regularly in all capital cities, as well as major regional cities in each state. The exception is Western Australia, which has its own state-based Family Court.

Relationship breakdown can be a very emotional experience for those involved, and particularly for children of the relationship. For this reason, the Family Court operates under a number of principles, including the following:

- The interests and welfare of children are always at the centre of any decisions made by the court, and they are given higher priority than the wishes or preferences of parents.
- The court is required to assume that it is in the child's best interests for both parents to have equally shared parenting responsibility for the child. This does not mean that the child must spend equal time with both parents, but there must be consultation between the parents on issues related to the child's welfare.
- The court encourages separating couples to reach agreement over as many issues as possible. This can include parenting plans and agreed division of property. Reaching agreement in this way can reduce the cost of going to court.
- If a couple is unable to reach agreement, the court will provide support and assistance in this process. The court can order the couple to attend **mediation** in an attempt to resolve some of the issues in dispute. At all stages the court attempts to solve issues without the need for an expensive court hearing.
- If the parties have reached agreement over some issues, they can apply to have this agreement approved by the court. This approval by the court is known as a **consent order**, and it means that the agreement can be legally enforced by both parties.

FIGURE 6 The Family Court encourages divorcing couples to engage in mediation in the hope of reaching agreement over as many issues as possible.



2.3 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.3 Exercise 1: Check your understanding

1. **CS1** Define each of the following in your own words.
 - (a) Bail
 - (b) Remand
 - (c) Surety

- (d) Committal hearing
 - (e) Mediation
 - (f) Consent order
2. **CS2** Explain the difference between original jurisdiction and appellate jurisdiction.
 3. **CS2** What is the purpose of a bail hearing?
 4. **CS1** What is the maximum amount of money that can be involved in a civil case heard in the Magistrates' Court?
 5. **CS1** What is the maximum amount of money that can be involved in a civil case heard in the County Court?

2.3 Exercise 2: Apply your understanding

1. **CS2** Why does the Family Court encourage parties before it to reach agreement on as many issues as possible?
2. **CS6** In which court are the following likely to be heard?
 - (a) A murder trial
 - (b) An appeal from the Supreme Court
 - (c) A minor traffic offence
 - (d) A dispute over the division of property in a divorce
 - (e) An armed robbery trial
 - (f) The preliminary hearing of a rape case
 - (g) A civil dispute between business partners involving \$100 million
 - (h) A case dealing with an aspect of the Australian Constitution
3. **CS2** Explain the purpose of committal hearings in a Magistrates' Court.
4. **CS5** How do committal hearings contribute to the fairness and efficiency of our court system?
5. **CS5** Explain why the Supreme Court is most likely to hear civil cases involving complex legal issues, rather than just those involving a large amount of money.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.4 Different courts, different jurisdictions

2.4.1 Alternate methods

Going to court can be a very expensive experience, particularly if the legal matter has to be dealt with in a higher court. On many occasions, legal disputes can be solved by alternative methods. We have already seen how the Family Court makes use of mediation as a means of resolving issues before the parties attend a court hearing. There are many other ways in which the legal system makes use of special courts and tribunals, as well as specialised procedures, to deal with particular types of disputes. These can include disputes between consumers and businesses, disputes over human rights and issues of discrimination, and disputes over environmental issues.

2.4.2 Consumer law disputes

Australian consumers are protected from being exploited by unscrupulous or dishonest businesses by Australian consumer law. This law is enshrined in the *Competition and Consumer Act 2010*. It was passed by the Commonwealth Parliament and applies in all states and territories.

How does consumer law protect us?

Australian consumer law gives consumers the right to take legal action if they are the victims of certain types of behaviour by businesses selling them goods or services. In particular, consumers are protected from:

- false and misleading representations in relation to goods or services, including making claims about a product that the seller knows to be untrue
- bait advertising — when products are advertised at a certain price but only a small number are actually sold at that price, as a means of falsely luring customers to the seller's business

- businesses offering gifts or prizes to customers, and then not actually providing them
- referral selling — when a seller offers a special deal to a customer in return for that customer referring other people to the business.

FIGURE 1 It is illegal to make claims that the seller knows to be untrue.



In addition, consumers have particular rights that are guaranteed in relation to the goods or products they buy. These include the following:

- A guarantee must be given in relation to the ownership of the goods. This means that a seller must have the legal right to sell the goods so that the buyer knows that he or she will become the legal owner once the goods have been paid for.
- Goods must be of an acceptable quality, free from defects, safe and durable.
- Goods must be fit for the purpose for which they would be expected to be used.
- Manufacturers must ensure that repairs and spare parts are available for a reasonable time after the goods are supplied.

FIGURE 2 Manufacturers must ensure that spare parts are available for a reasonable time after the goods are supplied.



What action can we take?

Enforcement of consumer rights is carried out by Consumer Affairs Victoria. If a consumer has a complaint against a supplier, the following process is generally recommended:

1. The consumer should attempt to sort out the problem directly with the seller, making it clear what the problem is and requesting that it be fixed. Receipts or other documents should be kept to support the claim.
2. If this fails, the consumer should write a formal letter of complaint to the business and keep a copy.
3. If direct contact with the business does not produce a result, the consumer can take the complaint to Consumer Affairs Victoria. This organisation will contact the business on the consumer's behalf and attempt to resolve the matter.

4. If the business still refuses to fix the problem, the consumer can take the matter to the Victorian Civil and Administrative Tribunal (VCAT). VCAT operates similarly to a court but is generally less formal and cheaper. A small fee usually has to be paid to lodge a claim, but there is no need to have legal representation. The tribunal will usually try to resolve the dispute through mediation, by bringing the parties together to reach agreement.
5. If the parties cannot resolve their differences, the tribunal can hold a hearing to decide the issue. This is less formal than a court hearing, but it has the power to make a decision that is legally binding on both parties.
6. If either party is dissatisfied with the decision of a tribunal, he or she can appeal to the Supreme Court. Of course, this is much more expensive.
7. In some cases, a supplier who breaches Australian consumer law may be guilty of a criminal offence and can be prosecuted in the Magistrates' Court. Consumer Affairs Victoria has the power to bring a criminal prosecution against a business or other supplier that has acted illegally under the provisions of the consumer law. For example, on a number of occasions retailers selling children's toys that have been found to be dangerous have had the toys seized and have been prosecuted.

FIGURE 3 The buyer should always attempt to sort out the problem directly with the seller before taking legal action.



2.4.3 Human rights disputes

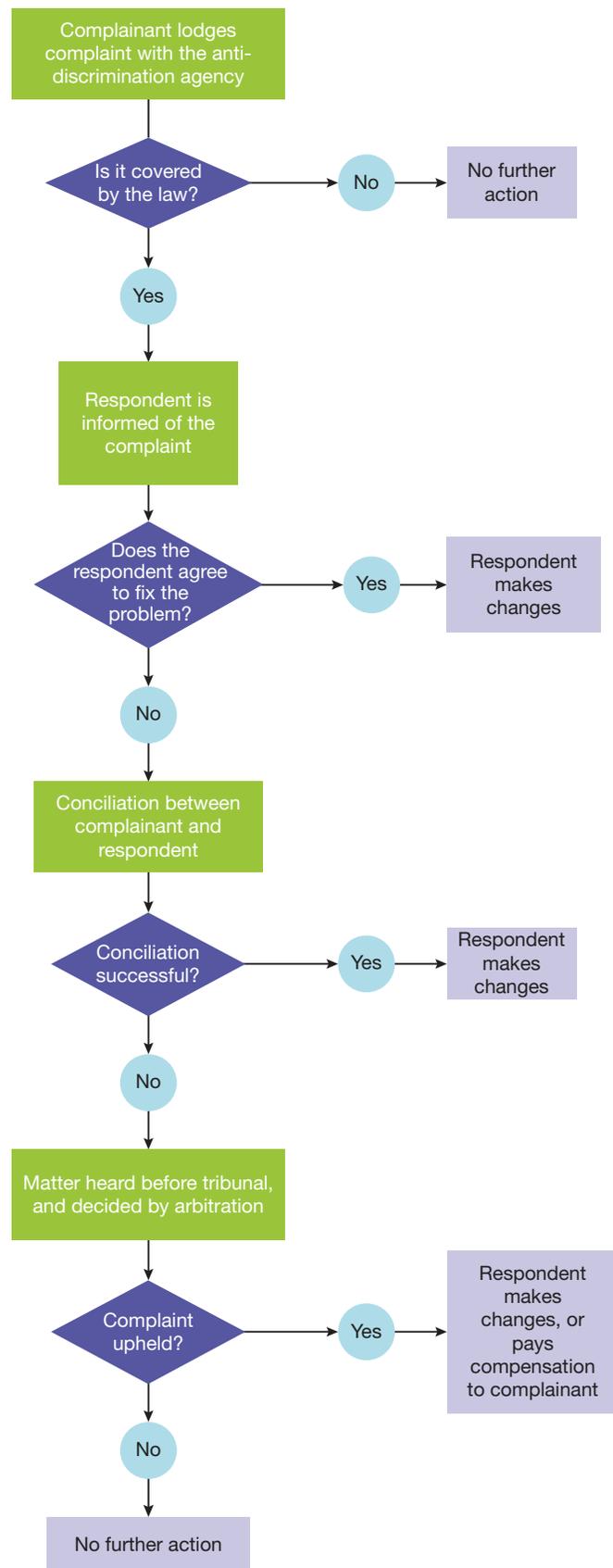
The federal and state governments in Australia have passed laws to protect our human rights. These include equal opportunity and anti-discrimination laws which make it illegal to discriminate against anyone based on characteristics such as their gender, racial or ethnic background, age, religion, marital status or sexual orientation. Each state and territory has its own anti-discrimination agency. In Victoria, this body is the Victorian Equal Opportunity and Human Rights Commission. This body has the dual role of educating the public about human rights and anti-discrimination issues, as well as dealing with complaints.

Dealing with complaints

There is a standard procedure for dealing with complaints of discrimination or other infringements of human rights. **FIGURE 4** and the following text outline the typical process.

1. A person who believes their rights have been infringed can lodge a complaint with the Victorian Equal Opportunity and Human Rights Commission. This complaint must be in writing and can usually be lodged online, but it may also be necessary to provide evidence of the alleged discrimination. The person lodging the complaint is known as the complainant, and the individual or organisation complained about is known as the respondent.
2. Once a complaint has been lodged, representatives of the agency examine it to see whether it comes within the areas of discrimination covered by the relevant legislation. If it does not, they will contact the complainant to inform him or her that no further action will be taken.
3. If the agency believes that the complainant has been discriminated against, it will contact the respondent and provide a copy of the complaint. The respondent then has the opportunity to fix the problem and the issue is resolved.
4. If the respondent refuses to accept that the alleged discrimination has taken place, the Commission sets up a **conciliation** process. This process brings the two parties together with a conciliator in an attempt to resolve the matter.
5. If the matter cannot be resolved through conciliation, it may then be taken to VCAT.
6. VCAT operates similarly to the courts but is less formal and less expensive. It has the power of **arbitration** over the dispute. This means that both sides can present their arguments to the tribunal, and the tribunal can make a legally binding order to resolve the issue.
7. If the complaint is successful, VCAT can order the respondent to refrain from continuing the discriminatory behaviour. It can also order the respondent to pay a sum of money in compensation to the complainant. If the discrimination was employment related, the tribunal can order a respondent to reinstate the complainant to a position from which he or she was dismissed.

FIGURE 4 The dispute-resolution process in discrimination complaints or other infringements of human rights



2.4.4 Environmental law disputes

The Commonwealth, state and territory governments all have laws in place to protect the environment. These laws need to be enforced when an individual or organisation has carried out actions that could cause pollution or other damage to the environment. Action taken to enforce environmental laws will usually involve administrative action, civil action or criminal action.

Administrative action

The Victorian state government has set up an organisation that serves to educate the public on environmental issues, to assist businesses in complying with environmental laws, and to investigate possible breaches of those laws. This organisation is known as the Environment Protection Authority (EPA). The EPA has the power to issue infringement notices or penalty notices to any individual, business or other organisation that it believes is doing something which could harm the environment. This type of notice usually requires the polluter to stop the action causing the pollution, and to clean up the land or waterway that has been affected. Failure to do so can then result in legal action being taken.

FIGURE 5 The EPA can order businesses to stop any action that causes pollution.



Civil action

If an individual or organisation is accused of causing pollution and fails to take **remedial action** to fix an environmental problem, the EPA can begin legal action. In Victoria, environmental disputes are heard in either the Magistrates' Court or the County Court.

Civil action against a polluter can be taken if the actions causing the pollution are a result of **negligence** or **recklessness**, rather than deliberate or intentional actions. A court can order an individual or organisation to clean up the pollution, or impose a financial penalty to pay for the appropriate authorities to carry out the clean-up. If the pollution results from the normal activities of a business, a court can stop the business from operating until it changes those activities.

Criminal action

Criminal action can be taken through the courts if there is evidence that an individual or business has deliberately or intentionally caused the pollution. A successful criminal prosecution for intentionally causing environmental damage can lead to heavy fines or even imprisonment for the person responsible, whether as an individual or as a business owner.

2.4 ACTIVITY

Use internet resources to investigate the Victorian Equal Opportunity and Human Rights Commission.

- What are its three most important goals or aims?
- What is the structure of the organisation?
- Give two examples of the way in which the Commission attempts to educate the community on anti-discrimination issues.

Examining, analysing, interpreting

2.4 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.4 Exercise 1: Check your understanding

1. **CS1** Outline two examples of behaviour that is illegal under Australian consumer law.
2. **CS2** Describe two ways in which consumers are protected by consumer law.
3. **CS1** Identify three examples of illegal discrimination against a person or group of people.
4. **CS2** Define these terms in your own words and provide an example of each.
 - (a) Conciliation
 - (b) Arbitration
 - (c) Negligence
 - (d) Recklessness
5. **CS2** Explain one penalty that a court can impose on a business that is prosecuted for breaching environmental law.

2.4 Exercise 2: Apply your understanding

1. **CS2** In which circumstances could a person or organisation have criminal action brought against them for breaking environmental laws?
2. **CS2** What is the difference between a complainant and a respondent?
3. **CS2** Explain the powers of the EPA in dealing with individuals or organisations it believes are causing harm to the environment.
4. **CS5** In disputes involving consumer, human rights and environmental laws, every effort is made to resolve the matter without having to engage in an expensive court case. Explain how this is achieved in the dispute resolution processes of each of these three areas of the law.
5. **CS5** The Environment Protection Authority (EPA) in Victoria has the power to deal with environmental breaches through administrative action. Explain what powers the EPA has in these circumstances, and give a possible advantage of the use of these powers.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.5 How the courts make laws

2.5.1 Common law

We know that laws are made by parliaments at both the state and federal level, but did you know that the courts can also make laws? Australia's court system was adapted from the British legal system. One of the unique features of that system is the **common law**. The term 'common law' originally meant that the law was common to everyone. Whenever a dispute came before a court, the judge would look at the previous decisions that other judges had made in similar cases. Whenever possible, a judge would try to decide the dispute in the same way as the previous decision. If there was no previous decision, and no parliamentary law that was relevant, the judge could effectively create new law to apply to the case.

2.5.2 The doctrine of precedent

The key feature of our legal system that allows the courts to make laws is the doctrine of **precedent**. This means that when a judge is deciding a case, he or she will look at the legal principles applied in similar cases and be guided by the decision in those cases.

The doctrine of precedent relies on the following set of principles:

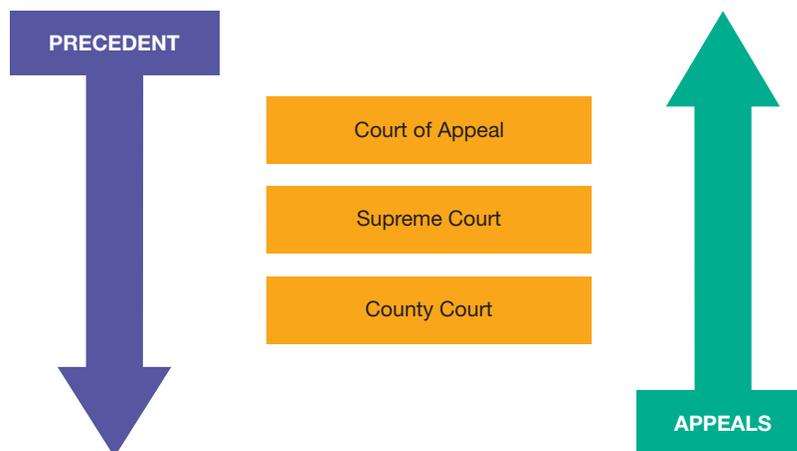
- Cases that are similar in facts are decided in a similar manner to provide consistency within the legal system. The previous case provides a precedent for later cases.
- There is a hierarchy of courts, with higher courts having greater authority than lower courts in that hierarchy.

