TE WHARE WĀNANGA O TE ŪPOKO O TE IKA A MĀUI

VICTORIA
UNIVERSITY OF WELLINGTON

School of Government

MMPM 502 / MAPP 531
LAW IN THE PUBLIC SECTOR
(15 Points)

Trimester Two 2007

COURSE OUTLINE

Contact Details

Course Coordinator:	**Dr Andrew Ladley**
	Director, Institute of Policy Studies
	Room RWW 309, Level 3, Railway Station, Pipitea Campus
	Telephone: (04) 463 6834
	Fax: (04) 463 7413
	Email: andrew.ladley@vuw.ac.nz
Administrator:	**Darren Morgan**
	Room RH 802, Level 8, Rutherford House, Pipitea Campus
	Telephone: (04) 463 5458
	Fax: (04) 463 5454
	Email: darren.morgan@vuw.ac.nz

Module Dates, Times and Locations

Module Four:	Wednesday 22 August 2007	8.30am – 6.00pm
Module Five:	Wednesday 17 October 2007	8.30am – 6.00pm
Module Six:	Wednesday 21 November 2007	8.30am – 6.00pm
Location:	Classes will normally be held on the Pipitea Campus of Victoria University and you will be advised of your classroom one week prior to each module by email.	

Course assessment will be by an open book optional test, on Saturday 15 September 2007, from 9.00am – 9.30am, and two open book examinations, on Saturday 3 November 2007, from 9.00am – 10.10am, and on Saturday 8 December 2007, from 9.00am – 10.10am. All will be conducted via email (there is scope for adjusting times for appropriate reasons).

Course Objectives

The aim of this course is to examine key working concepts of law relevant to the public service. Particular attention is given to the legal and constitutional context. Case examples form an important part of the course.

The goal is that students better develop:

- understanding of the concept of the rule of law and its practical manifestation in the NZ constitutional system;
- understanding of the main features of Cabinet and parliamentary government;
- understanding of the relationships between legal rules, political structures, Cabinet and other administrative decision making processes, and policy outcomes;
- understanding of the main areas of law relevant to state sector administration;
- ability to analyse problems and seek solutions in a setting governed by public law and other rules of public administration;
- capacity to explain and evaluate central governmental policy and decision making systems.

Course Content

The course is divided into three sections, each taught over a full day. There is substantial use of case studies and examples within all topics.

Module Four will focus on the overall constitutional framework within which New Zealand government takes place. It will cover:

- The concept of the rule of law;
- The roles of the three branches of government, the relationship between them, and changes in the balance of that relationship over time;
- The operation of the executive branch of government, and the role of Cabinet in the legal, political and administrative framework;
- An introduction to judicial review;
- An introduction to human rights, and the NZ Bill of Rights Act 1990.

Module Five will look at aspects of accountability for the executive, and significant and developing bodies of law that affect public sector conduct. It will cover:

- The operation of Parliament, including Parliamentary systems for calling the executive to account and parliamentary privilege;
- The role of Officers of Parliament;
- The operation of the Official Information Act 1982;
- The implications of the Treaty of Waitangi and the place of customary law;
- An introduction to international law and its growing importance for NZ government activity.

Module Six will look at the operation of these legal concepts in daily and personal application for public servants. It will cover:

- The concept of discretion, and its use in the interpretation and application of the law;
- An introduction to employment law concepts in the state sector;
- The complexity of governing with others, including contracting for service delivery and working in partnership with stakeholders;
- The art and craft of regulation, including an introduction to the use of the law in responding to difficult policy problems;
- A discussion of public service ethics, and their significance for the effective practical operation of the core principles discussed in the course.

Learning Commitment

The learning objectives set for each course are demanding and, to achieve them, candidates must make a significant commitment in time and effort to reading, studying, thinking, and completion of assessment items outside of contact time. Courses vary in design but all require preparation and learning before the first module. Regular learning is necessary between modules (students who leave everything to the last moment rarely achieve at a high level). Expressed in input terms, the time commitment required usually translates to 65-95 hours (excluding class contact time) per course.

