

School of Government

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

Trimester Two / 2010

COURSE OUTLINE

Names and Contact Details

- Course Coordinator & Lecturer:** **Dr Matthew Palmer**
Deputy Solicitor-General (Public Law)
Crown Law Office
Telephone: (04) 494 5524 (if urgent)
Email: Matthew.Palmer@aya.yale.edu (overnight reply)
- Course Lecturer:** **Una Jagose**
Crown Counsel
Crown Law Office
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- Masters 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
- Office Hours:** 8.30am to 5.00pm, Monday to Friday

Trimester Dates

Teaching Period: Tuesday 6 July – Monday 1 November 2010

Class and Assessment Times, and Room Numbers

Module One:	Tuesday 6 July 2010	8.30am – 6.00pm
Online Class Test One:	Monday 12 July 2010	6.00pm – 8.00pm
Module Two:	Tuesday 24 August 2010	8.30am – 6.00pm
Online Class Test Two:	Monday 30 August 2010	6.00pm – 8.00pm
Module Three:	Tuesday 19 October 2010	8.30am – 6.00pm
Research Paper Assignment:	Monday 1 November 2010	5.00pm

Locations: Classes will be held on the Pipitea Campus of Victoria University in Wellington and you will be advised of your classroom one week prior to each module by email.

Withdrawal Dates

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.

Your fees will be refunded if you withdraw from this course on or before **Friday 23 July 2010**.

The last date for withdrawal from this course is **Thursday 23 September 2010**. After this date, permission to withdraw requires the approval of the Associate Dean (Students), as set out in section 8 of the Personal Courses of Study Statute

(<http://policy.vuw.ac.nz/Amphora!~~policy.vuw.ac.nz~POLICY~000000001743.pdf>). To apply for this permission, fill in the Late Withdrawal form available from either of our Student Customer Service Desks, or downloaded from www.victoria.ac.nz/fca/studenthelp/Forms.aspx.

Course Content

The course is divided into three sections, each taught over a full day. Students are expected to have read **in advance**, and will be questioned on, all the readings for each Module.

Module One: New Zealand's Constitution and Government (Palmer)

The principles underlying New Zealand's constitution, and how it operates in practice:

- What is a Constitution, its sources and elements?
- How does New Zealand's constitution change?
- What is the Separation of Powers?
- What is the structure and composition of Parliament and the Judiciary?
- What is a Government? How are Governments formed and dissolved?
- How does Executive Government operate in practice and principle: ministerial responsibility; collective responsibility; public servants; the wider state sector.

Module Two: Law (Jagose)

An introduction to the practical operation of law in particular areas important to the operation of government:

- The law of judicial review; what is it, how will the Court scrutinise executive decision making, what might the future of judicial review hold?
- The New Zealand Bill of Rights Act 1990; what does a NZBORA claim look like and what impact can it have on executive decision making? How does the Human Rights Review Tribunal operate and how is its power different from that of the Court in judicial review.
- Non-litigation Options: Parliamentary Oversight of executive decision making, how the various intra-government bodies (eg: Ombudsman, Office of Auditor-General) and Parliamentary bodies (select committees) work to oversee executive decision making.

Module Three: Government and Law (Palmer)

How law affects government in principle and practice:

- What is law?
- What is the Rule of Law?
- How is law made, applied and interpreted and by whom?
- Parliament v the Courts: Who is “Supreme”?
- A case study: the legal status of the Treaty of Waitangi;
- Law and Policy

Course Learning 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 principles underlying New Zealand’s constitution;
- understanding of the practice of the operation of government within the law;
- 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;
- 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.

Course Delivery

The course will be delivered through three day-long lectures. The teaching style will be a mixture of interactive lecturing and gentle Socratic questioning. Full student participation in class discussion is expected.

Expected Workload

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 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.

