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 2 / 2014

## COURSE OUTLINE

## Names and Contact Details

**Course Coordinator & Lecturer:**    **Dr Matthew S R Palmer QC**
Barrister, Thorndon Chambers
Level 6, 10 Customhouse Quay
Wellington 6140
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Email: matthew.palmer@chambers.co.nz

**Lecturer:**    **Una Jagose**
Deputy Solicitor-General
Crown Law Office
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**Lecturer**:    **Jessica Gorman**
Revenue Team Manager and Crown Counsel
Crown Law Office
Telephone: (04) 472 1719
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**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

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

## Trimester Dates

Monday 14 July – Thursday 30 October 2014

## Withdrawal from Course

Formal notice of withdrawal must be in writing on a Course Add/Drop form (available from either of the Faculty's Student Customer Service Desks or from the course administrator).  Not paying your fees, ceasing to attend lectures or verbally advising a member of staff will NOT be accepted as a formal notice of withdrawal.

1. Your fees will be refunded if you withdraw from this course on or before **Friday 25 July 2014**.

2. The standard last date for withdrawal from this course is **Friday 26 September 2014**.  After this date, students forced to withdraw by circumstances beyond their control must apply for permission on an '*Application for Associate Dean's Permission to Withdraw Late'* including supporting documentation.  The application form is available from either of the Faculty's Student Customer Service Desks.

## Class Times and Room Numbers

This course is delivered in a modular format.

| | | |
|---|---|---|
| **Module One:** | Wednesday 16 July 2014 | 8.30am – 6.00pm |
| **Online Class Test One:** | Monday 21 July 2014 | 6.00pm – 8.00pm |
| **Module Two:** | Wednesday 3 September 2014 | 8.30am – 6.00pm |
| **Online Class Test Two:** | Monday 8 September 2014 | 6.00pm – 8.00pm |
| **Module Three:** | Wednesday 22 October 2014 | 8.30am – 6.00pm |
| **Research Paper Assignment:** | Thursday 30 October 2014 | 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.  The timetable is also available to view on the Victoria University website at www.victoria.ac.nz/students/study/timetables .

**Attendance is <u>required</u> at all teaching days**

## Course Delivery

This course is delivered in a modular format, which includes a minimum of 24 hours contact.  The 24 hours are broken up into three separate days of eight hours each (a 'module').  There are three modules in the course with approximately six weeks between each module.  **Attendance is <u>required</u> at all teaching days (8.30am – 6.00pm).**

The teaching style will be a mixture of interactive lecturing and gentle Socratic questioning.  Full student participation in class discussion is expected.

## Group Work

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

## 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 day of the course. Regular learning is necessary between modules.

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, on average, the time commitment required usually translates to approximately 150 hours (including class contact time) for a 15-point course, which *might* break 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 |

## Prescription

An introduction to various aspects of law as it affects public servants, including administrative law, the Treaty of Waitangi, constitutional law, civil rights and the legal system and method.

## 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 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. Students are expected to have a good understanding of the New Zealand system of government.

**Module One: Government**
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**
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, how do constitutional principles (e.g. parliamentary supremacy, the separation of powers) play out in judicial review?
- 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, the requirements and effects of the Official Information Act 1982 and the role of the Ombudsmen.

**Module Three: Government and Law**
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?
- What is the difference between legal and policy analysis?
- Parliament v the Courts: Who is "Supreme"?
- A case study: the legal status of the Treaty of Waitangi

## Readings

You are provided with course materials which are the essential readings for this course via Blackboard (see below).

The text that is closest in approach to the way in which the course is conceived and taught is 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 you may wish to review are: Philip Joseph, *Constitutional and Administrative Law in New Zealand* (4th ed., 20014); John Burrows and Ross Carter, *Statute Law in New Zealand* (4th ed., 2009), Matthew Palmer, *The Treaty of Waitangi in New Zealand's Law and Constitution* (Wellington, VUP, 2008).

**Blackboard** is Victoria University's online environment that supports teaching and learning by making course information, materials and other learning activities available 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" section displays the courses you have access to – select the appropriate link to access the course-specific Blackboard site. Please note that only courses that are actually using Blackboard and have been made available to students by their respective course coordinator will be displayed.

**You are recommended to ensure that your computer access to Victoria University's computer facilities, such as myVictoria and Blackboard, is working BEFORE your course starts.** If you have any problems, you should contact the ITS Service Desk on (04) 463 5050 or its-service@vuw.ac.nz . See www.victoria.ac.nz/its/student-services/ for more information.

## Materials and Equipment

Tests and the research paper will be distributed and turned in by email.

## Assessment

From Trimester 1, 2014, a revised Assessment Handbook will apply to all VUW courses: see www.victoria.ac.nz/documents/policy/staff-policy/assessment-handbook.pdf .

