
CHARACTERISTICS OF AN EFFECTIVE LAW YEAR 11 TEACHER AND STUDENT RESOURCE

This resource addresses the following Politics and Law syllabus items:

Year 11 PAL General Course

Unit 1 – Political and legal decision making
Political and legal systems

- **characteristics of an effective law**

For a law to be effective it must be

1. Known to the public
2. Acceptable in the community
3. Able to be enforced
4. Stable
5. Able to be changed
6. Applied consistently
7. Able to resolve disputes

Known to the public

Ignorance of the law is not an excuse, however, laws must be made known to the public to be effective. If the public do not know about a new law, they would not be able to follow it. Individuals bear the responsibility of knowing the law, however, law-makers need to inform the public of any new laws that have been passed in parliament.

For example, public signs tell the community what the laws are such as road signs, council signs in parks, no smoking signs. The media plays a large role in keeping the public informed of any major changes to the law. This is demonstrated in the link [mandatory sentencing](#).

Acceptable in the community

In a democracy laws should reflect community values. Thus, for a law to be effective, it must be acceptable to the community otherwise members of the community may be inclined to disobey the law rather than go against their own values.

For example, before the extension of trading hours was legislated in Victoria many stores opened outside the legal trading hours because of community demand. In WA new laws introduced in 2014 increasing the penalties for drivers using mobile phones are still to demonstrate effectiveness. It may be worth reflecting on what are the community values about the use of mobile phones while driving? See [Driving offences](#).

On the other hand, laws in anti-social behaviour such as the *Road Traffic Amendment (Impounding and Confiscation of Vehicles) ACT (WA) 2004*, have been introduced across many states in Australia. Because of community outcry against hoon drivers and the concern for community safety, laws have been created to deter such behaviour.

Able to be enforced

Although some laws may be seen to be a good idea, if they cannot be enforced, then they would be inoperable. An effective law must be able to be enforced. Law enforcers must be able to catch those who break the law and bring them to justice.

For example, graffiti laws introduced in Western Australia in 2009 were seen to be ineffective as there have been no prosecutions under the new law. See [Graffiti](#). Changes to the *Dog Amendment Act (WA) 2013* continued the debate about the effectiveness of dog laws that had been raised in 2007. [One bark could be all it takes under tough dog laws](#) and [Dog laws are useless: Rangers](#).

Stable

Constantly changing laws would create confusion in the community as was demonstrated in the United States when there was a plethora of changes to the health care laws in 2014: [Slew of changes to health-care law creates more confusion for consumers](#). Laws must be stable to be effective. In order to know the laws, members of the community need the stability of the law, they need the certainty that the law can be relied upon. This includes not only avoiding unnecessary changes but also to clarify and create laws to provide stability. [Work health and safety laws](#) in WA are an example of where confusion arises due to lack of stability. Another example of lack of stability is the differences in laws between states as demonstrated in one motorbike rider's complaint: [Motorbike Writer](#). In the latter example, it's not so much that the laws themselves are constantly changing but that riders have to constantly change their driving behavior due to differences in laws between states thereby causing confusion.

Able to be changed

For laws to reflect community values, they must be able to be changed as community values change and develop. For a law to be effective, there has to be the possibility of amending the law especially as new advances in industry and technology occur.

It is interesting to note that rapid development of information technology and the availability of the internet has become a significant concern for many communities and legislators are struggling to keep up with the changes. One example is the issue of cyber bullying where laws have failed to keep up with rapidly changing technology. See [Cyberbullying - laws struggling to keep up with technology](#).

Applied consistently

Consistency is a key factor in whether a law is effective. If laws are applied differently to different individuals, it would not be just and the law would be unfair. This would make the law ineffective as the community would not be able to rely upon the law being applied appropriately and function as intended.