Preparation and learning **before** each module is essential. Students who leave their preparation to the last moment rarely achieve at a high level. Expressed in input terms, the time commitment required should translate to 150 hours for the course, which *might* be broken down as:

3 x 12 hours preparation for classes	= 36 hours
3 x 8 hours of class time	= 24 hours
2 x 12 hours of test preparation	= 24 hours
2 x 1 hour of test time	= 02 hours
Assignment topic identification	= 08 hours
Assignment research	= 28 hours
Assignment writing	= 28 hours

Group Work

No group work is required outside of class meetings, and there is no assessment associated with in-class group work.

Readings

You are provided with course materials which are the essential readings for this course. The readings for the first day comprise the first volume of materials.

The text that is closest in approach to the way in which the course is conceived and taught is, unsurprisingly, Geoffrey Palmer and Matthew Palmer, *Bridled Power: New Zealand's Constitution and Government* (4th ed., OUP, 2004). It is not required, but is *recommended*.

Other valuable (and expensive) legal texts are: Philip Joseph, *Constitutional and Administrative Law in New Zealand* (3rd ed., 2007); and John Burrows and Ross Carter, *Statute Law in New Zealand* (4th ed., 2009).

Assessment Requirements

Attendance and reasonable participation at each class is a requirement. It is not graded, but appreciably good or poor participation will be taken into account in the event that the overall mark for the course (e.g. 74%) is on the cusp between two grades (e.g. B+/A-). Attendance at a class will only be excused for exceptional circumstances, and only for one of the three classes.

25% Class Test 1: There will be a short answer test on **Monday 12 July 2010** comprised of short answer questions across module 1. The questions will be put up on Blackboard at 6.00pm; answers are to be submitted BY EMAIL to Sharon.Simonsen@crownlaw.govt.nz by 8.00pm. This test should only take an hour.

25% Class Test 2: There will be a short answer test on **Monday 30 August 2010** comprised of short answer questions across module 2. The questions will be put up on Blackboard at 6.00pm; answers are to be submitted BY EMAIL to Sharon.Simonsen@crownlaw.govt.nz by 8.00pm. This test should only take an hour.

50% Research Paper: A 4,000 word research paper on a topic of the student's choice relating to the course content, due by **5.00pm on Monday 1 November 2010**. Please submit your research paper BY EMAIL to Sharon.Simonsen@crownlaw.govt.nz. Marks will be awarded for: originality and quality of analysis; demonstrated awareness of the interaction of law and government; and structure and writing style. Matthew or Una will discuss research topics with students individually.

For all three pieces of assessment, Sharon will notify you only if she does NOT receive your assignment. Make sure you save a copy of your work, and that you retain a copy of the email containing the test/research assignment. If you're email host does not save sent messages, when sending the email to Sharon, cc it to yourself.

Your assessed work may also be used for quality assurance purposes, such as to assess the level of achievement of learning objectives as required for accreditation and audit purposes. The findings may be used to inform changes aimed at improving the quality of FCA programmes. All material used for such processes will be treated as confidential, and the outcome will not affect your grade for the course.

Students should keep a copy of all submitted work.

Class Attendance

You are expected to attend all three modules for the course. If, before enrolment for a course, you are aware that you will not be able to attend a module, you must notify the Director of the Master's Programme when you enrol explaining why you will not be able to attend. The Director will consult with the course coordinator for this course. You may be declined entry into the course if you are not able to attend a module.

If you become aware after a course starts that you will be unable to attend a module or a significant part of a module (more than two hours) you must advise the course coordinator *before the module* explaining why you will be unable to attend. The course coordinator may (or may not) excuse you from attendance and may also require you to complete compensatory work relating to the course content covered during your absence.

Penalties, Deadlines and Failure to Meet Due Dates

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 5% for every day by which the assignment is late and no assignments will be accepted after five working days beyond the date they are due. For example, if you get 65% for an assignment, but you handed it in on Monday when it was due the previous Friday, you will get a mark of 50%.

If ill-health, family bereavement or other personal emergencies prevent you from meeting the deadline for submitting a piece of work, you can apply for and may be granted an extension to the due date by the Course Coordinator. Note that this applies only to *extraordinary* circumstances and is not necessarily granted. You should let your Course Coordinator know as soon as possible in advance of the deadline (if circumstances permit) if you are seeking an extension. Where an extension is sought evidence, by way of medical certificate or similar, may be required by the course coordinator.