- Lower courts have to make decisions that are consistent with precedents set by higher courts in the same hierarchy. By doing so, they are said to follow the decisions of those higher courts.
- A higher court in the hierarchy has the power to overrule a decision made in a lower court. This may happen because one of the parties to the original case has decided to appeal to the higher court.
- Details of decisions made by higher courts are written down and kept in law reports, which are readily available to all legal practitioners.
- Because parliament is the supreme law-making body, it has the power to overrule any law made by judges in the courts.
- When a new issue comes before a court, the judge has the power to create new law provided that it is not inconsistent with an existing precedent or with relevant legislation.

FIGURE 1 If there is no existing relevant law, judges can create a new legal rule to settle a dispute.



FIGURE 2 The court hierarchy allows for appeals to be taken to higher courts, and precedent to be followed by lower courts.



2.5.3 What makes a precedent?

Law reports contain details of cases that have been decided previously. Each case report contains the actual words written and spoken by the judge in delivering the decision. The judge will usually include a summary of the facts of the case, and the law that has been applied in reaching a decision. The outline of the law that has been applied is known as the *ratio decidendi*, which is a Latin term meaning ‘the reason for the decision’. Sometimes this will be a precedent from a previous case that the judge has found applies to the facts of the case being considered. Sometimes it will simply be the application, or interpretation, of a relevant law passed by parliament.

On some occasions there will be no relevant precedent and no other law that applies to the facts before the judge. In these cases, the *ratio decidendi* becomes new law and creates a binding precedent that must then be followed in later cases with the same or similar facts.

Sometimes a judge will make other comments about the case. For example, a judge might suggest ways in which the decision could have been different if some of the facts had been different. These comments are known as *obiter dictum*, a Latin term that means ‘things said by the way’. Unlike the *ratio decidendi*, statements recognised as *obiter dictum* are not binding on judges in later cases. Nevertheless, if the *obiter dictum* has been delivered by a prominent judge in a higher court, judges in lower courts may gain some guidance from these statements if they can be applied to the facts before them.

The studded belt case

One example of a precedent being created by the interpretation of an existing law is the studded belt case. In this case, a young man who was wearing a studded leather belt to hold up his trousers was charged with possessing a regulated weapon and found guilty in a Magistrates’ Court hearing. He subsequently successfully appealed this verdict in the Supreme Court.

In making his decision, the Supreme Court Justice had to interpret the intention of the Control of Weapons Act. He considered definitions of a weapon, and whether any reasonable person would consider that the wearing of a studded belt would constitute possession of a weapon. He deemed that the young man had a lawful excuse for possessing the belt (it was holding up his trousers!), and that he had no intention of using it as a weapon. The precedent clarified the Weapons Act, by stating that a studded belt is not, in and of itself, a weapon but may become one if there was intent for it to be used in this way. In this case, the Justice deemed there was no such intent, and therefore the young man was not guilty of an offence.

FIGURE 3 Previous court decisions are documented in law reports.

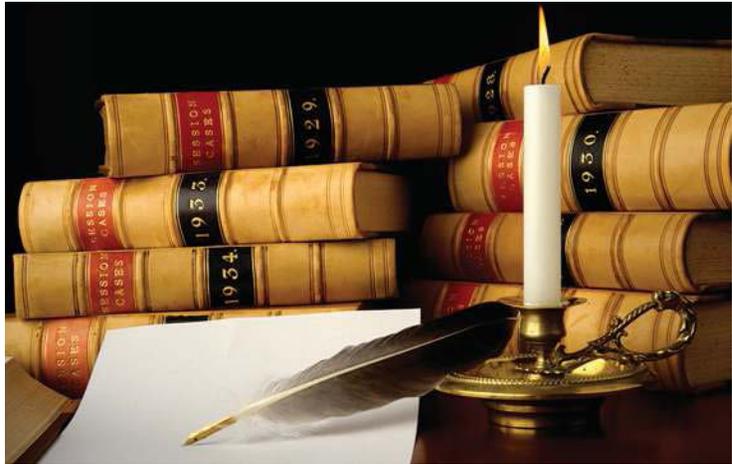


FIGURE 4 Is a studded belt a weapon? According to precedent set by the Supreme Court, only if there is intent for it to be used in this way.



on Resources

 **Video eLesson** The ability of the courts to make law (eles-2380)

2.5.4 Duty of care — case studies in the application of precedent

We can illustrate how the doctrine of precedent works by examining a series of cases decided in English courts during the late nineteenth and early twentieth centuries. These cases all dealt with questions of people supplying products to other people, and the degree to which the supplier was responsible for the safety of the products supplied. Before these cases, it was generally accepted that a supplier was responsible only to the person with whom he or she had a direct contractual relationship. This meant that the seller owed a **duty of care** only to the person who actually bought the products.

George v. Skivington (1869)

In this case a husband bought some hair shampoo from a chemist, who had made the mixture himself. When he bought the shampoo, the husband made it clear that he was buying it for his wife. When she used it, the woman suffered skin irritation and hair loss, so the husband sued the chemist. Lawyers for the chemist argued that because his contractual relationship was with the husband who had bought the shampoo, and not with the wife, the chemist had no duty of care towards the wife. The judge did not accept this argument, and stated that the chemist owed a duty of care to the ultimate user of the shampoo. Because the husband made it clear that the shampoo was for his wife, the legal relationship that existed between the chemist and the husband should be extended to include the wife, and the chemist owed her a duty of care.

Heaven v. Pender (1883)

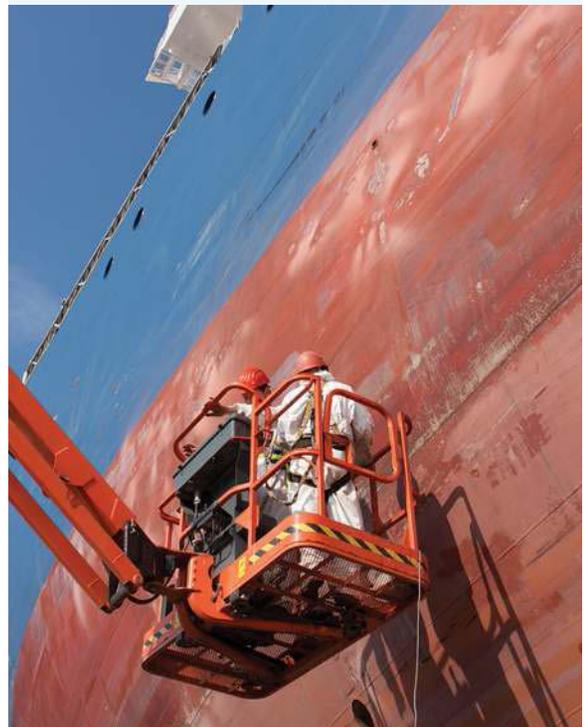
In this case Gray had a contract to paint a ship. The ship was moored in Pender's dock, and Pender provided a platform to be hung over the side of the ship to assist with this task. The plaintiff, Heaven, was employed by Gray to carry out the painting, but while he was doing so the ropes holding the platform broke, leading to Heaven being injured. The court found similarities with *George v. Skivington* in that while no direct contract existed between Pender and Heaven, Pender had a duty to any person who might be required to use the platform. The court held that whenever one person supplies goods or machinery to be used by another person, and there is the likelihood of injury to the person to whom the thing is supplied, there is a duty of care to use ordinary skill and care in relation to the condition or manner of supply. One judge, Brett, went further in *obiter dictum* by suggesting that:

whenever one person is by circumstances placed in such a position in regard to another ... that if he did not use ordinary care and skill in his own conduct with regard to those circumstances, he would cause danger or injury to the person or property of the other, a duty arises to use ordinary care and skill to avoid such danger.

FIGURE 5 When you use shampoo you are protected by the law — even if someone else bought the shampoo for you.



FIGURE 6 The dock owner who supplied the platform was found to have a duty of care to the workman painting the ship.



Donoghue v. Stevenson (1932)

A friend bought May Donoghue a bottle of ginger beer. The drink was in an opaque bottle, so it was not possible to see the contents. Donoghue drank some of the ginger beer, but when the last of the bottle was poured into a glass, the remains of a decomposed snail came out into the glass. Donoghue suffered from illness and shock as a result of drinking the ginger beer, and sued the manufacturer of the ginger beer, Stevenson. There was no direct contractual relationship in this case because it was Donoghue's friend who had actually bought the drink, and had bought it not directly from Stevenson but from a café supplied by Stevenson. The case was eventually decided in favour of Donoghue.

The leading judgement was delivered by Lord Atkin, and it is the following words within his judgement that are accepted as the *ratio decidendi* of the case and therefore constitute the precedent that has become law:

a manufacturer of products, which he sells in such a form as to show that he intends them to reach the ultimate consumer in the form in which they left him with no reasonable possibility of intermediate examination, and with knowledge that the absence of reasonable care in the preparation or putting up of products will result in an injury to the consumer's life or property, owes a duty to the consumer to take that reasonable care.

These words are very similar to the *obiter dictum* in *Heaven v. Pender*. Lord Atkin made it clear that he believed the comments by Brett in that case were a good basis for future law, so he adopted the same principle as his *ratio decidendi* in the case before him. This effectively created new law.

Grant v. Australian Knitting Mills (1936)

Dr Grant purchased a pair of underpants manufactured by Australian Knitting Mills. A chemical was left in the fabric during the manufacturing process, and Grant suffered severe dermatitis as a result of wearing the underpants. He sued the company, and the court found in his favour. The principles of the case of *Donoghue v. Stevenson* were applied, even though that was an English case and Grant's case was heard in an Australian court. Judges in the Australian court system felt the English precedent was a fair and just law, so it became part of Australian common law.

The law of negligence

The area of law created by the cases just discussed is known as the law of negligence. Negligence is said to occur when a person owes a duty of care to another, but does not act in such a way as to ensure the safety of that person. It is now accepted that suppliers of all goods owe a duty of care to anyone who uses those goods, whether they were the actual buyer or not.

FIGURE 7 When May Donoghue found a decomposed snail in her bottle of ginger beer, she sued the manufacturer.



DISCUSS

'Judges have used common law processes to bring greater fairness to the law by adapting previous decisions to suit the new facts before them.'

- Suggest an argument to support this case and then a counterargument to represent an opposing viewpoint.
- Which viewpoint do you support? Give reasons.

[Critical and Creative Thinking Capability]

2.5 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.5 Exercise 1: Check your understanding

1. **CS1** What is common law?
2. **CS1** Identify the key principles of the doctrine of precedent.
3. **CS2** In your own words, define:
 - (a) duty of care
 - (b) negligence.
4. **CS2** What is the difference between the *ratio decidendi* and *obiter dictum*?
5. **CS2** Why are law reports important in helping judges make and apply common law?

2.5 Exercise 2: Apply your understanding

1. **CS2** Explain why the court hierarchy is important in the operation of the doctrine of precedent.
2. **CS4** How do you think a judge might decide the following cases?
 - (a) A woman buys a new car from a dealer. While preparing the car, a mechanic accidentally damages the brakes and the buyer has an accident. She sues the manufacturer and the dealer.
 - (b) A man has a lot to drink at a club. When he goes to leave, the club manager offers to order the man a taxi but he refuses it. While walking home the man staggers onto the road and is injured when a car hits him. He sues the club for negligence.
 - (c) A couple buy a house but discover that it is riddled with termites and will need to be demolished. They sue the previous owner, who claims she knew nothing about the termites.
3. **CS3** Before 1869 in English common law, a legal duty of care was only owed between people who had a direct contractual relationship. How did the decision in *George v. Skivington* change this law?
4. **CS5** Explain why the case of *Heaven v. Pender* is a good example of the doctrine of precedent.
5. **CS5** In *Donoghue v. Stevenson* the judge used *obiter dictum* from a previous case to create a new *ratio decidendi*, and therefore a new principle under common law. Explain how this was possible under the principles of the doctrine of precedent.

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2.6 SkillBuilder: Problem solving and decision making

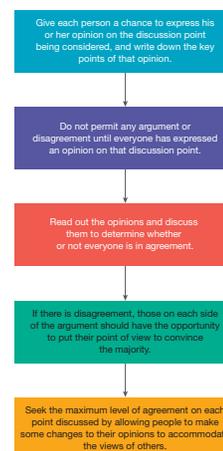
online only

What is involved in problem solving and decision making?

Problem solving and decision making involve working collaboratively in groups, negotiating and using teamwork to solve an issue and develop a plan for action.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill (Show me)
- an activity to allow you to practise the skill (Let me do it).



2.7 Equality before the law

2.7.1 Fair treatment

Equality before the law is an important and central principle of our legal system. In Australia we believe that all parties are entitled to be treated fairly by a court — regardless of whether they are a victim, an offender or any other participant in the justice system. This does not mean that everyone should be treated in the same way; it means that anyone who comes into contact with the courts should know that they are being treated fairly and without **discrimination**.

2.7.2 Discrimination and the courts

Equality before the law is a basic **human right**. Article 7 of the **Universal Declaration of Human Rights** states: ‘All are equal before the law and are entitled without any discrimination to equal protection of the law.’ Australia signed the International Covenant on Civil and Political Rights in 1991, which includes ‘the right to equality before the law and non-discrimination.’

Australia has several laws relating to human rights, discrimination and the need to treat people fairly. Some of the laws made by the Commonwealth Parliament include the *Racial Discrimination Act 1975*, the *Sex Discrimination Act 1984*, the *Disability Discrimination Act 1992*, the *Age Discrimination Act 2004*, and the *Australian Human Rights Commission Act 1986*. Various statutes across the states also define discrimination and protect human rights.

It is against the law to discriminate against someone on the basis of their gender, ethnicity, disability, sexual orientation, age, religious affiliation, socioeconomic background, size or nature of family, literacy level or any other prescribed characteristic. The law and the courts must treat everyone fairly regardless of their personal characteristics.

No-one in our country is exempt from our laws. This means that everyone is entitled to have a case heard by an independent and impartial court, and everyone must obey the laws of Australia.

FIGURE 1 It is against the law to discriminate on the basis of personal characteristics, status or beliefs. This applies to the way that people are treated by the law and by the courts.



DISCUSS

What are the challenges of equality before the law in a culturally diverse country? In what ways does our court system show that it values cultural diversity?

[Intercultural Capability]

2.7.3 Promoting equality before the law

It is very important that people who come into contact with the justice system believe they are being treated equally and fairly so that confidence in the system is maintained. Judges and courts must be aware of any personal bias or prejudice against any person from a particular background and make sure that this is nullified. This may mean that not everyone is treated in the same way. Some different approaches for dealing with an individual’s specific background or circumstances can be seen in **FIGURE 2**.

Respect and courtesy should be shown to everyone in their dealings with the justice system. Discriminatory attitudes have no place in a courtroom. Everyone is entitled to be treated fairly under the law in Australia so that we are all protected from injustice.

FIGURE 2 Approaches that promote equality before the law



- A** Permitting people to present their evidence from a different place. *Example:* Allowing people to speak from a hospital bed or stretcher
- B** Understanding the differing circumstances and needs of people. *Example:* In relation to the timing and length of court appearances, accommodating (where appropriate) people with religious affiliations, childcare responsibilities, children and young people, or people who have a particular type or form of disability
- C** Avoiding false assumptions about the lifestyle of a person. *Example:* Not making assumptions about the lifestyle of a lesbian or gay man, or a person with low income and/or a high-cost disability
- D** Knowing and using appropriate terminology. *Example:* Using terminology that does not cause offence or the perception of discrimination
- E** Using an alternative method of communication for those people that need it. *Example:* Using different communication for children and young people, people with no or limited English, those with a communication disability, or for people who are representing themselves
- F** Understanding the practices of a specific culture that might influence behaviour in relation to a matter before the court. *Example:* Taking into account the importance of the attitudes, values and behaviour of Indigenous people
- G** Using a different oath for people who observe a non-Christian religion. *Example:* Taking an oath on the Koran or Torah, or allowing people with no religious affiliation to make an *affirmation* in place of an oath

DISCUSS

Is it fair if different people receive unequal punishments for the same crime? Why/why not? Explain your reasons.

[Ethical Capability]

2.7.4 CASE STUDY: In jail, no fair trial

In March 2014, ABC TV's *Lateline* aired a story about a 23-year-old Aboriginal woman who spent 18 months in a Kalgoorlie jail in Western Australia.

Rosie Anne Fulton was charged with driving offences. She had crashed a stolen car in Western Australia after consuming a large amount of alcohol. Her case was heard in a Kalgoorlie court, where the magistrate declared her unfit to plead as a result of her disability. Ms Fulton was born with foetal alcohol syndrome and has the mental capacity of a small child. She was placed on a prison-based supervision order.

Ms Fulton and her legal guardian, Ian McKinlay, appealed to Northern Territory authorities to house Ms Fulton in a secure care facility near the prison in Alice Springs. This would allow her to stay close to her Alice Springs family and remain in specialist accommodation, built for people with intellectual disabilities and challenging behaviours. However, the application was rejected.

'They're leaving Rosie Anne in prison, neglected, forgotten and ignored,' Mr McKinlay said.

Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Gooda noted that Aboriginal and Torres Strait Islander people are over-represented in the justice system. 'It is a breach of Ms Fulton's human rights which must be urgently addressed,' he said.

