

**School of Government**

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

**Trimester Two 2008**

**COURSE OUTLINE**

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**Names and Contact Details**

**Course Coordinator:**      **Dr Andrew Ladley \***  
Fellow, School of Government  
Room RH 815, Level 8, Rutherford House, Pipitea Campus  
Telephone: (04) 463 6834  
Fax: (04) 463 5454  
Email: [andrew.ladley@vuw.ac.nz](mailto:andrew.ladley@vuw.ac.nz)

\* Andrew is also serving as a Stand-by Mediator for the United Nations in 2008. In the event that he is overseas for any part of this course, it will be coordinated and taught by the co-lecturers.

**Co-Lecturers:**              **Jessie Williams**  
Telephone: (04) 463 6859  
Email: [jessie.williams@vuw.ac.nz](mailto:jessie.williams@vuw.ac.nz)

**Nicola White**  
Email: [nicola.white@oag.govt.nz](mailto:nicola.white@oag.govt.nz)

**Administrator:**            **Darren Morgan**  
Room RH 821, Level 8, Rutherford House, Pipitea Campus  
Telephone: (04) 463 5458  
Fax: (04) 463 5454  
Email: [darren.morgan@vuw.ac.nz](mailto:darren.morgan@vuw.ac.nz)

**School of Government Office Hours:**      8.30am to 5.00pm, Monday to Friday

**Trimester Dates**

Monday 7 July to Saturday 8 November 2008

## Class Times and Room Numbers

<b>Module One:</b>	Tuesday 19 August 2008	8.30am – 6.00pm
<b>Module Two:</b>	Tuesday 14 October 2008	8.30am – 6.00pm
<b>Module Three:</b>	Tuesday 18 November 2008	8.30am – 6.00pm

**Locations:** Classes will 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:** (1) attendance at lectures  
(2) an open book optional test, on Saturday 13 September 2008, 9.00am – 9.30am  
(3) two compulsory open book examinations, on Saturday 1 November 2008, 9.00am – 10.10am, and on Saturday 6 December 2008, 9.00am – 10.10am

The test and examinations will be conducted via email. There is scope for adjusting times for appropriate reasons. See Assessment Requirements below for details.

## Course Content

The course is divided into three sections, each taught over a full day. There is substantial use of 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.

## **Course Objectives**

This course examines key working concepts of ‘public law’ relevant to the public service.

The goal is that course participants 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 the ‘rule framework’ applicable to central governmental policy and decision making systems;
- interaction with fellow participants, including listening and learning from the examples they bring to the course;
- research, writing, and ‘question-answering’ skills through the assessment process.

## **Expected Workload / 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.

The key for this course in terms of assessment is to prepare good essays in advance – see Assessment Requirements below.

## **Readings**

Core readings will be distributed in two volumes. 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.

This course also uses Blackboard, Victoria University's online environment that supports teaching and learning by making course information, materials and learning activities available online via the Internet.

To access the Blackboard site for this course, go to the Victoria University website at [www.victoria.ac.nz](http://www.victoria.ac.nz) and click on "Current Students" (in the 'Information For' box on the right hand side of the page). This takes you to the myVictoria student portal. Log into the portal with your SCS Username (on your Confirmation of Study) and your password (initially, your Victoria University student ID number, on your Confirmation of Study or your Victoria University student ID card). Once you have logged in, select "Blackboard" (from the options along the top of the page), which takes you to the main Blackboard page. The 'My Courses' section displays what courses you have access to (only courses that are using Blackboard will be displayed), so select "08.2.MMPM502-MAPP531: Law in the Public Sector".

You are recommended to ensure that your computer access to Blackboard is working before the course starts.

## **Assessment Requirements**

This course is assessed by test/examinations conducted via email, based on pre-prepared topics and answers done in a very precise time. It is **NOT** a conventional written assignment or conventional examination.