Readings

Core readings will be distributed. These are minimum readings. If you wish to read further, they can be supplemented by a range of material available in libraries and on the internet, as relevant to particular topics of interest. An extended list of possible readings and other references is also provided to assist students wishing to read more widely.

Assessment Requirements

This course is assessed by test conducted via email, **<u>not</u>** by conventional written assignment.

There is no magic bullet in assessment. The key is to find methods that are effective and which both facilitate and measure 'learning' as relevant to the course. In 2004 and 2005, I used individual essays to give candidates the opportunity to build their own research. However, I found this did not produce a very good "fit" between course objectives, the intensive teaching method and assessment. Hence in 2006 (now repeated in 2007), we used 'directed learning' as measured by internet tests. As this is still relatively new, this course outline sets out the detail. The goal is to establish the framework so that all participants can bear this in mind as we go through the materials.

Two aspects make up the assessment:

1. A "terms requirement" for *attendance and reasonable participation at classes* – this is not graded, but is a matter of "terms' i.e. full attendance and some *reasonable participation* in class is required to be eligible for a grade other than a C (if that is achieved in the test/exams). 'Reasonable' means that a person will on a number of occasions across the sessions, speak, ask questions, and show some engagement with the reading materials and discussion. As regards *attendance*, in exceptional circumstances candidates may be excused, but there may be some appropriate arrangement on making up the coverage, e.g. writing comments on relevant readings. Wherever possible, this should be done in advance. Note again: there is no requirement to cover the readings in detail before each class, but familiarity will assist in meeting the learning objectives.

2. Written Exams *and/or* Terms test:

   o **30 minute open book (voluntary) terms test (20%)**
      Saturday 15 September 2007, 9.00am – 9.30am

   o **70 minute open book exam (40% or 50% double-chance)**
      Saturday 3 November 2007, 9.00am - 10.10am

   o **70 minute open book exam (40% or 50% double-chance)**
      Saturday 8 December 2007, 9.00am - 10.10am

The test and exams work on a "double chance" basis - meaning that if the test is taken, it will count for 20% of the final grade, provided the combination of test and both examinations produces a higher mark than the examinations alone; otherwise, the two examinations will count for 100% of the marks for this course. It is strongly advised that you take the sit the voluntary test. In previous years, students have done far better in the exams with this practice and the ability to learn from feedback provided.

The test and exams will be done via the email and internet - meaning that candidates need to get to a computer and have access to email, do the test/exams and email it back in time. All are 'open book', so candidates have access to such resources as are relevant, including their own prepared essays. But every script must still be individually answered and composed in a candidate's own words – for consistency, it is now routine for every script done in such circumstances to be tested via the clever programmes that pick up plagiarism (see below).

The default times of the assessment are stated above.

However, in exceptional circumstances, if a person cannot make the exact time, we can discuss individual alternatives. I will, of course, expect, and seek agreement from the class, that no candidate will reveal the contents of any questions until all have completed the assessment. In general, the relevant scripts will be emailed to each candidate at the scheduled beginning of the test/exam, and 10 minutes are added for receiving/reading/sending scripts **i.e. for the TEST, the completed script must be emailed back in no more than 30 minutes from that time; and for the EXAMS, it will be 70 minutes after receipt.** *NB, this only works if people stick to time, so marks are deducted at the rate of 3 for every minute late (see also "Penalties" below).*

<u>The formula used for assessment</u>

In assessing this course, 7 test/exam questions will be set from the 7 'pegs' (or topics for focus) that will be established as the learning/assessment framework for this course. Of those, 1 will be designated as relevant to the terms test, and 3 each will be designated for the two exams.

There is no 'trick' here. The topics are clear, often with page numbers from the readings. Effectively, the process is 'directed learning/assessment'. The task is to prepare 7 short essays as part of your post-lecture study. This seems simple enough, but to manage workloads the essay-preparation should be spread across the course. In effect, each person is asked to prepare her or his own short essay on the topic, and come to the test/exam ready to "tailor" that essay to the exact question set. The key is efficiency. Each topic could take a good deal of time, so students have to focus. There is no designated maximum or minimum length of answers, but from experience one-page typed answers have to be very well-written to answer the question to a high level (but can comfortably pass) and particular care should be taken with answers that are more than 4 typed pages, to ensure that the material set out is closely relevant.