The then Disability Discrimination Commissioner Graeme Innes agreed that it was unacceptable to put people in prison for indefinite periods when they have not been found guilty of a crime. 'Prison is simply not an alternative accommodation option for people with disabilities,' he said. 'We launched a report in February which demonstrated the lack of equal access to justice for Australians with disabilities, and this is just one example of a bigger problem.'

FIGURE 3 Rosie Anne Fulton grew up living in the riverbeds around Alice Springs.



DISCUSS

Is there a difference between acting ethically and acting within the law? Which is more important?

[Ethical Capability]

2.7 ACTIVITY

- Choose one of the courts in your state or territory. Use internet resources (such as the court's website, or an annual review or strategic plan) to find out what the court has done to ensure that everyone is treated fairly. (You might need to find the goal or purpose of the court.) Write down some of the things you see related to equality before the law.
- Use internet resources (including brochures or videos) to identify the services offered by the courts, or offered to those attending court, that ensure everyone is treated fairly. (Look for support and assistance or legal help.) List three of the services you discover.

Examining, analysing, interpreting

2.7 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.7 Exercise 1: Check your understanding

1. **CS1** Identify the ways in which it is against the law to discriminate against someone.
2. **CS1** List two approaches that the justice system could take to treat participants equally and fairly.
3. **CS1** Outline what is meant by the principle of equality before the law.
4. **CS1** What is the name of the international treaty that Australia has signed, which is designed to guarantee equality before the law?
5. **CS1** Identify two pieces of Australian legislation that are designed to protect citizens' rights.

2.7 Exercise 2: Apply your understanding

1. **CS3** Read the 'In jail, no fair trial' case study. In what ways has the justice system discriminated against Rosie Anne Fulton?
2. **CS2** Describe what could happen if the courts did not treat everyone fairly.
3. **CS6** Do you think that everyone who comes into contact with our courts is equal before the law? Justify your answer.
4. **CS6** Write a response debating the topic, 'Everyone is equal before the law.'
5. **CS4** Not all cases of similar crimes receive identical punishments. What factors do you believe could justify the handing down of more or less severe punishments for similar crimes?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.8 The independence of our courts

2.8.1 An independent judiciary

Independence of the **judiciary** is an important feature of Australia's legal system. This is the principle that our judges and courts need to be kept separate from the other two branches of Australia's government. An independent judiciary ensures that we continue to live in a democratic and just society. Judges and courts should not be subject to political influence from government, or from the political interests of any other person or organisation.

2.8.2 Separation of powers

The Australian Constitution supports the idea of the **separation of powers** to allow for three arms of government: a legislative arm, an executive arm and a judicial arm.

- *Legislative arm.* This is the parliament. Its function is to make new laws or to change or remove existing ones. Under the Constitution, parliament is the supreme law-maker. The courts are bound by legislation passed by parliament and by precedent.
- *Executive arm.* This arm of government administers the legislation passed by parliament. Executive power officially lies with the Governor-General or the Governor, who represents the Crown. It is government ministers and the public service who actually exercise this power. For example, the department of health is an Australian public service department which administers the running of Australia's health system. The head of this department reports to the minister for health.
- *Judicial arm.* This is the judiciary and the courts. They make judgements about the law, and are responsible for settling disputes and enforcing the law. The High Court of Australia is responsible for interpreting and applying the Constitution. It makes sure that the other arms of government do not act in a way that is outside the powers granted by the Constitution. The judiciary can for example declare that laws passed by parliament are unconstitutional, or require particular actions if they believe that a branch of government is not performing a constitutional duty.

The rationale behind the separation of powers is that it allows each arm of government to check and balance the powers of the others. This prevents any arm from becoming too powerful and in this way helps maintain a fair and just society.

FIGURE 1 The separation of powers allows for three arms of government.



2.8.3 How we ensure that our judiciary remains independent

Two safeguards in the Constitution protect judicial independence: **security of tenure**, and the way in which judges are appointed.

Security of tenure

By appointing judges for a long period of time, we expect that they will be free to act independently. Judges who are secure in their position are more likely to decide cases and make rulings objectively even when they know that those decisions might be politically unpopular. Judges are commonly appointed until the age of 70, unless they choose to retire earlier. This makes it less likely that governments will be able to influence the decisions of judges.

The way in which judges are appointed

Judges are appointed by the Governor-General (or Governor in each state) acting on the advice of the government. They cannot be removed from office except by the Governor-General (or Governor), following an address from both houses of parliament. Judges cannot be removed from office just because a government disagrees with their decisions in court. Because judges cannot be easily removed by the executive or legislative arm, it is assumed that they can work independently and make decisions without fear of interference.

FIGURE 2 Judges are appointed for an extended period of time and in a manner that promotes their independence from the other branches of government.



2.8.4 Do we really have an independent judiciary?

Judges and courts which only exist to do what a government wants them to do provide no guarantee of a fair and just society. Australia's judiciary is independent — to an extent. Even though judges and courts have the responsibility of interpreting the law, courts also make laws by establishing legal principles. This encroaches on the responsibility of parliament. Judges can make law through the use of common law but these law-making powers are limited.

Judges are formally appointed by the Governor-General (or Governor), who is part of the executive branch of government. Because this appointment is based on the recommendation of the government, there is a small conflict between the executive and judicial arms. However, this is considered to be a minor conflict and Australia's judiciary is generally thought to be independent.

FIGURE 3 The judiciary is considered to be independent of the government in Australia, unlike the situation depicted here.



2.8 ACTIVITIES

- Judges often comment on the principle of the independence of the judiciary. Use the internet or newspapers to find an article or commentary written by a judge or magistrate that refers to judicial independence. What opinion does the judge or magistrate hold? **Examining, analysing, interpreting**
- People in the community (including members of the public, journalists and politicians) often criticise the judiciary. Using the internet or newspapers, find an article or commentary referring to judicial independence that was written by (or quotes) a member of the public, a journalist or a politician. What opinion does this person hold? **Examining, analysing, interpreting**

2.8 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.8 Exercise 1: Check your understanding

- CS1** Define *judiciary*.
- CS1** What is the role of the judiciary?
- CS2** Outline what security of tenure is and why it is significant in guarding judicial independence.
- CS2** Explain how the way in which judges are appointed protects their independence.
- CS2** Identify two roles the courts have in the way laws are made and interpreted in Australia.

2.8 Exercise 2: Apply your understanding

- CS3** Look at **FIGURE 3**. What the judge is saying conflicts with the principle of judicial independence and the separation of powers. Explain why this is the case.
- CS5** Outline what the possible consequences might be if Australia's courts lost their independence.
- CS5** Explain how the High Court's role in interpreting the Australian Constitution can prevent the parliament from passing laws that may infringe the rights of Australian citizens.
- CS5** Over the years a number of members of parliament have been appointed as Justices of the High Court. Outline one possible advantage and one possible disadvantage of this practice.
- CS5** 'Rights and freedoms in Australia are protected because no arm of government has absolute power.' Explain how the judicial arm provides the balance required to achieve this principle.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.9 The right of appeal

2.9.1 Appeals

Any person involved in a court case who is not happy with the outcome of that case has the right to **appeal** the decision. This means they can ask a higher court to review it. However, there are some restrictions on who can appeal and under what conditions a person can appeal.

2.9.2 What is the right of appeal?

No legal system is perfect. When a case is heard for the first time, it is possible that a mistake can be made by the magistrate, judge or jury. As a result, the law often allows people to contest a court decision. This is known as the right of appeal. Our court hierarchy allows the decision of a lower court to be reviewed on appeal by a higher court.

All the courts have the ability to hear cases for the first time. This is called original jurisdiction. Some courts have the power to hear appeals from cases that were first held in lower courts. They might completely rehear a case or examine points of law. These courts are known as appeal courts. They have appellate jurisdiction.

An appeal court has the power to decide if the court hearing the case for the first time was correct or mistaken in its decision. The appeal court may agree with the result of the lower court's ruling. If it finds that the lower court's decision was mistaken, it will usually overturn the decision and replace it with its own.

There are several reasons why a party may appeal. These include:

- dissatisfaction with the decision of a court on the grounds of a question of fact
- disagreement with the court on a point of law
- contention over whether the remedy imposed by the lower court reflects the nature of the evidence presented at the trial.

FIGURE 1 The right to appeal is necessary because our legal system sometimes makes mistakes, and someone can be wrongly sent to jail as a result.



2.9.3 Who can appeal?

The person appealing to the court is known as the **appellant** and the person defending the appeal is referred to as the respondent. Who can appeal depends on whether a case involves criminal or civil law.

In a civil case, any party can appeal a decision. Some appeals can only be heard if the court gives permission to the person wanting to appeal. This is called **leave to appeal**.

In a criminal case, only the people who are directly involved in the case can appeal — the accused and the prosecution. Members of the community do not have the right of appeal (this includes victims).

Note that:

- the prosecution can only appeal against a sentence; it cannot appeal against a verdict of not guilty
- the accused can appeal against a guilty verdict and a sentence, or apply for leave to appeal against a sentence.

2.9.4 How do appeals work?

In Victoria, criminal and civil appeals are dealt with as follows:

- In criminal matters, the County Court hears most appeals from the Magistrates' Court. The Court of Appeal, a division of Victoria's Supreme Court, hears and determines appeals from the County Court and the trial division of the Supreme Court.
- In civil matters, there is no right of appeal from the Magistrates' Court to the County Court. Instead, an appeal from the Magistrates' Court proceeds directly to a single judge of the Supreme Court. Appeals from the County and Supreme Courts are referred to the Court of Appeal.

Appeals from the highest appeal court in each state and territory are heard by the High Court. There is no right of appeal to the High Court. Usually the applicant must obtain special leave from the High Court in order to have the case heard. The High Court normally agrees to hear only a small proportion of the appeals brought to it. It is the final court of appeal.

2.9.5 What happens in an appeal?

An appeal will usually only hear legal argument about a specific point, and the court will only consider the evidence that was given at the original trial or sentence. If an appeal against a verdict is successful, the court will either find the appellant not guilty or will order a new trial with a different judge and jury. If an appeal against a sentence is successful, it may be reduced or changed to a different type of sentence.

FIGURE 2 Appeals can be heard before a single judge or a group of judges (usually two to five), depending on the court and the type of matter being heard. A jury is not used in an appeal.



2.9.6 Why do we have the right of appeal?

The appeal process promotes a fair society and protects us all from unjust decisions. If citizens did not have the right of appeal, there could be an increase in cases involving injustice. Parties not satisfied with the outcome of their case would have no opportunity to ask a higher authority to review a decision made by a lower court. The appeal process is therefore important for correcting any mistakes made by lower courts. This supports a democratic and just society.

FIGURE 3 The High Court is the final court of appeal in Australia.



2.9 ACTIVITIES

1. Using the internet or newspapers, look up a case that has gone to appeal. Summarise in writing what the appeal was about and what result was achieved. **Examining, analysing, interpreting**
2. Find the website of a court in the Victorian court hierarchy. Research the process for appealing a court's decision. Present this process in the form of a diagram. **Examining, analysing, interpreting**

2.9 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.9 Exercise 1: Check your understanding

1. **CS1** What is the right of appeal?
2. **CS1** Why might a party appeal a court's decision?
3. **CS1** Who can appeal a decision and under what circumstances?
4. **CS2** Briefly outline what happens in an appeal.
5. **CS2** Describe the difference between original and appellate jurisdiction.

2.9 Exercise 2: Apply your understanding

1. **CS2** Explain the process for appealing a court's decision.
2. **CS5** 'The right of appeal is an important principle of Australia's justice system.' Do you agree or disagree with this statement? Give reasons for your answer.
3. **CS6** Imagine you have been found guilty of a crime that you did not commit. What would happen to you if there was no right of appeal?
4. **CS5** Although the High Court is the highest court of appeal in Australia, relatively few appeal cases are heard by this court. Identify and explain one reason why this is the case.
5. **CS4** Critics of the appeal process say that it allows a guilty person to keep on appealing and avoiding responsibility for their actions. Give reasons as to why you agree or disagree with this view.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.10 When the system fails

2.10.1 Factors that can undermine the system

Our legal system is based on a number of principles that exist to make sure that anyone who makes contact with a court is treated fairly and receives justice. However, the system does not always work perfectly. Several factors can undermine the application of these principles. These include bribery, coercion of witnesses, trial by media and court delays.

2.10.2 Bribery

Bribery might occur in the justice system if someone tries to offer money, a gift or any other item of value to a judicial officer (such as a judge) or any other public official (such as a police officer) in the expectation that the person receiving the bribe will act in the briber's interests. A person might bribe a juror to make a certain decision, or bribe a witness to present a false testimony or withhold the truth. Note that it is illegal to give or receive a bribe.

Bribery is an offence under common law in many of the states and territories in Australia. Some states also have legislation referring to bribery. Under the Commonwealth *Criminal Code Act 1995*, the offence of bribing a public official is punishable by ten years in prison or a fine of \$2.1 million, or both, for an individual. A corporation can be fined \$21 million, or three times the value of the benefit its management hoped to gain from the bribe, or 10 per cent of its annual revenue for the 12-month period before the bribe was attempted.

Bribery can undermine the principles of our system of justice. Judges who accept a bribe are no longer independent. They have agreed to alter their behaviour and act in someone else's interests. Witnesses who have been bribed may not present the truth or the full truth, which means that a fair trial will not occur. A jury that reaches a decision after receiving a bribe may reach the incorrect decision.

FIGURE 1 Bribery can involve money, a gift or any other item of value. It undermines the principles of justice because it prevents the truth or interferes with a correct decision being made.



2.10.3 CASE STUDY: The bribe's in the mail

Police investigated a possible attempt to bribe judges in Victoria after several cheques were received in the mail in July 2012. The mail was addressed to judges and court officials at the Victorian Supreme Court. The cheques were discovered through the court's mail-handling security protocols. A court spokeswoman said, 'All envelopes were similar in appearance. Court staff opened one envelope, revealing a cheque made out to the addressee.' It is believed that all the suspicious envelopes opened were found to contain cheques.

2.10.4 Coercion of witnesses

Coercion of witnesses is against the law. A person must not coerce or attempt to influence a witness in a court case to provide a false testimony, withhold the truth, or avoid turning up to court at all. Witnesses could be intimidated or bullied while attending court, or at their home or place of work by an offender, a family member of the offender or an accomplice of the offender who knows or discovers where the witness lives or works. A court might make an order to stop the threatening or intimidating behaviour, or

to stop the person attempting the coercion from coming near the witness again. The justice system can also offer protection programs if necessary, including protecting the identity of a witness and even relocating a witness.

Coercion of witnesses is covered by different legislation in each state and by the federal *Crimes Act 1914*, where it is referred to as ‘corruption of witnesses’. Depending on the state, the charge of threatening, corrupting or influencing a witness can result in sanctions including a fine, good behaviour bond, suspended sentence or prison sentence.

Influencing or coercing a witness can undermine the principles of our justice system. Evidence presented in court will become misleading and an incorrect verdict could result. An accused person who should be found guilty may instead be found not guilty. Conversely, an innocent person may be found guilty. A court trial would not hear the truth and therefore the trial would not be fair. Justice would not be served.

2.10.5 CASE STUDY: Please don’t go to court

An 18-year-old man from Woollamia, New South Wales, was committed for trial in the District Court in February 2014 for influencing a witness to not give evidence in court. He was also charged with perverting the course of justice. Recordings produced by the police revealed that the accused was contacted by an inmate at the South Coast Correctional Facility. The police alleged that the prisoner asked the accused to go to another man’s house and tell him not to appear in court to provide evidence relating to another inmate’s matter before a court. The man who was the subject of the coercion was ordered to appear in the District Court in March.

2.10.6 Trial by media

The media, including television and newspapers, will cover court cases. At times, this coverage can have an impact on the accused’s reputation by creating widespread opinion regarding the person’s guilt or innocence before the trial has occurred or before a verdict has been delivered. This is referred to as **trial by media**. A high-publicity case, where the reporting of events can create a frenzy, can make a fair trial nearly impossible.

FIGURE 2 Threatening or intimidating behaviour towards a witness is illegal, whether this occurs inside the court or elsewhere.



FIGURE 3 It is illegal to contact witnesses in order to influence them to change what they say in court or even to not appear in court.



In Australia, strict laws regarding contempt of court restrain the media from what it can report after a person is formally arrested or charged. These laws are designed to make sure that the accused receives a fair trial in front of a judge or jury that has not formed an opinion biased by prior media coverage.

Courts take contempt laws very seriously. This is because justice can only occur when courts are able to operate independently, unhindered by outside interference, and are free to make a fair judgement. If the media publishes information about the accused's prior convictions before the end of a trial, disobeys a court order or interviews witnesses, the judge or jury may become prejudiced against the accused. The opportunity to have a fair trial would therefore be lost.

FIGURE 4 Trial by media can seriously impact an accused's chances of receiving a fair trial.