The high rate of incarceration of Aboriginal Youth is an ongoing issue in Western Australia where in 2013 Aboriginal juveniles were detained at 60 times the rate of non-Aboriginal juveniles.¹ Though there are many contributing factors as to the causes including socio-economic and educational issues, inconsistency of the application of laws has also been identified. Mr Peter Collins from the Aboriginal Legal Services of WA made a submission to

¹ Australian Institute of Health and Welfare, Canberra, *Juvenile Detention Population in Australia 2013*. <<http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129545393>> 10.

the Senate inquiry on justice reinvestment in 2013. In his submission, he made the following statement:

“It starts at a very fundamental, grassroots level. It starts with the way Aboriginal people are policed in this state—how they become enmeshed in the justice system. I have been the director of legal services since 2005. In that nine-year period we have acted on behalf of Aboriginal children in particular who have been prosecuted for the most ridiculously trivial offences imaginable. It is hard not to think it would not have happened if they were non-Aboriginal, if they came from the leafy western suburbs of Perth, if their parents were professional people with all that goes with that.”²

Such inconsistency in enforcement of the laws can lead to negative behaviour and rejection of the law as there is no trust in the law.

Able to resolve disputes

Laws must include the opportunity for disputes to be resolved when required. Without such provisions, laws would be ineffective and unresolved disputes could destabilize the smooth functioning of the community. This also includes the opportunity to resolve the disputes in a timely and appropriate manner.

In civil disputes, the parties involved require the confidence in the law that a resolution can be found. If not, the dispute would be ongoing and become destabilizing. Equally, in criminal matters, legal disputes must be resolved in order for the process to continue fairly. For example, rules of evidence allow judges to make decisions in law where there is a dispute between State and Defence regarding the admissibility of evidence in a trial. Without these rules of evidence, trials would become overly cumbersome and very time consuming thereby hindering the effective enforcement of the law.

Mix & Match Activity

The next two pages includes a template for a mix & match activity. Students have to match the title card with the correct definition. As an extension activity, having read the previous information pages, students can be tested as to specific examples to demonstrate each characteristic.

² Mr Peter Collins in *Proof Committee Hansard Senate Legal and Constitutional Affairs References Committee* “Value of a justice reinvestment approach to criminal justice in Australia”. (Public) Wednesday, 17 April 2013 Perth. <<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommsen%2Fa6b7a3e6-596c-4c07-8bb1-45d9cfcaf679%2F0006%22>> 37.

<p>CHARACTERISTICS OF AN EFFECTIVE LAW</p>	<p>For a law to be effective it must be</p> <ol style="list-style-type: none"> 1. Known to the public 2. Acceptable in the community 3. Able to be enforced 4. Stable 5. Able to be changed 6. Applied consistently 7. Able to resolve disputes
<p>KNOWN TO THE PUBLIC</p>	<p>Ignorance of the law is not an excuse, however, laws must be made known to the public to be effective. If the public do not know about a new law, they would not be able to follow it. Individuals bear the responsibility of knowing the law, however, law-makers need to inform the public of any new laws that have been passed in parliament.</p>
<p>ACCEPTABLE IN THE COMMUNITY</p>	<p>In a democracy laws should reflect community values. Thus, for a law to be effective, it must be acceptable to the community otherwise members of the community may be inclined to disobey the law rather than go against their own values.</p>
<p>ABLE TO BE ENFORCED</p>	<p>Although some laws may be seen to be a good idea, if they cannot be enforced, then they would be inoperable. An effective law must be able to be enforced. Law enforcers must be able to catch those who break the law and bring them to justice.</p>

<p>STABLE</p>	<p>Constantly changing laws would create confusion in the community. Thus, laws must be stable to be effective. In order to know the laws, members of the public need the stability of the law, they need the certainty that the law can be relied upon.</p>
<p>ABLE TO BE CHANGED</p>	<p>For laws to reflect community values, they must be able to be changed as community values change and develop. For a law to be effective, there has to be the possibility of amending the law especially as new advances in industry and technology occur.</p>
<p>APPLIED CONSISTENTLY</p>	<p>Consistency is a key factor in whether a law is effective. If laws are applied differently to different individuals, it would not be just and the law would be unfair. This would make the law ineffective as the community would not be able to rely upon the law being applied appropriately and function as intended.</p>
<p>ABLE TO RESOLVE DISPUTES</p>	<p>Laws must include the opportunity for disputes to be resolved when required. Without such provisions, laws would be ineffective and unresolved disputes could destabilize the smooth functioning of the community. This also includes the opportunity to resolve the disputes in a timely and appropriate manner.</p>