The same format used in every single question i.e. "a statement", followed by the instruction: "Do you agree? Give reasons". All questions are marked out of 20, and scaled to the requisite component. The amount of TIME available each question in the test/exam is 20 minutes (with extra time as set out above, for sending/receiving).

To assist students further, the following is a broad description of the grading system used in this course:

A range:	Close answer to the question, displaying excellent levels of writing, analysis and originality (i.e. interesting thoughts and ideas advanced which are the candidate's), well argued and positioned relative to the literature and issues and coverage of the topic.
B range:	All the above at good levels; solid understanding of the topic and materials, but with a number of the higher range measures not sufficiently met.
C range:	Adequate (e.g. no major defects or gaps in expression, answer to question, etc); reasonable understanding of materials and concepts.
D and below:	Insufficient attention to writing and question (e.g. poor expression, many spelling mistakes, major gaps in what was read); poor understanding of materials or question; no real attempt made to produce an answer tied to the question and showing understanding of the issues.

From these broad descriptions, it should be clear that the course expects and rewards good expression, as well as good understanding of the issues. And all this must be done AT PACE – meaning that preparation is essential, so is attention to detail.

Students should keep a copy of all submitted work as backup in case of any communication difficulty. It is also advised that you use an email system that retains a copy of 'sent' emails.

ANZSOG candidates taking this course as an elective should note that they take it for 24 points, and not 15 points. Accordingly, the learning outcomes to be achieved by ANZSOG candidates are wider and deeper than those expected for non-ANZSOG candidates. The content of those learning outcomes, and the means whereby they will be assessed, will be negotiated and confirmed with the Course Coordinator at the start of the course.

Penalties

The ability to plan for and meet deadlines is a core competency of both advanced study and public management. Failure to meet deadlines disrupts course planning and is unfair on students who do submit their work on time. It is expected, therefore, that you will complete and hand in the assessments at the times stipulated. ***Marks will be deducted at the rate of 3 for every minute for which the test/exam scripts are late.***

If ill-health, family bereavement or other personal emergencies prevent you from meeting the deadline for submitting a piece of written work or from attending class to make a presentation, you can apply for and may be granted an extension to the due date. Note that this applies only to extreme unforeseen circumstances and is not necessarily awarded. You should let your Course Coordinator know as soon as possible in advance of the deadline if you are seeking an extension.

Mandatory Course Requirements

To fulfil the mandatory course requirements for this course, you are required to:

1. Submit all assignments by the due date
2. Attend all contact sessions of the course

Communication of Additional Information

Additional information may be provided in class or by email. Make sure the course coordinator and administrator are made aware of any new email addresses.

Withdrawal Dates

Students giving notice of withdrawal from the course after 4 September 2007 will not receive a refund of tuition fees.

Students giving notice of withdrawal from the course after 23 October 2007 are regarded as having failed the course, unless the Associate Dean subsequently gives approval to withdraw.

FINAL NOTE FROM COURSE COORDINATOR

Please contact me if I can assist further – in particular, since our opportunities for direct interaction are focused on the days of lectures, please use telephone and email to discuss issues, raise questions, and generally to stay in touch - not least with each other as is useful for the course. As soon as possible, I will send out email messages and contacts to you all and start a process of networking so you each know who the others are. Please make particular efforts to include any out of town (or country) candidates in your discussions and networks. I look forward to working with you.

Andrew Ladley

Faculty of Commerce and Administration Offices

Railway West Wing (RWW) - FCA Student and Academic Services Office
The Faculty's Student and Academic Services Office is located on the ground and first floors of the Railway West Wing. The ground floor counter is the first point of contact for general enquiries and FCA forms. Student Administration Advisers are available to discuss course status and give further advice about FCA qualifications. To check for opening hours, call the Student and Academic Services Office on (04) 463 5376.