2.10.7 CASE STUDY: Trial by media

3AW radio broadcaster Derryn Hinch was found guilty of contempt of court in 2013 for breaching a suppression order made by a Victorian Supreme Court Justice. Hinch published tweets and blog entries about Melbourne woman Jill Meagher's murderer during court proceedings, referring to the accused's parole status. Melbourne newspapers then published front-page stories outlining the accused's past, claiming that he was going to plead guilty. Hinch was ordered to pay a \$100 000 fine, but he refused to pay and spent 50 days in prison instead.

FIGURE 5 Radio broadcaster Derryn Hinch



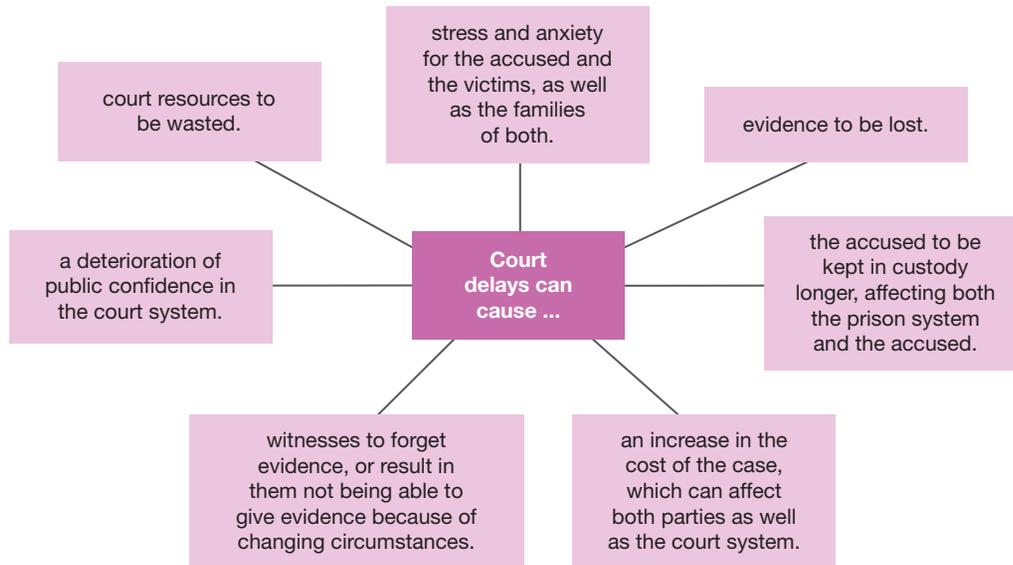
2.10.8 Court delays

There is an old saying in law: 'Justice delayed is justice denied.' It suggests that if a person is wronged in some way and a dispute needs to go to court but does not do so in a timely fashion, then there might as well have been no court case at all. Justice has not taken place. A **court delay** can undermine the application of the principles of justice. Yet there is no right in Australia, either under common law or in legislation, to have a court case conducted within a reasonable period of time.

However, the International Covenant on Civil and Political Rights, to which Australia is a signatory, states that anyone charged with a criminal offence is entitled 'to be tried without undue delay'. Numerous reviews and inquiries into court delays have been undertaken to explore why they happen and what can be done about the problem. Some of the problems caused by court delays are illustrated in **FIGURE 6**.

Delays can occur before the trial starts (between the date the case is committed to go to trial and the actual commencement date), or during the trial itself, making the court case drag on longer than necessary.

FIGURE 6 Problems caused by court delays



There are many reasons for delays that can cause a trial to last longer than necessary. These include:

- either side insufficiently or inadequately preparing its case
- lack of legal representation
- complex evidence and complex cases
- witnesses facing difficulties in getting to court
- either party using delaying tactics when in court.

Delays can also occur simply because the courts have more cases to deal with. This can happen for many reasons, including:

- a rise in the crime rate
- an increase in police numbers
- changes in population
- availability of legal aid
- changes in government policy
- changes in the law.

FIGURE 7 Delays during trial can occur for various reasons and can undermine the principle of justice that the accused is entitled to be tried without undue delay.



2.10 ACTIVITIES

1. Construct a concept map or diagram that explains the impact that bribery, coercion of witnesses, trial by media and court delays have on the justice system. **Reasoning, creating, proposing**
2. Using the internet, newspapers or magazines, find pictures related to one factor that undermines the justice system. Attach the pictures to a page in your notes. Label each picture with one effect the factor has on justice and what can be done to lessen that effect. **Examining, analysing, interpreting**
3. Using the internet or newspapers, find a case involving bribery, coercion of witnesses, trial by media or a court delay. Write down the main facts of the case. **Examining, analysing, interpreting**
4. Working in groups of three or four, plan a video presentation explaining one of the factors undermining the justice system. Your plan should make the video engaging so that it will help viewers fully understand the factor, how it undermines the justice system and what the possible solutions are. Use internet resources and be creative in how you present your plan. **Communicating, reflecting**

2.10 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.10 Exercise 1: Check your understanding

- CS1** Identify the factors that can undermine the principles of justice.
- CS1** Outline one example of the way in which bribery can undermine the legal system.
- CS1** How has the legal system attempted to deal with the possibility of coercion of witnesses?
- CS1** What action do judges sometimes take to avoid trial by media?
- CS1** Identify two parties who might be disadvantaged by delays in court proceedings.

2.10 Exercise 2: Apply your understanding

- CS6** Choose one of the case studies in this section and write a letter to an editor of a newspaper expressing your opinion on the issue in the case study. Clearly identify the issue and explain its key features. Outline what you think should be done to solve the problem.
- CS5** What do you believe would be the most appropriate strategy to prevent possible bribery or coercion of witnesses?
- CS3** Several years ago, a judge dismissed a jury part-way through a criminal trial and ordered a fresh trial, because one of the jurors had attempted an internet search of newspaper articles relating to the crime. What problem with the system was the judge attempting to overcome?
- CS5** 'Justice delayed is justice denied.' What would you interpret to be the meaning of this statement?
- CS3** Copy and complete the following table to predict some of the likely outcomes of the situations shown. Suggest what should happen. (The first situation has been completed for you.)

Situation	Likely outcomes	What should happen
Vince tells a witness in a murder trial that \$100 000 will be transferred to her bank account if she changes what she will say when she is questioned in court.	<ul style="list-style-type: none"> If the witness accepts the bribe, the truth of the case may never be heard. If the witness accepts the bribe and the bribe is discovered, she could be charged with accepting the bribe as well as lying in court (perjury). If the bribe is discovered, Vince could be charged with bribing a witness or influencing a witness. 	<ul style="list-style-type: none"> The witness should not accept the bribe. Vince should not make the offer to pay the witness.
Eve offers a judge \$250 000 to reduce the sentence for her boyfriend, who has been found guilty of manslaughter.		
Sevilla tells a witness in a court case that her cousin will kill her if she turns up at the trial.		
Michael is a journalist who writes a story proclaiming that Kirby is guilty the day after she has been arrested and charged by the police.		

Situation	Likely outcomes	What should happen
Chan is representing Hugh in his court case and decides to delay proceedings to the extent possible.		

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.11 SkillBuilder: Creating and analysing a survey

online only

What is a survey?

A survey is the process of collecting data for the purpose of analysing an issue. It consists of putting a set of questions to a sample group of people. For example, a political party may conduct a survey to find out whether citizens are satisfied with their policies.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill (Show me)
- an activity to allow you to practise the skill (Let me do it).



2.12 Thinking Big research project: Protecting human rights

online only

SCENARIO

There are a number of different bodies, both in Victoria and across Australia, that protect human rights and attempt to ensure equality before the law. Your task is to investigate and prepare a presentation on the aims, actions and regulations of one of these organisations.

Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.



on Resources



ProjectsPLUS Thinking Big research project: Protecting human rights (pro-0198)

2.13 Review

online only

2.13.1 Key knowledge summary

Use this dot point summary to review the content covered in this topic.

2.13.2 Reflection

Reflect on your learning using the activities and resources provided.

Resources



eWorkbook Reflection (doc-31734)
Crossword (doc-31735)



Interactivity Australia's justice system and the courts crossword (int-7654)

KEY TERMS

accused the person charged with or on trial for a crime

adversary system a system of trial in which the two sides argue their case and the judge or magistrate acts as an independent umpire

appeal the request to a higher court to review a decision made by a lower court

appellant the person appealing a court decision

appellate jurisdiction the power of a court to review a lower court's decision

arbitration the process of resolving a dispute by an independent third party, such as a court or tribunal, where the decision is legally binding on the parties

bail an agreement to release an accused person into the community while awaiting trial

bribery the act of giving money, a gift or any other item of value to a recipient in the expectation that it will alter the recipient's behaviour

coercion the practice of forcing someone to act in an involuntary manner by using intimidation or threats, or some other form of pressure

common law judge-made law, or law developed by judges through the decisions in actual cases brought before the courts

conciliation a process of settling disputes in which a neutral third party (a conciliator) assists the parties to reach agreement. It differs from mediation in that the conciliator can suggest solutions to the parties.

consent order a written agreement reached by the parties to a dispute and approved by the court

court delay a setback in the legal system that prevents justice from occurring in a timely fashion

defendant a person against whom a legal action has been brought

discrimination the treatment of an individual in an unfavourable manner based on an actual or perceived personal characteristic protected by the law

duty of care a responsibility to ensure the safety of any persons whom we can reasonably foresee might be affected by our actions

human rights the basic rights that are considered to be the entitlement of all humans

industrial relations refers to the laws and processes that govern the relationships between employers and employees

judge a court official who presides over cases in courts higher than a magistrates court or Local Court

judiciary the collective name given to the judges who preside over law courts

jurisdiction the power or authority of a court to hear specific types of disputes and cases

jury in criminal cases, the 12 people who are randomly selected to decide the guilt or innocence of an accused based on the evidence presented in court

leave to appeal permission from the court to appeal a decision

magistrate a court official who hears cases in the lowest court in the legal system

manslaughter the accidental or unintentional killing of one person by another person

mediation a process of settling disputes in which a neutral third party (a mediator) assists the parties to reach agreement. Mediators do not offer solutions; they help the parties to reach agreement through their own suggestions.

negligence failure to take reasonable care when a person or organisation is legally required to do so

original jurisdiction the power of a court to hear and decide a case for the first time

plaintiff a person who commences a legal action in a civil case

precedent a legal principle that is established by a court in resolving a dispute and is expected to be followed in later cases

prosecute to take legal action against a person accused of a crime

recklessness continuing on a particular course of action despite realising that doing so might result in harm to others

remanded in custody to be held by the authorities until a case is heard in court

remedial action action taken to restore a site to its previous or natural condition, or to an equivalent condition

security of tenure the constitutional guarantee that an office holder, such as a judge, cannot be removed from office except under exceptional circumstances

separation of powers the division of government into the executive, the legislature (parliament) and the judiciary with the aim of providing a system of checks and balances that prevents the excessive concentration of power in one group

surety when bail is granted, a sum of money deposited with a court as a guarantee that an accused will abide by the conditions of bail and will appear in court when required to do so

trial by media creating widespread opinion regarding a person's guilt or innocence before a trial has occurred or before a verdict has been delivered

Universal Declaration of Human Rights a declaration passed by the United Nations outlining the fundamental human rights of all people in the world

2.6 SkillBuilder: Problem solving and decision making

2.6.1 Tell me

What is involved in problem solving and decision making?

Problem solving and decision making involve working collaboratively in groups, negotiating and using teamwork to solve an issue and develop a plan for action. In order to do this successfully, you will need to do the following:

- Listen actively to the views of every member of the group.
- Display empathy for the views of others. This means that you have an appreciation for the feelings of others and respect their right to an opinion, even if it is different from your own.
- Negotiate to resolve differences of opinion.
- Arrive at a conclusion in a democratic manner. This can mean having a vote among members of the group, or arriving at a consensus, with everyone agreeing to change their views slightly to reach a conclusion acceptable to everyone.

2.6.2 Show me

So how does this work in practice? **FIGURE 1** outlines the procedure for effective problem solving and decision making.

Consider this issue:

As we have seen, many types of disputes are resolved without going to court. Mediation and conciliation are recommended in Family Court disputes, anti-discrimination cases and consumer law cases.

- Is this a fair way of dealing with legal issues?
- What happens if one party feels intimidated in the mediation process?
- Might they give away more than they had intended?
- On the other hand, these processes are much cheaper and can save parties thousands of dollars in legal fees.

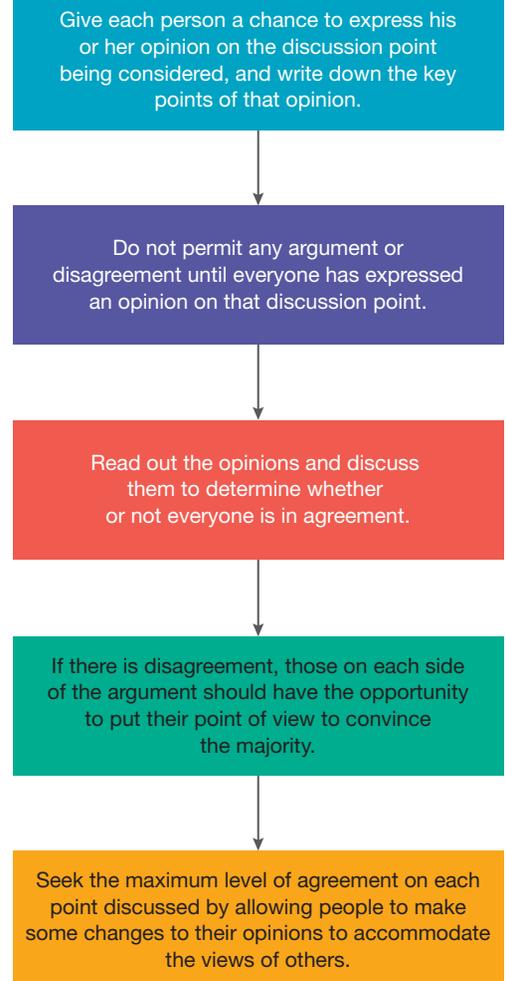
If you had to decide as a group whether or not these alternative measures are fair, or if it would be fairer to have these matters decided by an independent umpire such as a judge or magistrate, how might you reach a conclusion that is agreeable to all?

We can use the process outlined in **FIGURE 1** to work through this issue.

Form into discussion groups to consider the following key points:

1. What are the benefits and disadvantages of going through a process of mediation?
2. What are the benefits and disadvantages of conciliation?
3. What are the benefits and disadvantages of taking the matter to court?
4. Does the more active role of a conciliator make this process less open to manipulation by one of the parties than mediation?

FIGURE 1 The procedure for problem solving and decision making



5. Would it be fairer to have an independent person arbitrate on the matter?
6. Does the lower cost of the mediation or conciliation make up for the lack of an independent umpire?

Tackle each discussion point one at a time and use the procedure illustrated in **FIGURE 1** to structure your discussion. Take it in turns within your group to keep notes about each point.

DISCUSS

Reflect on your participation in the group discussion. How easy was it to come to a consensus? What role did you play in the group? How could you have made more effective contributions? In what ways could the group have improved its communication and decision making?

[Personal and Social Capability]

2.6.3 Let me do it

Complete the following activities to practise your skills.

2.6 ACTIVITIES

1. Use the procedure in **FIGURE 1** to consider the following issue:

Law-making by the courts has provided the flexibility that allows new law to be made when there is no other law available to cover the issue at hand. Nevertheless, judges are not democratically elected in the way members of parliament are. Would it not be better to have all laws made by democratically elected members of parliament who are accountable to the voters?

Discussion points could include:

- (a) What are the advantages and disadvantages of law-making by the courts, both for individuals before the courts and for our society as a whole? (You may need to further research aspects of law-making by the courts to be able to provide useful examples. There is plenty of material available online.)
- (b) What are the advantages and disadvantages of law-making by parliament, particularly in a democratic society?
- (c) Are there changes you believe could improve the system, such as closer cooperation between parliament and the court system? How might this work?
- (d) If you do not see a need for change, how can you convince others to support the current system?
- (e) What ideas can you propose that would take advantage of the best features of law-making through the courts and law-making by a democratically elected parliament?

2. Reflect on your participation in the group discussion:

- How easy was it to come to a consensus?
- What role did you play in the group?
- How could you have made more effective contributions?
- In what ways could the group have improved its communication and decision making?

Write a paragraph or two to summarise your experience and outline how your skills in problem solving and decision making have developed through this process.

2.11 SkillBuilder: Creating and analysing a survey

2.11.1 Tell me

What is a survey?

A survey is the process of collecting data for the purpose of analysing an issue. It consists of putting a set of questions to a sample group of people. For example, a political party may conduct a survey to find out whether citizens are satisfied with the party's policies.

How is a survey useful in Civics and Citizenship?