Mandatory Course Requirements

Submit or participate in all pieces of assessment required for this course.

Communication of Additional Information

This course 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 through the myVictoria student web portal.

To access the Blackboard site for this course:

1. Open a web browser and go to www.myvictoria.ac.nz.
2. Log into myVictoria using your ITS Username (on your Confirmation of Study) and password (if you've never used the Victoria University computer facilities before, your initial password is your student ID number, on your Confirmation of Study, Fees Assessment or student ID card – you may be asked to change it when you log in for the first time).
3. Once you've logged into myVictoria, select Blackboard (from the options along the top of the page) to go to your Blackboard homepage.
4. The "My Courses" box displays what courses you have access to (please note that only courses that are actually using Blackboard will be displayed), so select "10.2.MMPM502-MAPP531: Law in the Public Sector" for the course-specific Blackboard site.

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

If you have any problems with myVictoria or Blackboard, you should contact the ITS Helpdesk on (04) 463 5050 or its-service@vuw.ac.nz, or visit the ITS Helpdesk on level 2 of the Railway West Wing, Pipitea Campus. See www.victoria.ac.nz/its/student-services/ for more information.

Additional information may be provided in class, by email, or on Blackboard. Please make sure that both Sharon.Simonsen@crownlaw.govt.nz and the Masters Administrator (Darren Morgan) are made aware of any new email addresses.

Blackboard will be used both as an archive of course related information and announcements, but also as a discussion forum. This will greatly assist in your learning. Please be aware, that like the class environment, this will be governed by the Chatham House rule.

Academic Integrity, Plagiarism, and the Use of Turnitin

Plagiarism is presenting someone else's work as if it were your own, whether you mean to or not.

'Someone else's work' means anything that is not your own idea. Even if it is presented in your own style, you must still acknowledge your sources fully and appropriately. This includes:

- material from books, journals or any other printed source
- the work of other students or staff
- information from the Internet
- software programs and other electronic material
- designs and ideas
- the organisation or structuring of any such material.

Acknowledgement is required for all material in any work submitted for assessment unless it is a 'fact' that is well-known in the context (such as "Wellington is the capital of New Zealand") or your own ideas in your own words. Everything else that derives from one of the sources above and ends up in your work – whether it is directly quoted, paraphrased, or put into a table or figure, needs to be acknowledged with a reference that is sufficient for your reader to locate the original source.

Plagiarism undermines academic integrity simply because it is a form of lying, stealing and mistreating others. Plagiarism involves stealing other people's intellectual property and lying about whose work it is. This is why plagiarism is prohibited at Victoria.

If you are found guilty of plagiarism, you may be penalised under the Statute on Student Conduct. You should be aware of your obligations under the Statute, which can be downloaded from the policy website (www.victoria.ac.nz/home/about/policy/students.aspx). You could fail your course or even be suspended from the University.

Plagiarism is easy to detect. The University has systems in place to identify it.

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 on-line plagiarism prevention tool which compares submitted work with a very large database of existing material. At the discretion of the

Head of School, handwritten work may be copy-typed by the School and subject to checking by Turnitin. 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.

There is guidance available to students on how to avoid plagiarism by way of sound study skills and the proper and consistent use of a recognised referencing system. This guidance may be found at the following website: www.victoria.ac.nz/home/study/plagiarism.aspx.

If in doubt, seek the advice of your course coordinator. **Plagiarism is simply not worth the risk.**

Other Information

For the following important information, follow the links provided:

- **Academic Integrity and Plagiarism**
www.victoria.ac.nz/home/study/plagiarism.aspx
- **General University Policies and Statutes**
www.victoria.ac.nz/home/about/policy
- **AVC (Academic) Website: information including Conduct, Academic Grievances, Students with Impairments, Student Support**
www.victoria.ac.nz/home/about_victoria/avcacademic/Publications.aspx
- **Faculty of Commerce and Administration Offices**
www.victoria.ac.nz/fca/studenthelp/
- **Manaaki Pihipihinga Programme**
www.victoria.ac.nz/st_services/mentoring/