There is no magic system for assessment. The goal is to find reasonably effective methods for facilitating and measuring 'learning' that is relevant to the course. In 2004 and 2005, we used individual essays to give candidates the opportunity to build their own research. However, we found this did not produce a very good "fit" between course objectives, the intensive teaching method and assessment. Hence from 2006 (and since), we have used 'directed learning', measured by emailed tests. This outline sets out the detail so that all participants can bear this in mind as we go through the course. Occasionally, some who have not read this section or not taken in the discussion about it in class suddenly discover a day or so out from an exam, what it is all about. Then there is a panic, because this assessment system, whilst fairly simple (you are given the topics, but not the exact questions), requires careful preparation in advance.

**Two** aspects make up the assessment:

1. A "terms requirement" is *attendance and reasonable participation at classes*. This is not graded, but is a matter of "terms" which for this course means that both attendance at the 3 teaching days and some *reasonable participation* in class is required to be eligible for a grade other than a C (even if higher is achieved in the test/exams). 'Reasonable participation' means appropriate comment, questions, and engagement

with the reading materials and topics. As regards *attendance*, in exceptional circumstances candidates may be excused, but there may be some arrangement on making up the coverage, e.g. writing comments on relevant readings. Wherever possible, this should be arranged in advance. Note again: there is no requirement for participants to cover the readings in detail before each class, but familiarity will assist in meeting the learning objectives.

2. Written Test and Exams      NB. ALL ARE ON SATURDAYS:

- a) 30 minute open book (voluntary) terms test (20% double chance)  
*Saturday 13 September 2008, 9.00am – 9.30am*
- b) 70 minute open book (compulsory) exam (40% or 50% double-chance)  
*Saturday 1 November 2008, 9.00am – 10.10am*
- c) 70 minute open book (compulsory) exam (40% or 50% double-chance)  
*Saturday 6 December 2008, 9.00am – 10.10am*

The “double chance” is to your benefit: it means 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 2 examinations alone; otherwise, the two examinations will count for 100%. It is strongly advised that you take 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. Further, if you choose *not* to take the test, but then fall ill and cannot take the exams, there will be no basis on which to consider an aegrotat.

The test and exams will be done via email - meaning that candidates need to get to a computer and have access to their 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. Please take this point: you are explicitly expected to prepare your own answers, and come to the test/exam ready to ‘cut, paste and alter’ your drafted answer to fit the exact question in front of you. But every script must still be individually composed mainly in a candidate’s own words, with any borrowing or quotes appropriately referenced. Every single script is tested via the clever programmes that pick up plagiarism (see Use of Turnitin below). They are very accurate tests.

**The default times of the assessment are stated above. Everyone is expected to sit at the same time.**

In exceptional circumstances, if a person cannot make the exact time, we make individual alternatives. That works because part of the integrity of the course is your and our agreement 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, with 10 minutes 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 Penalties below).**

## The formula used for assessment

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, one will be designated as relevant to the terms test, and three each for the two exams.

The ‘pegs’ are:

- **Terms test: Saturday 13 September 2008**
  - 1) To what extent does the Bill of Rights 1688/9 lay down principles that are still valid in New Zealand today?
  
- **1<sup>st</sup> Exam: Saturday 1 November 2008**
  - 2) Explain how ‘constitutional conventions’ underpin the simple provisions of the Constitution Act 1986. Give at least three examples.
  - 3) How ‘flexible’ is the rule of cabinet collective responsibility in New Zealand?
  - 4) What was the significance for NZ public law (and public servants) of *Baigent’s case*?
  
- **2<sup>nd</sup> Exam: Saturday 6 December 2008**
  - 5) Has the House of Representatives got the legal power to fine or imprison people for ‘contempt of Parliament’?
  - 6) Explain why, if at all, *NZ Maori Council v AG* illustrates the separation of powers and the place of the Treaty in New Zealand public law?
  - 7) Is there a public law and accountability difference between the Crown contracting for services to be provided by NGOs and welfare organisations, and contracting for services to be provided by commercial organisations?