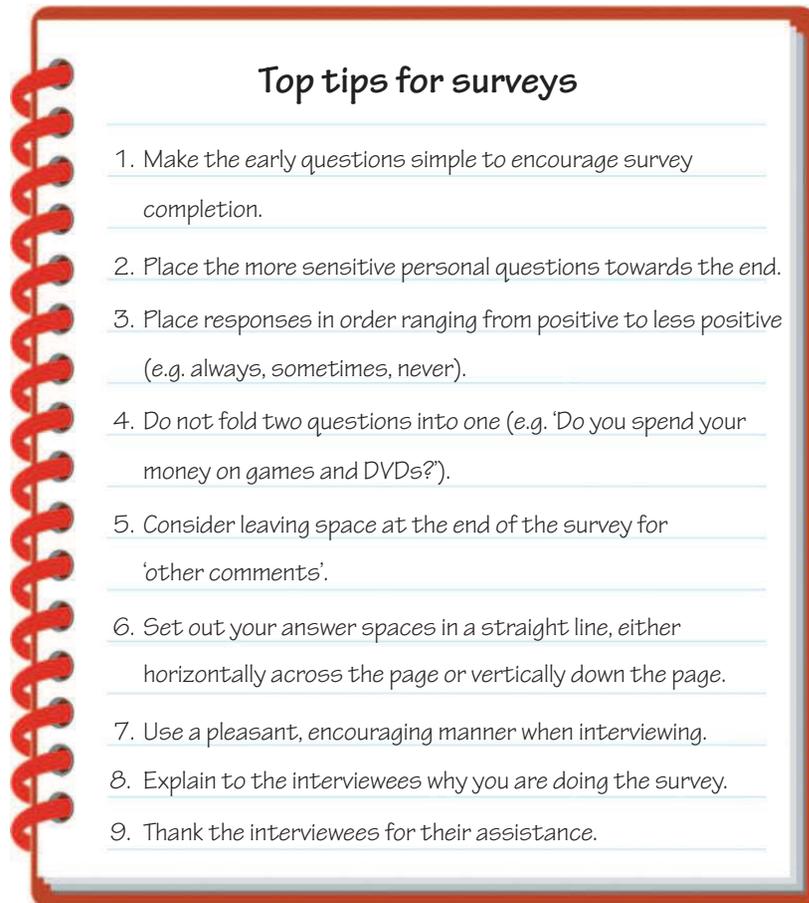
Surveys are an efficient way of collecting information from a large number of respondents. The questions can range widely to reveal people's attitudes, values, opinions and beliefs on political or legal issues.

A good survey:

- has a clear written introduction
- has simple questions early on
- places more sensitive personal questions towards the end
- leaves enough room for all the questions to be answered
- is of reasonable length
- is well presented
- is clearly analysed once responses are collected.

FIGURE 1 outlines more tips on creating a good survey.

FIGURE 1 Survey tips



2.11.2 Show me

How to design a survey

You will need:

- a sheet of lined paper
- a pen
- questions that you would like to investigate.

Procedure

Step 1

Decide what you want to learn. You need to clearly decide your goals or your survey results will be unclear.

Step 2

Decide whom you want to survey. Will your target group include both young people and adults, or just young people? How many people will you survey? Generally, the more people you survey, the more reliable your results will be.

Step 3

Decide what method you will use to collect the data. Consider factors such as cost, speed and whether sensitive information is involved. Survey methods include:

- personal interviews
- telephone survey
- mail survey
- email survey
- internet/intranet webpage survey.

FIGURE 2 Personal interviews may be conducted in a variety of places, such as at shopping centres or outside theatres. Personal interviews usually cost more to conduct than other survey methods.



Step 4

Design your survey. Start with a friendly introduction to encourage people to complete the survey. Work out your questions. There are two main types of survey questions.

- Closed questions ask the respondent to select an answer from a range of options.
- Open questions allow the respondent to record their thoughts about an issue. Look at the examples provided in the **FIGURE 3** sample survey for ideas.

Try to keep your survey short and your questions simple. Make sure the layout is attractive and easy to follow.

FIGURE 3 A sample survey form

RATING SCALE

How would you rate the performance of our courts? Please circle one response.

Excellent Good Fair Poor

AGREEMENT SCALE

How much do you agree with the following statements? Please tick one response.

	Strongly agree	Agree	Disagree	Strongly disagree
The courts treat everyone fairly.				
Australia's judges are independent.				

MULTIPLE CHOICE

Please circle one response.

Age: 12–14 15–16 17–18 Over 18

OPEN-ENDED

Why do we allow people to appeal court decisions?

Step 5

Conduct a small trial of your survey to make sure the questions are clear and achieve your goals. Make any necessary changes.

Step 6

Conduct your survey and collate the results. These can then be analysed for patterns or anything unusual. When you analyse the results, consider working out percentages. For example: the females aged 12–16 surveyed spend 10 per cent of their money on computer games, while the males aged 12–16 spend 25 per cent.

2.11.3 Let me do it

Complete the following activities to practise your skills.

2.11 ACTIVITIES

1. In a small group, design and conduct a survey. It is to be a paper-based survey carried out by personal interview. Note that paper surveys should allow enough room for interviewees to write their answers.
 - (a) In your group, select one of the following topics for your survey:
 - equality before the law
 - independent judiciary
 - right of appeal.
 - (b) Follow the steps outlined in this SkillBuilder to prepare for and conduct your survey. Read the list of tips for survey preparation in **FIGURE 1** to help ensure your survey is effective.
 - (c) Practise your interview skills in your group. Work out how to introduce yourself to the interviewee and explain the purpose of the interview. Decide whether you will give the interviewees the survey and a pen to write down their answers, or whether you will read out the questions and record the responses yourself.
2. Analyse and present your survey results.
 - (a) After you have collected responses to your survey, collate the completed surveys. In your group, complete the following tasks.
 - i. Graph the responses to the closed questions.
 - ii. Read through the responses to the open questions to get a feel for what people are saying.
 - iii. Categorise the comments into different groups. The categories you develop are up to you. There may be some comments that do not fit a category.
 - iv. Look carefully at the comments in each category. Can you see any patterns?
 - v. Compare the comments in each category to your closed questions data. Can you see any patterns here?
 - (b) Use a software program such as PowerPoint to prepare a slide show of your results.
 - (c) Arrange a time with your teacher to present your slide show to your class. Give each class member a copy of your survey at the start of your presentation.
3. Reflect on your skills development by answering the following questions.
 - (a) How did you develop questions for your survey?
 - (b) Was it easy to sort out the information you collected? What was easy and what was hard?
 - (c) What did you discover about people's views on your topic?
 - (d) Can you make any conclusions about what you discovered about your topic?
 - (e) Did you discover any problems with your survey design? If so, what were they and how would you improve your survey for future use?

2.12 Thinking Big research project: Protecting human rights

Scenario

There are a number of different bodies, both in Victoria and across Australia, that protect human rights and fight for equality before the law. Most of these do much more than simply process complaints. As an active citizen, it is important that you have an understanding of such entities.

Task

Your task is to investigate and prepare a PowerPoint presentation on either the Australian Human Rights Commission (AHRC) or the Victorian Equal Opportunity and Human Rights Commission (VEOHRC).

Your presentation should include:

- the goals or aims of the organisation
- the structure and operating principles
- positive actions taken by that organisation to educate the public and promote principles of fairness and equality
- complaints processes and methods of dispute resolution
- examples of some issues that have been dealt with by that organisation
- your assessment of how successful that organisation has been in meeting its goals.



Process

- Open the ProjectsPLUS application in the Resources for this topic. Click on the **Start new project** button to enter the project due date and set up your project group if you wish. You will complete your presentation individually, but you may work with a partner to swap ideas and share research tasks, if your teacher approves. Save your settings and the project will be launched.
- Navigate to the **Research forum**, where you will find starter topics loaded to guide your research. You can add further topics to the Research forum if you wish. In the **Media centre** you will find an assessment rubric and some useful weblinks.

- Examine the websites of the Australian Human Rights Commission (AHRC) and the Victorian Equal Opportunity and Human Rights Commission (VEOHRC), and select one that you believe you are best able to report on. Gather information on each of the dot points outlined in the **Task** section.
- Add your research notes to the relevant topic pages in the Research forum. When you have completed your research, you can print out the **Research report** in the Research forum to easily view all the information you have gathered, if you wish.
- Prepare your PowerPoint, including images, tables or diagrams as appropriate, to add interest and clarity to your presentation. Break down your information into specific points that can be presented in the PowerPoint format. Remember that each PowerPoint slide represents a summary point, and you should have more information to present than is summarised on the slide, so you should have more detail at your disposal. Prepare a set of detailed notes to refer to as you give your presentation.
- Review your work thoroughly, checking for correct spelling and grammar. When you are happy with your work, present your research to the class and submit your PowerPoint presentation to your teacher for assessment.



on Resources



ProjectsPLUS Thinking Big research project: Protecting human rights (pro-0198)

2.13 Review

2.13.1 Key knowledge summary

2.2 The court hierarchy

- Courts have both civil and criminal jurisdiction.
- All courts fit within a court hierarchy. The lower courts deal with less serious matters, and intermediate and higher courts have jurisdiction over more serious matters.
- A court hierarchy allows for a person to appeal to a higher court if he or she is unhappy with the ruling in a lower court.

2.3 The roles of particular courts

- The Victorian Supreme Court has both original and appellate jurisdiction.
- Magistrates' Courts are located in metropolitan Melbourne and in regional cities and towns, and hear around 90 per cent of all cases.
- As well as hearing less serious cases, Magistrates' Courts conduct committal hearings on more serious criminal matters to test whether the prosecution has a strong case against the accused.
- Magistrates' Courts also make decisions in relation to the granting of bail to those accused of crimes.
- The Family Court of Australia has jurisdiction over all matters relating to divorce and relationship breakdown.

2.4 Different courts, different jurisdictions

- Disputes relating to consumer law can be heard by the Victorian Civil and Administrative Tribunal, which will usually attempt to resolve the matter through mediation before conducting a formal hearing.
- The Victorian Equal Opportunity and Human Rights Commission provides a complaint resolution procedure to help resolve issues of discrimination. The Commission attempts to use a process of conciliation to resolve these disputes.
- The Victorian Environmental Protection Authority has the power to order individuals or organisations to stop polluting and to clean up, but can also initiate civil or criminal proceedings if the polluter does not comply with the orders.

2.5 How the courts make laws

- Judges will follow precedents set in previous cases, particularly those precedents set in a higher court.
- When there is no relevant legislation and no existing precedent, judges can make new law when they decide a case brought before them.
- Once new common law has been developed within a court hierarchy, judges in future cases will tend to follow the precedent that has been set.

2.7 Equality before the law

- Equality before the law means that people who come into contact with the justice system should be treated equally and fairly, and be able to see that this is the case.
- There are several approaches that courts can take to deal with people from different backgrounds, such as those with minority racial, ethnic or cultural backgrounds, to ensure they are treated fairly.

2.8 The independence of our courts

- The Australian Constitution supports the concept of three separate arms of government — the legislative, executive and judicial arms.
- The separation of powers ensures that judges (the judicial arm) are not subject to political influence from the legislative arm or the executive arm of government.
- Judges have security of tenure once appointed, so that they cannot be influenced by government or politics when making their decisions.

2.9 The right of appeal

- A party may appeal a court's decision when they are dissatisfied with the decision on the grounds of a question of fact, or if they disagree with the court on a point of law.
- In a civil case, any party can appeal a decision, but some appeals can only be heard if the court gives permission to the person wanting to appeal.
- In a criminal case, only the people who are directly involved in the case can appeal (the accused and the prosecution), and the prosecution can only appeal against a sentence.

2.10 When the system fails

- The courts attempt to ensure that everyone who comes before them receives justice, but this does not always work perfectly.
- Factors undermining the application of the principles of justice include bribery, coercion of witnesses, trial by media, and court delays.

2.13.2 Reflection

Complete the following to reflect on your learning.

2.13 ACTIVITIES

Revisit the inquiry question posed in the Overview:

Jurisdiction, judges and juries. How does the justice system punish and protect Australian citizens?

1. Now that you have completed this topic, what is your view on the question? Discuss with a partner. Has your learning in this topic changed your view? If so, how?
2. Write a paragraph in response to the inquiry question, outlining your views.

on Resources

-  **eWorkbook** Reflection (doc-31734)
Crossword (doc-31735)
-  **Interactivity** Australia's justice system and the courts crossword (int-7654)

KEY TERMS

- accused** the person charged with or on trial for a crime
- adversary system** a system of trial in which the two sides argue their case and the judge or magistrate acts as an independent umpire
- appeal** the request to a higher court to review a decision made by a lower court
- appellant** the person appealing a court decision
- appellate jurisdiction** the power of a court to review a lower court's decision
- arbitration** the process of resolving a dispute by an independent third party, such as a court or tribunal, where the decision is legally binding on the parties
- bail** an agreement to release an accused person into the community while awaiting trial
- bribery** the act of giving money, a gift or any other item of value to a recipient in the expectation that it will alter the recipient's behaviour
- coercion** the practice of forcing someone to act in an involuntary manner by using intimidation or threats, or some other form of pressure
- common law** judge-made law, or law developed by judges through the decisions in actual cases brought before the courts
- conciliation** a process of settling disputes in which a neutral third party (a conciliator) assists the parties to reach agreement. It differs from mediation in that the conciliator can suggest solutions to the parties.

consent order a written agreement reached by the parties to a dispute and approved by the court

court delay a setback in the legal system that prevents justice from occurring in a timely fashion

defendant a person against whom a legal action has been brought

discrimination the treatment of an individual in an unfavourable manner based on an actual or perceived personal characteristic protected by the law

duty of care a responsibility to ensure the safety of any persons whom we can reasonably foresee might be affected by our actions

human rights the basic rights that are considered to be the entitlement of all humans

industrial relations refers to the laws and processes that govern the relationships between employers and employees

judge a court official who presides over cases in courts higher than a magistrates court or Local Court

judiciary the collective name given to the judges who preside over law courts

jurisdiction the power or authority of a court to hear specific types of disputes and cases

jury in criminal cases, the 12 people who are randomly selected to decide the guilt or innocence of an accused based on the evidence presented in court

leave to appeal permission from the court to appeal a decision

magistrate a court official who hears cases in the lowest court in the legal system

manslaughter the accidental or unintentional killing of one person by another person

mediation a process of settling disputes in which a neutral third party (a mediator) assists the parties to reach agreement. Mediators do not offer solutions; they help the parties to reach agreement through their own suggestions.

negligence failure to take reasonable care when a person or organisation is legally required to do so

original jurisdiction the power of a court to hear and decide a case for the first time

plaintiff a person who commences a legal action in a civil case

precedent a legal principle that is established by a court in resolving a dispute and is expected to be followed in later cases

prosecute to take legal action against a person accused of a crime

recklessness continuing on a particular course of action despite realising that doing so might result in harm to others

remanded in custody to be held by the authorities until a case is heard in court

remedial action action taken to restore a site to its previous or natural condition, or to an equivalent condition

security of tenure the constitutional guarantee that an office holder, such as a judge, cannot be removed from office except under exceptional circumstances

separation of powers the division of government into the executive, the legislature (parliament) and the judiciary with the aim of providing a system of checks and balances that prevents the excessive concentration of power in one group

surety when bail is granted, a sum of money deposited with a court as a guarantee that an accused will abide by the conditions of bail and will appear in court when required to do so

trial by media creating widespread opinion regarding a person's guilt or innocence before a trial has occurred or before a verdict has been delivered

Universal Declaration of Human Rights a declaration passed by the United Nations outlining the fundamental human rights of all people in the world

3 Identity, the media and global connectedness

3.1 Overview

I am an Australian. What does this mean in our multicultural society and what influences our Australian identity?

3.1.1 Introduction

For tens of thousands of years, Australian society existed without significant influence from the outside world. There is evidence of Indigenous Australian communities trading with their northern neighbours for the best part of 50 000 years. However, living in relative geographical isolation, Australian Indigenous society developed a distinct, yet varied culture free from external influences.

This changed with the arrival of European settlers who brought with them their own culture and traditions.

For over 200 years, successive waves of immigration have continued to bring new cultures, traditions and

customs to Australia, creating a complex tapestry of national identity. The impact of external influences on Australian culture and identity has continued to grow, fuelled in many ways by the influence of popular culture and media. In this topic, we will investigate the development of Australian identity in the context of the global community. We will discuss how Australian identity has evolved and examine the drivers behind this evolution.



on Resources

 **eWorkbook** Customisable worksheets for this topic

 **Video eLesson** Australia's role in a global community (eles-2365)

LEARNING SEQUENCE

- 3.1 Overview
- 3.2 Australian democracy and global connections
- 3.3 Shaping Australian identity
- 3.4 Attitudes to diversity
- 3.5 Participating in civic life
- 3.6 **SkillBuilder:** Debating an issue
- 3.7 **Thinking Big research project:** Don't stereotype me!
- 3.8 **Review**



To access a pre-test and starter questions and receive immediate, **corrective feedback** and **sample responses** to every question, select your learnON format at www.jacplus.com.au.