Easterfield (EA) - FCA/Education/Law Kelburn Office
The Kelburn Campus Office for the Faculties of Commerce and Administration, Education and Law is situated in the Easterfield Building - it includes the ground floor reception desk (EA 005) and offices 125a to 131 (Level 1). The office is available for the following:

- Duty tutors for student contact and advice
- Information concerning administrative and academic matters
- Forms for FCA Student and Academic Services (e.g. application for academic transcripts, requests for degree audit, COP requests
- Examinations-related information during the examination period

To check for opening hours, call the Student and Academic Services Office on (04) 463 5376.

Notice of Turnitin Use

Student work provided for assessment in this course **may be** checked for academic integrity by the electronic search engine www.turnitin.com. Turnitin is an online plagiarism prevention tool which identifies material that may have been copied from other sources including the Internet, books, journals, periodicals or the work of other students. Turnitin is used to assist academic staff in detecting misreferencing, misquotation, and the inclusion of unattributed material, which may be forms of cheating or plagiarism. **At the discretion of the School, handwritten work may be copy typed by the School and subject to checking by Turnitin.** You are strongly advised to check with your tutor or the course coordinator if you are uncertain about how to use and cite material from other sources. Turnitin will retain a copy of submitted materials on behalf of the University for detection of future plagiarism, but access to the full text of submissions will not be made available to any other party.

Academic Integrity and Plagiarism

Academic integrity is about honesty – put simply it means *no cheating*. All members of the University community are responsible for upholding academic integrity, which means staff and students are expected to behave honestly, fairly and with respect for others at all times.

Plagiarism is a form of cheating which undermines academic integrity. The University defines plagiarism as follows:

> *The presentation of the work of another person or other persons as if it were one's own, whether intended or not. This includes published or unpublished work, material on the Internet and the work of other students or staff.*

It is still plagiarism even if you re-structure the material or present it in your own style or words.

> *Note: It is however, perfectly acceptable to include the work of others as long as that is acknowledged by appropriate referencing.*

Plagiarism is prohibited at Victoria and is not worth the risk. Any enrolled student found guilty of plagiarism will be subject to disciplinary procedures under the Statute on Student Conduct and may be penalized severely. Consequences of being found guilty of plagiarism can include:

- an oral or written warning
- cancellation of your mark for an assessment or a fail grade for the course
- suspension from the course or the University

Find out more about plagiarism, and how to avoid it, on the University's website at
www.vuw.ac.nz/home/studying/plagiarism.html

General University Policies and Statutes

Students should familiarise themselves with the University's policies and statutes, particularly the Assessment Statute, the Personal Courses of Study Statute, the Statute on Student Conduct and any statutes relating to the particular qualifications being studied. See the Victoria University Calendar available in hardcopy or under "About Victoria" on the VUW homepage at www.vuw.ac.nz/home/about_victoria/calendar_intro.html

Information on the following topics is available electronically at
www.vuw.ac.nz/home/studying/downloads/course_outlines_general_information.pdf

- Academic Grievances
- Student and Staff Conduct
- Meeting the Needs of Students with Impairments
- Student Support

Manaaki Pihipihinga Programme

Manaaki Pihipihinga is an academic mentoring programme for undergraduate Māori and Pacific students in the Faculties of Commerce and Administration, and Humanities and Social Sciences. Sessions are held at the Kelburn and Pipitea Campuses in the Mentoring Rooms, 14 Kelburn Parade (back courtyard), Room 109D, and Room 210, Level 2, Railway West Wing. There is also a Pacific Support Coordinator who assists Pacific students by linking them to the services and support they need while studying at Victoria. Another feature of the programme is a support network for Postgraduate students with links to Postgraduate workshops and activities around Campus.

For further information, or to register with the programme, email manaaki-pihipihinga-programme@vuw.ac.nz or phone (04) 463 5233 ext. 8977. To contact the Pacific Support Coordinator, email pacific-support-coord@vuw.ac.nz or phone (04) 463 5842.