There is no ‘trick’ here. The topics are clear, though the answers are not necessarily immediately so – they require thinking and understanding and perhaps further reading. Effectively, the process is ‘directed learning/assessment’. In effect, each person is asked to prepare her or his own short essay on each topic, and come to the test/exam ready to “tailor” that essay to the exact question set. The key is efficiency both in preparation and in the exam. Each topic could take a book, so students have to spread their workloads across the course, and then focus their essays and answers in the test/exam – at pace. 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 often comfortably pass) and particular care should be taken with answers that are more than 6 typed pages, to ensure that the material set out *is relevant*. NB. Only 20 minutes is available for each question in the test/exam. Experience suggests it is pretty difficult to type from scratch an adequate answer in 20 minutes, unless students have prepared draft written answers of their own before hand. The same format used in every single question i.e. “A statement related closely to the topic”, followed by the instruction: “**Do you agree? Give reasons**”. Giving reasons is obviously the key to this. All questions are marked out of 20 and the total adjusted to the % for that test.

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; showing understanding of the literature and issues; excellent coverage of the topic, strong 'reasons'.
- B range:** All the above at good levels; solid understanding of the topic and materials, well expressed 'reasons for answers' but with a number of the higher range measures not sufficiently met.
- C range:** Adequate (e.g. no major errors/defects, reasonable 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, good understanding of the issues and close answers to the questions. And all this must be done AT PACE – meaning that preparation is essential, so is attention to the detail of the exact question.

**All tests work on a 'read-receipt' tracker; you must 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 (with time, date, etc).**

## **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. In other words, it is far better to submit on time, than try to finish a paragraph!***

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 etc, 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 discuss the issues with your Course Coordinator as soon as possible.

## **Mandatory Course Requirements**

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

1. Submit all assessments as per the course outline; and
2. Attend all contact sessions of the course.

## **Communication of Additional Information**

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

## **FINAL NOTE FROM COURSE COORDINATOR / CO-LECTURERS**

The world being a bit messy, it will be surprising if Andrew is present for all three teaching days. Still, please contact one of us (Andrew, Jessie, Nicola) if we can assist further. In particular, since our opportunities for direct interaction are focused on the days of lectures, please use email to discuss issues, raise questions, and generally to stay in touch - not least with each other - you will find that useful for the course. As soon as possible, we 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. We look forward to working with you.

*Andrew Ladley, Jessie Williams, Nicola White.*

## **Withdrawal Dates**

Students giving notice of withdrawal from this course after **Monday 1 September 2008** will NOT receive a refund of fees.

Students giving notice of withdrawal from this course after **Wednesday 19 November 2008** are regarded as having failed the course, unless the Associate Dean subsequently gives approval to withdraw.

Notice of withdrawal must be in writing / emailed to the Masters Administrator. Ceasing to attend or verbally advising a member of staff will NOT be accepted as a notice of withdrawal.

## **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 on the ground floor (EA 005). This counter is the first point of contact for:

- 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.

## **Use of Turnitin**

Student work provided for assessment in this course may be checked for academic integrity by the electronic search engine [www.turnitin.com](http://www.turnitin.com). Turnitin is an on-line 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.

## **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 or go to [www.victoria.ac.nz/home/about/policy/students.aspx](http://www.victoria.ac.nz/home/about/policy/students.aspx)

For information on the following topics, go to the Faculty's website [www.victoria.ac.nz/fca](http://www.victoria.ac.nz/fca), under Important Information for Students:

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

## **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: including the work of others will not be considered plagiarism as long as the work 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 penalised 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:  
[www.victoria.ac.nz/home/studying/plagiarism.html](http://www.victoria.ac.nz/home/studying/plagiarism.html)

## **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](mailto:manaaki-pihipihinga-programme@vuw.ac.nz) or telephone (04) 463 6015. To contact the Pacific Support Coordinator, email [pacific-support-coord@vuw.ac.nz](mailto:pacific-support-coord@vuw.ac.nz) or telephone (04) 463 5842.