3.2 Australian democracy and global connections

3.2.1 Active citizenship

Like many countries in the world, Australia is a representative democracy. In this system, eligible voters elect officials to make decisions on their behalf and on behalf of their communities. Australia's various levels of government facilitate civic life and ensure the safety, freedom and rights of individuals and communities. In order to be active participants in this democratic society, Australian citizens are obliged to fulfil a range of responsibilities. Chief among these is our obligation to follow the rule of law and to demonstrate behaviours that are aligned with Australian values. Yet as members of a global community, Australians must also be mindful of our responsibilities as global citizens. In this subtopic, we will learn more about our responsibilities as both Australian and global citizens and consider whether it is possible to meet both sets of duties equally.

3.2.2 Multiculturalism and pluralism

You may have heard or perhaps sung the song *I am Australian* many times, but have you ever stopped to think about the lyrics? Australia is a unique country in that the vast majority of its citizens were, at some stage during their history, immigrants. The only true Australians are Aboriginal and Torres Strait Islander people whose ancestors have walked these lands for tens of thousands of years. So while we are 'one', we are also 'many'.

According to the 2016 census, one-third of Australians were born overseas and 49 per cent were either born overseas or have at least one parent who was born overseas. It is this cultural diversity that defines Australia as a **multicultural** society, but further, it is our acceptance of all people's right to maintain their individual cultural traditions, languages and faiths that defines us as a **pluralist** society. In our pluralist Australian society, there is no expectation that those from minority groups need to abandon their heritage, beliefs, customs or culture in order to be considered Australian — the situation is quite the opposite! There is an expectation that cultural differences are respected and that everyone should demonstrate tolerance and understanding.



Resources



[Weblink](#) I am Australian

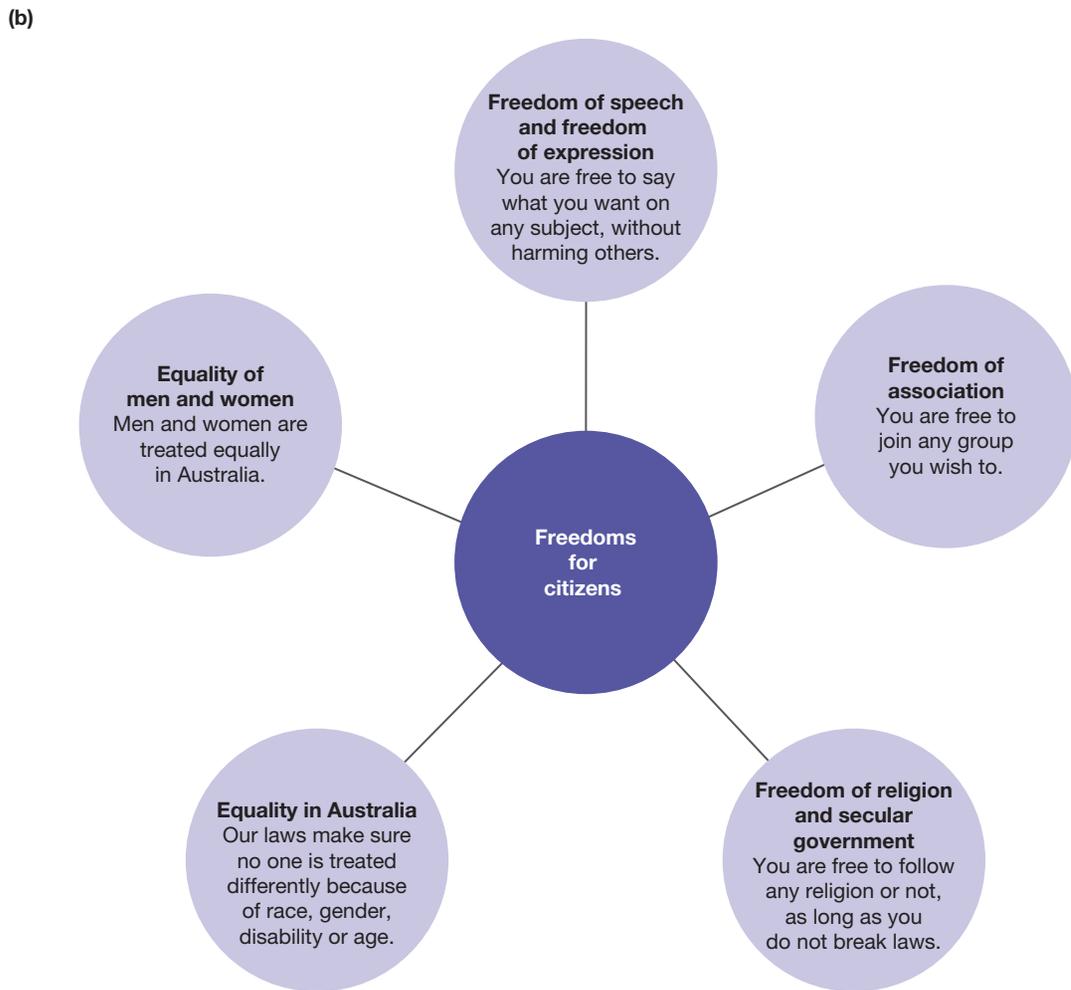
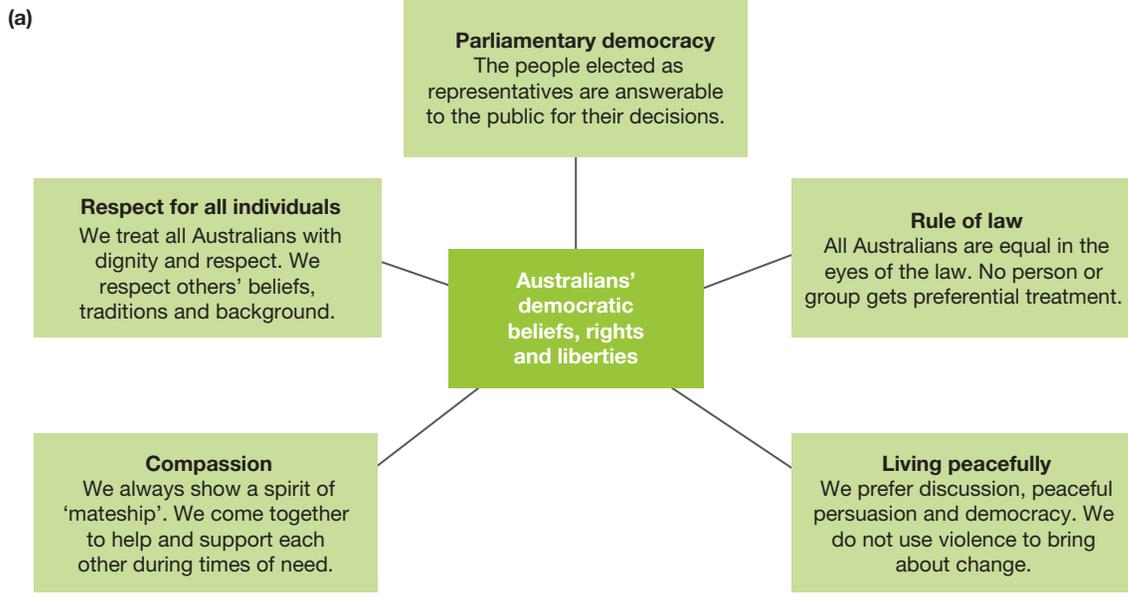
3.2.3 Rights and responsibilities of Australian citizens

As citizens in a pluralist society, it is our responsibility to embody the values and demonstrate behaviours that are characteristic of pluralism. Each Australian citizen has rights and responsibilities which, if upheld, can protect and foster pluralism within our society. According to the Australian Department of Home Affairs the responsibilities of an Australian citizen are to:

- behave in accordance with Australia's democratic beliefs
- respect the rights and liberties of Australia
- follow and obey the law
- vote in federal and state or territory elections, and in referendums
- defend Australia if necessary
- serve on jury duty if summoned.

FIGURE 1 outlines some of the rights, beliefs and freedoms of Australian citizens. These are the rights and responsibilities we have as Australian citizens. However, as our country is part of the global community, we also need to consider our role as global citizens.

FIGURE 1 Rights, beliefs and liberties of Australian citizens, as outlined by the Department of Home Affairs



3.2.4 Global citizenship

Just as our Australian citizenship comes with certain obligations, so too does our membership of the global community. These responsibilities are listed in **FIGURE 2**.

FIGURE 2 What is a global citizen?

According to Oxfam International, a global citizen is someone who:

- is aware of the wider world and has a sense of their own role as a world citizen
- respects and values diversity
- has an understanding of how the world works economically, politically, socially, culturally, technologically and environmentally
- is outraged by social injustice
- participates in and contributes to the community at a range of levels from local to global
- is willing to act to make the world a more sustainable place
- takes responsibility for their actions.

As you can see from **FIGURE 2**, being an active global citizen is no easy task, especially when you consider that active global citizens also need to be active citizens of their own countries! However, to maintain the strength and cohesion of our communities, it is important that we have an understanding of our roles and a willingness to participate.

DISCUSS

‘Our responsibilities as Australian citizens are more important than our global citizenship responsibilities.’

Do you agree or disagree with this statement? Why?

[Ethical Capability]

3.2 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

3.2 Exercise 1: Check your understanding

1. **CS1** Define *representative democracy*.
2. **CS1** How does pluralism differ from multiculturalism?
3. **CS1** What proportion of Australians were born overseas or have a parent who was born overseas?
4. **CS1** In a pluralist society, what are new migrants encouraged to do?
5. **CS2** What similarities and differences are there between our responsibilities as Australian citizens and global citizens?

3.2 Exercise 2: Apply your understanding

1. **CS5** Consider the idea of Australia as a pluralist society. Provide three examples of pluralism in action in Australia.
2. **CS5** Are there any rights or responsibilities that you would remove from the list and **FIGURE 1** diagrams in section 3.2.3? Justify your response.
3. **CS5** Are there any rights or responsibilities that you would add to those shown in **FIGURE 1**? Explain.
4. **CS6** Which do you believe are more important — our responsibilities as Australian citizens or our responsibilities as global citizens? Explain your response.
5. **CS6** Provide your own definition of what it means to be a global citizen.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

3.3 Shaping Australian identity

3.3.1 Our diverse sense of identity

Because ours is a pluralist society, it is difficult to define Australian identity. The identity of a pluralist society will, by definition, be as diverse as the backgrounds of its citizens. Australian identity has evolved over time and continues to evolve today. Our history has featured several waves of immigration which have brought new cultures, traditions and beliefs to our shores. Each wave has contributed to the diverse cultural identity that we see in Australia today. We see evidence of these changes in different aspects of daily life including food, music and fashion. In this subtopic we will consider how waves of immigration have contributed to the evolution of Australian identity.

FIGURE 1 Shaped by waves of immigration, Australia's diverse cultural identity continues to develop.

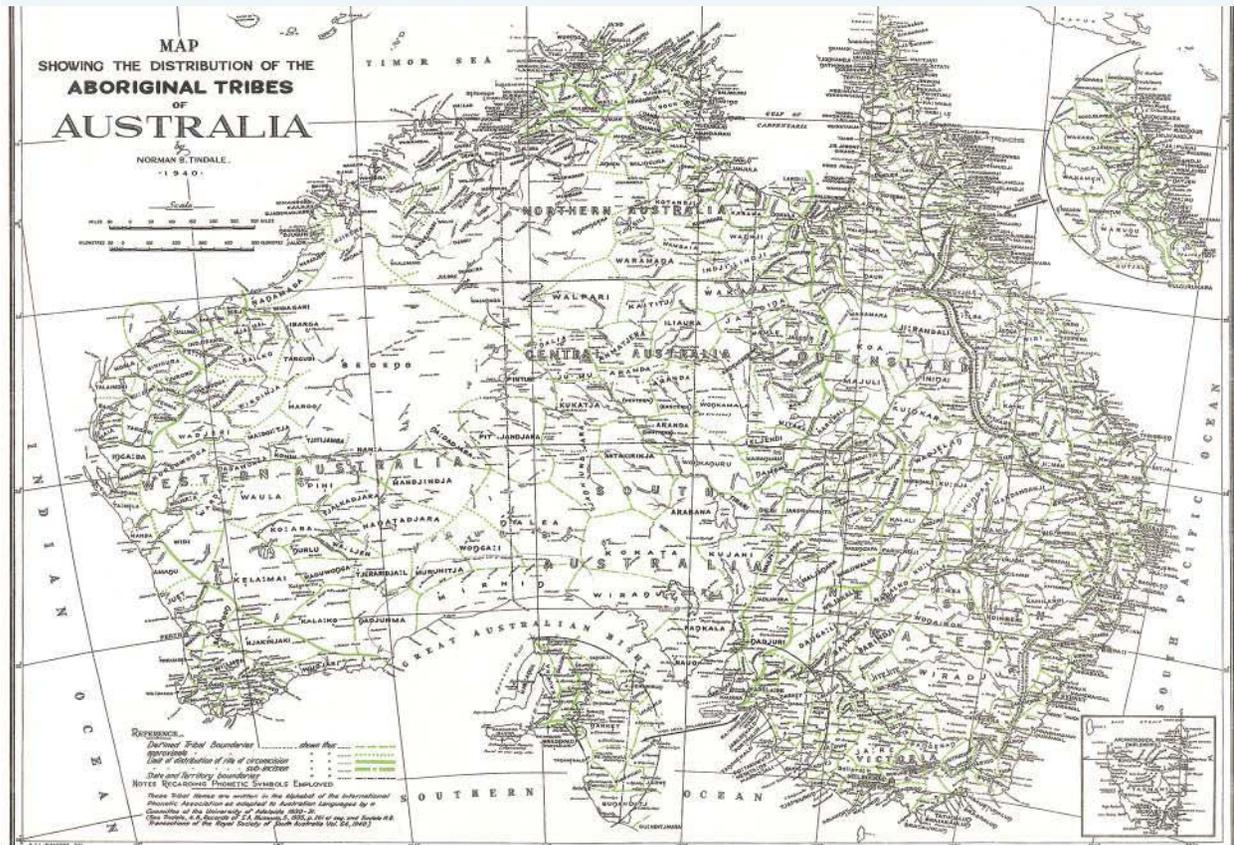


3.3.2 The evolution of Australian identity: Indigenous Australians

Our investigation of Australian identity begins with the first Australians. One of several mistakes made by early European settlers was the assumption that Indigenous Australian communities lacked an identifiable culture. Since the Indigenous way of life bore little resemblance to British culture, the settlers claimed that Aboriginal culture must not exist. This false claim lay the foundation of the British claim of *terra nullius*. Yet for tens of thousands of years before European settlement, Australia had indeed been occupied by a people with complex social structures and cultural traditions. Indigenous habitation of Australia began at least 60 000 years ago, with the first Australians arriving via a land bridge that once connected Australia with Papua New Guinea.

For thousands of years, Indigenous populations flourished with a culture characterised by strong family connections and deep spiritual connection with the land. As Indigenous people spread across the country, more than 500 nations developed with distinct geographic boundaries. Despite some cultural and language differences that existed between these nations, they were linked by key ideological themes including **kinship** and connection to country. Kinship was, and still is, a central principle of Indigenous culture. An individual's place within the kinship system established their relationship to others and their responsibilities and duties to their community. This sense of civic responsibility can still be seen in contemporary Australian culture.

FIGURE 2 Map showing the language, tribal and nation groups of Aboriginal Australian peoples c. 1940



Source: *Map Showing the Distribution of the Aboriginal Tribes of Australia*, Norman B. Tindale, 1940. Users of this map should be aware that certain words, terms or descriptions may be culturally sensitive and may be considered inappropriate today, but may have reflected the creator's attitude or the period in which they were written. Borders and terminology used may be contested in contemporary contexts.

Land or 'country' has a special meaning in Indigenous cultures and refers to more than simply a physical location. While natural environments and the resources they contain can be used by humans, they are also sacred places that must be protected and preserved for the future. In this way, we can see Indigenous culture as the origin of the close connection that many Australians have with their natural environment.

3.3.3 The evolution of Australian identity: European settlement

It could be argued that the impact of European settlement in Australia has had the biggest influence on the evolution of Australian identity. The arrival of the First Fleet in 1788 and the subsequent development of colonial settlements across Australia significantly altered the country's physical and cultural landscapes. While interactions between European settlers and Indigenous Australians may have begun peacefully, settlers' marginalisation of Indigenous people, combined with cultural differences and a lack of understanding, soon led to conflict. Competition for resources, resistance against the Europeans and the introduction of European diseases decimated Indigenous communities. By 1798, it is estimated that Australia's Indigenous population had been reduced by 90 per cent. Not only did these interactions have a horrific impact at the time, but they have continued to influence Indigenous communities, leaving a legacy of disadvantage and marginalisation. Unfortunately, we still see aspects of this disadvantage in Indigenous communities today, as detailed in **TABLE 1**; measurements of wellbeing for Indigenous Australians are lower than that of non-Indigenous Australians in all indicators listed.

TABLE 1 Differences in wellbeing statistics for Indigenous and non-Indigenous Australians (2016)

Wellbeing indicator	Indigenous Australians	Non-Indigenous Australians
Male life expectancy	71.6 years	80.2 years
Female life expectancy	75.6 years	83.4 years
High school completion rate	62%	86%
Employment to population rate (15–64-year-olds)	48%	75%
Median weekly income	\$542	\$852

It is important to remember the negative impacts that European settlement had on Indigenous communities. We also need to consider the other ways in which this period of Australian history influenced the evolution of our national identity. British colonisation of Australia left our country with significant links to Britain, particularly in regard to aspects of popular culture. British sport, literature, music, customs and traditions were all very much a part of Australian life. In fact, it was our connection to Britain, as a member of its empire, which directly led to Australia's involvement in World War I.

3.3.4 The evolution of Australian identity: The bonds of war

Over 400 000 Australians enlisted in the First Australian Imperial Force (AIF) during World War I, with 60 000 losing their lives. The horrors of war left many soldiers with physical and psychological scars. Some soldiers found it difficult to return to their previous jobs and lives and it took the entire country time to recover as a nation. Amidst the hardship of war, however, came one of the most frequently discussed parts of Australia's cultural identity – the concept of mateship.

FIGURE 3 The experience of Australian soldiers at Gallipoli during World War I has long been associated with the concept of Australian mateship.



The word *mateship* is commonly associated with Australian ‘**diggers**’ who fought in World War I, and more specifically, at Gallipoli. The word itself conjures images of soldiers risking their own lives to help injured comrades. However, the concept of mateship and even the use of the word ‘mate’ in Australia originated a long time before World War I. The word *mate* has its origins in the Germanic word *gemate*, which refers to people ‘eating at the same table’. ‘Mate’ was also used frequently in a naval context and more broadly in colonial Australia as well. The concept of mateship in Australian culture gained prominence in the early twentieth century through the works of poets such as Henry Lawson. The romantic view of mateship was further enshrined in Australian culture through stories of war and resilience.

Australia’s involvement in World War II also had significant cultural impacts. This marked the beginning of a close relationship between Australia and the United States of America. To strengthen its position in the Pacific, the US established naval bases in Queensland. At the height of this operation, more than 150 000 US soldiers were based in Australia. Their presence began to influence trends in fashion, music, technology and other customs. By the end of 1944, nearly two-thirds of Australian imports were sent from the US. Soon, it was America, rather than Britain, that would have the strongest influence on Australian culture and identity.

The cultural impacts of war on Australian identity are also evident in the waves of migration that have been precipitated by various twentieth-century conflicts. For a significant part of the twentieth century, immigration to Australia was closely restricted by the now controversial *Immigration Restriction Act (1901)* or, as it was widely known, the White Australia Policy. Under this policy, it was extremely difficult for immigrants from non-European countries to settle in Australia. The policy was relaxed after World War II and finally abolished in 1973 under the Whitlam Government. **TABLE 2** summarises the relationship between global conflicts and immigration patterns.

TABLE 2 Flows of migrants to Australia associated with world conflicts

Conflict	Origin of migrants
World War II	Europe
Vietnam War	Vietnam, Cambodia
Cold War	USSR: Russia, Ukraine, Baltic states
Various African civil conflicts	South Africa, Sudan, Somalia

3.3.5 Influences in the twenty-first century

Australian identity has also been influenced by global events that have occurred in the early part of the twenty-first century. The impacts of the horrific terror attacks committed in the US on 11 September 2001 were felt across the world, including in Australia. Not only were strict and controversial anti-terror laws introduced by the federal government, but an underlying feeling of fear began to seep into Australian society. The 2002 Bali bombings, in which 88 Australians were killed, and the 2014 Lindt Café siege in Sydney, in which two hostages and the lone gunman were killed, also contributed to the development of a tense social climate. Times of crisis caused by these events are difficult for governments and communities to manage. While the safety of Australian citizens is paramount, we must also ensure that such events do not inflame racial tensions or lead to **xenophobia**.

The Lindt Café siege was carried out by a man who claimed allegiance to a terrorist organisation with **Islamic** links. In the aftermath of this event, many Australians took to Twitter to combat rising anti-Islamic sentiment. Using the hashtag #illridewithyou, users offered to accompany any Muslim person who might feel threatened while taking public transport. Over 150 000 tweets were posted with this hashtag, symbolising solidarity between Muslim and non-Muslim Australians. This example also provides an example of the positive societal role that social media can play when used in such a manner.

DISCUSS

In a land characterised by diversity, is it possible to devise a universal concept of what it is to be Australian?

[Intercultural Capability]

3.3.6 Social media and Australian identity

The rapid development of technology, especially information communication technology and social media platforms, has also had a significant impact on Australian identity and on democracy within Australia. Many of these impacts have been positive, and have provided a voice to marginalised groups of society and raised awareness of social, political and environmental issues.

The use of hashtags on Twitter to group similar posts together is one example of how an issue or event can gather traction across Australia and the world. In 2018, half of the top ten Australian Twitter hashtags referred to social or political issues, including the top ranked hashtag, #AusPol. Other issues included the political instability of the federal government, referenced by #LibSpill (ranked number 4); the ever-present concerns of global environmental issues such as #climatechange (number 6); the controversy caused by the government's refugee policy referenced by #Nauru (number 8); and #MeToo — the global call to arms for women's rights (number 9). Unregulated use of social media, however, can also allow the dissemination of misinformation and false representations of cultural groups. We will investigate the impacts of the misuse of media – both social media and its traditional forms – in the next subtopic.

FIGURE 4 The #MeToo movement was a worldwide phenomenon calling out male sexual harassment and assault of women.



3.3 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

3.3 Exercise 1: Check your understanding

1. **CS1** For how long have humans lived in Australia?
2. **CS1** What are two of the central themes of Indigenous Australian culture?
3. **CS2** Describe the three ways in which European settlement led to the death of so many Indigenous Australians.
4. **CS2** Explain the connection between Australia's involvement in global conflicts and changing cultural influences.
5. **CS2** How has social cohesion been threatened by events in the twenty-first century?

3.3 Exercise 2: Apply your understanding

1. **CS2** Why is it difficult for a pluralist society such as Australia to have a singular national identity?
2. **CS5** Aboriginal culture has a strong connection to natural environments. Explain how this connection can be seen in Australian culture today.
3. **CS5** Refer to **TABLE 1**.
 - (a) Which of the statistics listed do you believe is the most concerning? Why?
 - (b) Suggest one strategy that could be used to address the issue you identified in part (a).
4. **CS5** What evidence of British cultural influence still exists in Australia today?
5. **CS6** Social media is a divisive influence on Australian society and should be banned immediately. Do you agree or disagree with this statement? Explain your response.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

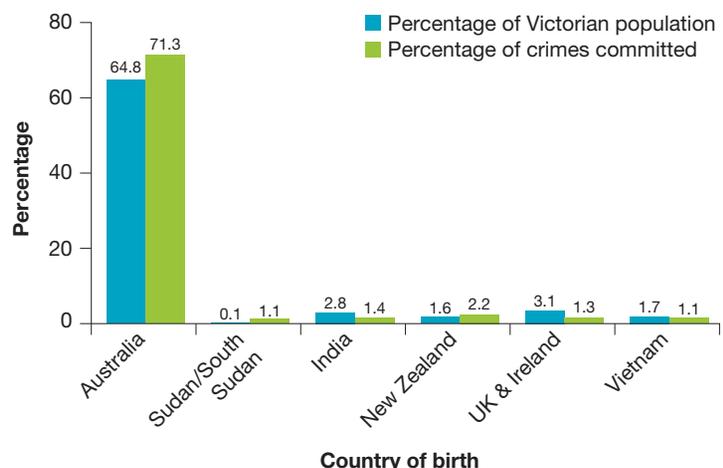
3.4.3 CASE STUDY: The crisis that wasn't — African gang violence in Melbourne

The issue of African gang violence gained prominence in the media after a confrontation between groups of African youths at Melbourne's Moomba festival in 2016. Some of the 37 youths arrested at this brawl were linked to a gang known as 'Apex'. Although this gang included people from a range of nationalities, the name Apex quickly became synonymous with African gang violence. Over the following months, multiple media outlets — particularly newspapers and talk-back radio stations — began to focus on the issue. Headlines such as 'The New Menace', 'Apex — Out of Control' and 'No wonder we don't feel safe' were seen across Melbourne newspapers and current affairs shows. The issue also became politicised when state and federal politicians began commenting on the so-called crisis. Malcolm Turnbull, then prime minister, called African gang violence in Melbourne '... a real concern' and former Home Affairs Minister, Peter Dutton, claimed that Victorians were '... scared to go out to restaurants'. The reality of the situation was far from the crisis portrayed by some media outlets. Further, the nationality and cultural background of perpetrators of crimes seemed only to be mentioned by the media when African youths were involved. County Court Chief Judge Peter Kidd highlighted this issue, stating that '... the media chose to report on those issues [related to African violence] ... creating a false impression'.

A closer look at the crime data reveals a lack of statistical evidence for many of the claims made by media outlets. Between April 2017 and March 2018, 73.5 per cent of the unique offender population (those people alleged to have committed crimes) were born in Australia and New Zealand. People born in Sudan accounted for only 1.1 per cent. Due to the small population size of the Sudanese community, offenders appear over-represented in this crime data. It was this fact that some media outlets chose to ignore in their reporting.

The African gang violence issue is one example of how social groups can be misrepresented in the media. The misrepresentation of this issue inflamed some xenophobic attitudes towards people of African descent and decreased social cohesion in communities in Melbourne and other major Australian cities. This is an important reminder of the need to think critically when we consume information from all forms of media, especially when this information relates to the representation of cultural groups.

FIGURE 2 Crimes committed in Victoria by country of birth



Source: Crime Statistics Agency Victoria, 2017; Australian Bureau of Statistics, 2016

3.4 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

3.4 Exercise 1: Check your understanding

1. **CS1** How are stereotypes created?
2. **CS2** How can stereotypes undermine social cohesion in Australia?
3. **CS1** What is the main danger of accepting a stereotype?
4. **CS2** Explain how the African gang issue began.
5. **CS1** People from which background committed the most crimes between April 2017 and March 2018?

3.4 Exercise 2: Apply your understanding

1. **CS6** Do you believe stereotypes can be useful in any way? Explain your view.
2. **CS2** Why did politicians become involved in the African gang issue?
3. **CS5** The real crime statistics regarding African gang violence were readily available; why do you think some media outlets chose not to publish this data?
4. **CS6** Explain how we can combat negative stereotypes when they appear in the media.
5. **CS6** Imagine you were a newspaper reporter asked to write an article about the African gang crisis.
 - (a) How would you have approached this article?
 - (b) What sources would you have used in your research?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

3.5 Participating in civic life

3.5.1 Making a contribution

A cohesive society requires citizens to embody a country's values and fulfil their responsibilities as active members of that society. As well as fulfilling their official responsibilities, members of a community can also foster social cohesion by being active participants in civic life. Such participation can be simple and seemingly inconsequential activities such as being courteous and polite members of society. Stopping in the street to help someone who has dropped a bag, or pulling over to help someone fix a flat tyre, are both examples of positively contributing to civic life, albeit on an individual scale. Citizens and members of a community can also make such contributions on a larger scale. In this subtopic we will investigate some of the ways in which people contribute to civic life, and by doing so, increase social cohesion.

FIGURE 1 There are many ways to make a positive contribution to civic life.



3.5.2 CASE STUDY: Working for the common good

Many people go beyond their basic civic responsibilities and dedicate significant time and effort to working for the **common good**. The concept of the common good refers to an outcome that benefits an entire society or community. One example of someone who works to achieve a goal that is for the common good is a social entrepreneur — someone who identifies a particular issue and develops a product or service designed to address a perceived need in that area. Anna Donaldson is one such social entrepreneur, whose not-for-profit enterprise, Lively, aims to provide training and employment opportunities for young people, while addressing the issue of social isolation among older Australians. The interview below explains Anna's motivation and her work.

AN INTERVIEW WITH SOCIAL ENTREPRENEUR, ANNA DONALDSON

Interviewer: When and why did you start Lively?

Anna: I started Lively shortly after finishing my Arts degree at university. While I was at uni I had been volunteering as a life-story writer for elderly people, and I was introduced to an older lady who was very isolated and alone. It really opened my eyes to how many older people live out the last years of their lives in loneliness, and it struck me that something had to be done about it. Meanwhile, I was growing increasingly concerned about youth unemployment and the lack of work opportunities available for young people. One day I had a light-bulb moment over breakfast and saw an opportunity to bring the two problems together into one solution. From there, I just had to make Lively happen!

Interviewer: Why did you choose a not-for-profit structure?

Anna: The main difference between a for-profit and **not-for-profit organisation** is ownership. In a for-profit company, individuals own the business (or a part thereof), and the profits the business makes go directly to them. In a not-for-profit company, no individuals own the business, and if the business makes a profit then all that profit goes straight back into growing the business instead of being distributed to owners. I didn't start Lively to make money for myself – I started it to make a positive difference in the community. And to be a for-profit business would have probably meant that many older people who needed our help would not have been able to afford it. So I chose a not-for-profit structure, which has enabled us to access grants and other types of funding to start up and grow the business, while keeping the services as affordable as possible for people who need help.

Interviewer: What have been the most satisfying and the most challenging aspects of establishing and running your business?

Anna: The most satisfying aspect has been seeing the positive difference that Lively has made in the lives of so many young and older people, and knowing that I and our team are ultimately responsible for that. It's also incredibly satisfying to see something that started out as nothing more than an idea in your mind grow into fruition – there's great personal pride that comes with that, and a real sense of achievement. But it's definitely very challenging too! As an entrepreneur you are often out of your comfort zone, learning on the go and working incredibly hard for what can sometimes seem like very little payoff or progress in the early days. Starting a business takes time, and it can feel very slow to begin with. Keeping on going through all the ups and downs is definitely one of the biggest challenges, but it's well worth it if you do!

FIGURE 2 Anna Donaldson (left) created Lively to address social isolation, youth unemployment and to foster connections between younger and older Australians.



3.5.3 Fostering interfaith understanding and social justice

Not-for-profit organisations (NFPs) such as Lively, detailed in the section 3.5.2 case study, are an example of organisations that work for the common good. As the name suggests, these organisations are not motivated by financial gain. Instead, NFPs set out to achieve goals that are usually focused on social, environmental or political issues.

Another example is Stand Up, a small NFP that operates mainly in Melbourne and Sydney, working to foster interfaith understanding and social justice. With a focus on social justice and care for Indigenous and refugee communities, Stand Up seeks to foster stronger relationships between and within different parts of Australian society. Stand Up aims to facilitate social cohesion through education programs and leadership workshops, both for affected communities and for school students. By educating both groups of people, Stand Up hopes to increase understanding and foster more positive social relationships. What makes Stand Up unique is that it is staffed almost entirely by people from the Jewish community and it runs its program primarily in Jewish schools. In this way, Stand Up addresses issues of social justice at the same time as it attempts to foster stronger interfaith bonds in the community.

FIGURE 3 Stand Up teaches English classes as part of its refugee support programs.



3.5.4 The role of NGOs

Non-government organisations (NGOs) are another important group that works towards goals based on the common good. Australian NGOs must be accredited by the Department of Foreign Affairs and Trade to receive government grants and support. The majority of Australian NGOs are classified as operational NGOs. This means that they actively plan and implement projects on a local, national or global scale. One such operational NGO is the Fred Hollows Foundation (FHF). The founder of this organisation, Dr Fred Hollows, dedicated his life to combating treatable eye disease and blindness in Australian Indigenous communities. From humble beginnings in which Dr Hollows performed most of the surgeries himself, the foundation is now active in many countries across Asia, Africa and the Middle East. Although the FHF employs doctors and other medical professionals, regular Australians can also contribute to its programs through volunteer work and donations. In this way, NGOs such as the FHF provide an opportunity for all members of Australian society to contribute to their community either directly or indirectly.

3.5 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

3.5 Exercise 1: Check your understanding

1. **CS1** Provide three examples of how someone can be an active participant in civic life.
2. **CS2** Describe the concept of the common good.
3. **CS3** What is the goal of Lively and how does this goal relate to the common good?
4. **CS2** What does an operational non-government organisation do?
5. **CS2** Explain how people can contribute to the operation of a non-government organisation?

3.5 Exercise 2: Apply your understanding

1. **CS2** Why is it important for members of a community to contribute to civic life?
2. **CS6** Why would a largely Jewish organisation be interested in helping new immigrants from Africa?
3. **CS2** How can non-government organisations in Australia receive funding?
4. **CS6** If you were to start a new non-government organisation, what would you focus on and what kinds of projects would you implement?
5. **CS6** 'The work completed by small-scale not-for-profits is not as important as that completed by multinational non-government organisations.' To what extent do you agree with this statement? Explain your view.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

3.6 SkillBuilder: Debating an issue

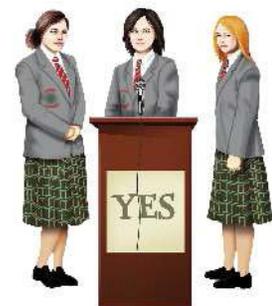
online only

What is a debate?

Debating turns arguing into a sport, complete with set positions, rules and a points system. In a regular debate, two teams of three debaters argue opposing sides of an issue. This issue is presented as a statement that can be researched, analysed and then debated. For example: 'Stereotypes decrease social cohesion.' After hearing all six speakers, judges decide which side spoke the best and presented the most convincing arguments.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill (Show me)
- an activity to allow you to practise the skill (Let me do it).



3.7 Thinking Big research project: Don't stereotype me!

online only

SCENARIO

The presence of stereotypes in a community can have negative impacts on social cohesion. By misrepresenting cultural or social groups, stereotypes can inflame cultural and social tensions and divide communities. Your task is to develop an advertising campaign that seeks to address the negative implications of stereotyping within Australian society.



Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.

on Resources



ProjectsPLUS Thinking Big research project: Don't stereotype me! (pro-0199)

3.8 Review

online only

3.8.1 Key knowledge summary

Use this dot point summary to review the content covered in this topic.

3.8.2 Reflection

Reflect on your learning using the activities and resources provided.

on Resources



eWorkbook Reflection (doc-31736)

Crossword (doc-31737)



Interactivity Identity, the media and global connectedness crossword (int-7655)

KEY TERMS

common good something that is in the interest or to the benefit of everyone

digger an Australian or New Zealand soldier, particularly used with reference to those who served in World War I

Islamic relating to the Muslim religion, Islam

kinship a multi-faceted social system that prescribes Indigenous peoples' responsibilities to others and the land

multicultural describes a society in which the cultures and traditions of many different groups coexist and are encouraged

non-government organisation (NGO) a group or business that is organised to serve a particular social purpose at local, national or international level, and operates independently of government

not-for-profit organisation a group or business that puts any profit towards its social purpose rather than returning profits to owners

pluralist describes a society that accepts all people's right to maintain their individual cultural traditions, languages and faiths

stereotype widely held but oversimplified idea of a type of person or thing

terra nullius ('land belonging to no-one') in Australia, the legal idea that since no-one was 'using' the land when the first Europeans arrived, it could be claimed by the British Crown

xenophobia extreme fear, distrust or hatred of foreigners

3.6 SkillBuilder: Debating an issue

3.6.1 Tell me

What is a debate?

Debating turns arguing into a sport, complete with set positions, rules and a points system. In a regular debate, two teams of three debaters argue opposing sides of an issue. This issue is presented as a statement that can be researched, analysed and then debated. For example: ‘Stereotypes decrease social cohesion.’ After hearing all six speakers, judges decide which side spoke the best and presented the most convincing arguments.

Why is debating useful?

Formal debating is not like a discussion you may have with your family or friends. A debate requires you to have properly investigated an issue and to have considered both sides of the argument. Not only does debating develop your communication skills, it also teaches you the importance of research and preparation. Many politicians, lawyers and businesspeople often remark that their involvement in school debating competitions helped develop skills and confidence that they use today.

3.6.2 Show me

How to prepare for a debate

A formal debate follows a set of rules. In a debating contest (for example, in school) there are two teams of three speakers, each of whom plays a defined role. One team argues in favour of the topic (the affirmative team) and the other team argues against the topic (the negative team). You can prepare for a debate by following the steps below.

Step 1

Form a team of three people. Find out whether your team is to debate in favour of or against the topic. As a team, examine the topic carefully and discuss what you think it is about. You may need to use a dictionary to find a definition of key words contained in the topic statement.

Step 2

Work out what arguments support your team’s case. List them in order of importance.

Step 3

Work out what arguments do not support your team’s case. This will help you to anticipate what your opponents will say.

Step 4

Carry out research to help fully develop your arguments. As part of your research, consider interviewing other students and the adults you know to learn their attitudes to the issue.

Step 5

1. Divide the arguments you have collected among the members of the team.
2. Decide which team members will be the first, second and third speaker. Agree on what each member will say.

Conduct of the debate

The members of each team take it in turn to present their arguments in three to four minutes. The affirmative team's first speaker starts the debate. The following case study illustrates how a formal debate is conducted.

Affirmative team

The first speaker should:

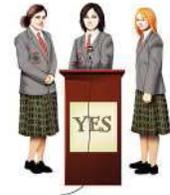
1. greet the audience
2. state which team they are representing and what the topic is
3. introduce the other members of their team, their role and the team's view
4. argue the team's case and state how the second speaker will build on this case.

The second speaker should:

1. explain how his or her speech will build on the affirmative team's view
2. argue against (rebut) the first speaker from the negative team
3. add new examples to support the affirmative team's view.

The third speaker should:

1. argue against (rebut) the negative team's case
2. summarise the main arguments of the debate
3. restate the affirmative view, explaining why it is the stronger case
4. avoid introducing new arguments.



Negative team

The first speaker should:

1. introduce the team members, describe their role and the team's view
2. state that the negative team doesn't accept the affirmative team's view of the topic
3. argue against (rebut) the points made by the first speaker of the affirmative team
4. state how the second negative speaker will build on the team's case.

The second speaker should:

1. explain how his or her speech will build on the negative team's view
2. argue against (rebut) the two previous speakers from the affirmative team
3. add new examples to support the negative team's view.

The third speaker should:

1. argue against (rebut) the affirmative team's case
2. summarise the main arguments of the debate
3. restate the negative view, explaining why it is the stronger case
4. avoid introducing any new material.



Elements of a good debate

A good debate:

- has members from each team taking turns to present their cases
- starts with the first speaker from each team introducing their team and their team's view
- continues with the second speakers rebutting the previous speakers and adding new examples to support their team's view
- finishes with the third speakers rebutting the other team's case, summarising the main arguments and restating their team's view
- has arguments that only take three to four minutes.

3.6.3 Let me do it

Complete the following activities to practise this skill.

3.6 ACTIVITIES

With the assistance of your teacher, your class will participate in a series of debates. The debates will involve the topics listed below.

1. Divide your class into teams, each containing three debaters. Ensure that there is an even number of teams.
2. Competing teams will then choose a topic from the following list.
 - (a) There is no difference between a typical Australian and a stereotypical Australian.
 - (b) There are no positive effects of stereotypes on society.
 - (c) Media should be more responsible for the ways it portrays social groups.
 - (d) Community and religious groups serve no purpose in society.
 - (e) The world was a better place before globalisation.
 - (f) As a global identity develops, national identities become less important.
3. Prepare for your debate, ensuring that each speaker's role is clearly defined as explained in this SkillBuilder.
4. Over a series of classes, conduct your debates in class, with your fellow classmates filling the role of adjudicators.

3.7 Thinking Big research project: Don't stereotype me!

Scenario

The presence of stereotypes in a community can have negative impacts on social cohesion. Stereotypes can inflame cultural and social tensions and divide communities by misrepresenting groups within our society. Unfortunately, stereotypes are commonly found in traditional forms of media in Australia. Negative stereotypes are also reinforced on social media, which can be poorly regulated.

Task

Your task is to develop an advertising campaign that seeks to address the negative implications of stereotyping within Australian society. You are free to use whatever format you deem appropriate for this task but you must also include a written brief explaining your chosen direction and format. Your final submission should include your planning documentation, copies of your advertisements and a written justification of your advertising strategy.

Follow the steps in the **Process** section to complete this task.



Process

- Open the ProjectsPLUS application in the Resources for this topic. Click on the **Start new project** button to enter the project due date and set up your project group. Working with a partner or in a group of three will allow you to swap ideas and share responsibility for the project. Save your settings and the project will be launched.

- Navigate to the **Research forum**, where you will find starter topics loaded to guide your research. You can add further topics to the Research forum if you wish. In the **Media centre** you will find an assessment rubric and some useful weblinks to get you started.
- In your group, brainstorm some ideas for your advertising campaign. Start by thinking about what you want to *say* and about *what*. What type of stereotype do you want to tackle (e.g. ageist, gender-based, cultural)? You may like to use a mind map to organise your brainstorming. The focus of your planning should be the question: *What impact does the portrayal of stereotypes in Australian media have on Australian society?* Remember, you will need to submit your planning documents as part of your final work, so be sure to complete these thoroughly.
- Add any relevant notes to the appropriate topic pages in the Research forum. When you have completed your research, you can print out the **Research report** in the Research forum to easily view all the information you have gathered, if you wish.
- Once you have decided on your message, you can turn your attention to the format of your campaign. Possible formats include: a poster, radio or television commercial, or social media campaign. You may prepare materials for more than one format if you wish.
- If you are recording an audio advertisement for radio, or a video advertisement for television or social media, make sure that you are completely prepared before you start recording. Write out your script and rehearse thoroughly before commencing recording.
- Write a justification for your advertising strategy. This should explain your campaign's message and its intended audience, as well as a discussion of what you hoped to achieve by creating your campaign.
- Present your advertising campaign in class and submit your planning documents, transcripts/copies of your advertisements and your strategy justification to your teacher for assessment.



Resources



ProjectsPLUS Thinking Big research project: Don't stereotype me! (pro-0199)

3.8 Review

3.8.1 Key knowledge summary

3.2 Australian democracy and global connections

- Australia's various levels of government facilitate civic life and ensure the safety, freedom and rights of individuals and communities.
- We have various rights and responsibilities both as Australian citizens and global citizens.
- Australia is a multicultural, pluralist society in which differences are respected, and tolerance and understanding are expected.

3.3 Shaping Australian identity

- Australia's sense of identity has evolved from the time when Indigenous Australians developed their own unique culture, through influences such as:
 - European settlement
 - war
 - waves of migration
 - terror attacks.
- It is important to ensure that negative events do not inflame racial tensions or lead to xenophobia.
- Social media can provide a platform for positive interactions and allow for the sharing of information. There are many examples of hashtag movements that have garnered popular support and raised awareness of social issues.

3.4 Attitudes to diversity

- Our views can be influenced by a range of factors including the people around us and the media we consume.
- Stereotypes exist due to the way social groups are represented in the media. Our perceptions of these groups are heavily influenced by what we watch on television and read in newspapers and on social media.
- Most stereotypes have negative connotations and are based on only a small part of a social group's true identity.
- Stereotypes can undermine cohesion in Australian society by limiting our capacity to develop a true understanding of different cultures.

3.5 Participating in civic life

- A cohesive society requires citizens to embody a country's values and fulfil their responsibilities as active members of that society.
- The concept of the common good refers to an outcome that benefits an entire society or community.
- Social entrepreneurs are an example of people who work to achieve a goal that is for the common good — they identify a particular issue and develop a product or service designed to address a perceived need in that area.
- Not-for-profit organisations set out to achieve goals that are usually focused on social, environmental or political issues.
- Non-government organisations actively plan and implement projects on a local, national or global scale.

3.8.2 Reflection

Complete the following to reflect on your learning.

3.8 ACTIVITIES

Revisit the inquiry question posed in the Overview:

I am an Australian. What does this mean in our multicultural society and what influences our Australian identity?

1. Now that you have completed this topic, what is your view on the question? Discuss with a partner. Has your learning in this topic changed your view? If so, how?
2. Write a paragraph in response to the inquiry question, outlining your views.



Resources



eWorkbook Reflection (doc-31736)
Crossword (doc-31737)



Interactivity Identity, the media and global connectedness crossword (int-7655)

KEY TERMS

common good something that is in the interest or to the benefit of everyone

digger an Australian or New Zealand soldier, particularly used with reference to those who served in World War I

Islamic relating to the Muslim religion, Islam

kinship a multi-faceted social system that prescribes Indigenous peoples' responsibilities to others and the land

multicultural describes a society in which the cultures and traditions of many different groups coexist and are encouraged

non-government organisation (NGO) a group or business that is organised to serve a particular social purpose at local, national or international level, and operates independently of government

not-for-profit organisation a group or business that puts any profit towards its social purpose rather than returning profits to owners

pluralist describes a society that accepts all people's right to maintain their individual cultural traditions, languages and faiths

stereotype widely held but oversimplified idea of a type of person or thing

terra nullius ('land belonging to no-one') in Australia, the legal idea that since no-one was 'using' the land when the first Europeans arrived, it could be claimed by the British Crown

xenophobia extreme fear, distrust or hatred of foreigners

GLOSSARY

- accused** the person charged with or on trial for a crime
- adversary system** a system of trial in which the two sides argue their case and the judge or magistrate acts as an independent umpire
- appeal** the request to a higher court to review a decision made by a lower court
- appellant** the person appealing a court decision
- appellate jurisdiction** the power of a court to review a lower court's decision
- arbitration** the process of resolving a dispute by an independent third party, such as a court or tribunal, where the decision is legally binding on the parties
- Australian Electoral Commission** an independent body that organises and runs elections in Australia
- bail** an agreement to release an accused person into the community while awaiting trial
- bribery** the act of giving money, a gift or any other item of value to a recipient in the expectation that it will alter the recipient's behaviour
- coalition** an alliance between two or more political parties, formed to improve their chances of winning an election and forming government
- coercion** the practice of forcing someone to act in an involuntary manner by using intimidation or threats, or some other form of pressure
- common good** something that is in the interest or to the benefit of everyone
- common law** judge-made law, or law developed by judges through the decisions in actual cases brought before the courts
- conciliation** a process of settling disputes in which a neutral third party (a conciliator) assists the parties to reach agreement. It differs from mediation in that the conciliator can suggest solutions to the parties.
- consent order** a written agreement reached by the parties to a dispute and approved by the court
- court delay** a setback in the legal system that prevents justice from occurring in a timely fashion
- defendant** a person against whom a legal action has been brought
- digger** an Australian or New Zealand soldier, particularly used with reference to those who served in World War I
- discrimination** the treatment of an individual in an unfavourable manner based on an actual or perceived personal characteristic protected by the law
- duty of care** a responsibility to ensure the safety of any persons whom we can reasonably foresee might be affected by our actions
- eligible voters** Australian citizens who are over 18 years old and are on the electoral roll, which is an official register of voters
- formal vote** a ballot paper that has been filled out correctly
- human rights** the basic rights that are considered to be the entitlement of all humans
- industrial relations** refers to the laws and processes that govern the relationships between employers and employees
- informal vote** a ballot paper that has not been filled out correctly and therefore will not be counted
- Islamic** relating to the Muslim religion, Islam
- judge** a court official who presides over cases in courts higher than a magistrates court or Local Court
- judiciary** the collective name given to the judges who preside over law courts
- jurisdiction** the power or authority of a court to hear specific types of disputes and cases
- jury** in criminal cases, the 12 people who are randomly selected to decide the guilt or innocence of an accused based on the evidence presented in court
- kinship** a multi-faceted social system that prescribes Indigenous peoples' responsibilities to others and the land
- leave to appeal** permission from the court to appeal a decision
- magistrate** a court official who hears cases in the lowest court in the legal system

manslaughter the accidental or unintentional killing of one person by another person

mediation a process of settling disputes in which a neutral third party (a mediator) assists the parties to reach agreement. Mediators do not offer solutions; they help the parties to reach agreement through their own suggestions.

multicultural describes a society in which the cultures and traditions of many different groups coexist and are encouraged

negligence failure to take reasonable care when a person or organisation is legally required to do so

non-government organisation (NGO) a group or business that is organised to serve a particular social purpose at local, national or international level, and operates independently of government

not-for-profit organisation a group or business that puts any profit towards its social purpose rather than returning profits to owners

original jurisdiction the power of a court to hear and decide a case for the first time

plaintiff a person who commences a legal action in a civil case

pluralist describes a society that accepts all people's right to maintain their individual cultural traditions, languages and faiths

portfolio an area of responsibility given to a minister, such as health, education or defence

precedent a legal principle that is established by a court in resolving a dispute and is expected to be followed in later cases

private members' bills bills that are proposed by members of the House of Representatives on their own behalf rather than on behalf of the government

prosecute to take legal action against a person accused of a crime

quota in the Senate, refers to the share of votes required to be elected. It is calculated using the total number of votes cast and the number of vacancies to be filled.

recklessness continuing on a particular course of action despite realising that doing so might result in harm to others

remanded in custody to be held by the authorities until a case is heard in court

remedial action action taken to restore a site to its previous or natural condition, or to an equivalent condition

scrutineer a representative of a parliamentary candidate who attends the counting of votes to ensure the count is fair

security of tenure the constitutional guarantee that an office holder, such as a judge, cannot be removed from office except under exceptional circumstances

separation of powers the division of government into the executive, the legislature (parliament) and the judiciary with the aim of providing a system of checks and balances that prevents the excessive concentration of power in one group

stereotype widely held but oversimplified idea of a type of person or thing

suffrage or franchise the right to vote

surety when bail is granted, a sum of money deposited with a court as a guarantee that an accused will abide by the conditions of bail and will appear in court when required to do so

terra nullius ('land belonging to no-one') in Australia, the legal idea that since no-one was 'using' the land when the first Europeans arrived, it could be claimed by the British Crown

trial by media creating widespread opinion regarding a person's guilt or innocence before a trial has occurred or before a verdict has been delivered

Universal Declaration of Human Rights a declaration passed by the United Nations outlining the fundamental human rights of all people in the world

xenophobia extreme fear, distrust or hatred of foreigners

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