In particular, there will be a new grade scheme, in which the A+ range will be 90-100% and 50-54% will be a C-.

*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 is on the cusp between two grades.

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 21 July 2014** 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 matthew.palmer@chambers.co.nz by 8.00pm. This test should only take an hour.

*25% Class Test 2*: There will be a short answer test on **Monday 8 September 2014** 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 matthew.palmer@chambers.co.nz by 8.00pm. This test should only take an hour.

*50% Research Paper:* A 3,000 word research paper on a topic of the student's choice relating to the course content, due by **5.00pm on Thursday 30 October 2014**. Please submit your research paper BY EMAIL to sharon.simonsen@chambers.co.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 is available to discuss research topics with students individually.

*For all three pieces of assessment, you will be notified only if your work is NOT received. Make sure you save a copy of your work, and that you retain a copy of the email containing the test/research assignment. If your email host does not save sent messages, when sending the email, cc it to yourself.*

Marks for the tests will be available before the next module class is held.


## 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 assignments by the due date. Marks will be deducted at the rate of five per cent 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 circumstances beyond your control 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. 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 a medical certificate or similar, may be required by the course coordinator.


## 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.**


## Mandatory Course Requirements

In addition to obtaining an overall course mark of 50 or better, students must submit or participate in all pieces of assessment required for this course.

If you cannot complete an assignment or sit a test or examination, refer to www.victoria.ac.nz/home/study/exams-and-assessments/aegrotat .

## Communication of Additional Information

Additional information may be provided in class, by post, by email or via Blackboard.

**NOTE:** Information emailed to you via Blackboard can only be sent to your @myvuw.ac.nz email address (the free email address created for you when you enrol and accessed via the myVictoria student web portal). If you want to receive these emails at your preferred email address (e.g. your home or work email address), it is **essential** that you activate your @myvuw.ac.nz email address before the start of the course and you modify the settings so all emails sent to it are automatically forwarded to your preferred email address. Please go to www.victoria.ac.nz/its/student-services/FAQs.aspx#Email_Forward for more information.

**You are recommended to ensure that your computer access to Victoria University's computer facilities, such as myVictoria, Blackboard and email, is working BEFORE your course starts.** If you have any problems, you should contact the ITS Service Desk on (04) 463 5050 or its-service@vuw.ac.nz . See www.victoria.ac.nz/its/student-services/ for more information.

## School of Government Service Standards

Good learning and teaching outcomes for students in School of Government courses depend on many factors, including open, transparent and accountable relationships between teaching and support staff, and students in their various activities. The following service standards indicate some of the key expectations that teaching staff and students can have of each other. In all cases, they represent what the School believes should be 'normal' practice; exceptional circumstances can and will be negotiated as required.

Please note that there are University-wide policies relating to assessment – including rights of review and appeal. Details may be found in the Assessment Handbook (which is reviewed and updated from time to time – www.victoria.ac.nz/about/governance/dvc-academic/publications).

In general terms, any concerns that a student or students may have should be raised with the course coordinator in the first instance. If that course of action is not appropriate, the School's programme support staff will direct you to the relevant Programme Director/Coordinator.

*Standards relating to staff timeliness of responses to email and phone queries:*

- Email or phone queries from students will be responded to in 48 hours

*Standards relating to availability of course materials:*

- Students on modular or intensive courses will usually have course materials at least 4 weeks before the course starts
- Students on weekly courses will usually have course materials available on the first day of the course

*Standards relating to attendance:*

- It is expected that students will attend all contact teaching sessions for a course. If a student is aware that they will be unable to attend part of a course prior to it commencing, they are required to advice the course coordinator. In such a situation, the student may be declined entry into the course.

- Where a course coordinator approves some non-attendance before the class commences, the course coordinator may set additional item(s) of assessment of learning and teaching objectives for the course for students unable to attend. Advice relating to the submission and assessment of any such additional assessment will be provided by the course coordinator.

*Variations to the assessment details provided in the course outline:*

- Any variation to the assessment details in the course outline will be formally agreed between the course coordinator and students at the earliest possible time, preferably at the beginning of the course.

*Standards relating to assignments – turnaround and feedback:*

- Unless otherwise agreed between students and the course coordinator, items of assessment will be marked within 15 working days of submission.
- Comments on pieces of assessment will allow students to understand the reasons for the mark awarded, relative to the teaching and learning objectives specified in the course outline, and will usually include advice on how the student can improve their grades in future assignments.

## Student Feedback

Student feedback on University courses may be found at
www.cad.vuw.ac.nz/feedback/feedback_display.php .

## Link to General Information

For general information about course-related matters, go to
www.victoria.ac.nz/vbs/studenthelp/general-course-information .

## Note to Students

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 academic audit. The findings may be used to inform changes aimed at improving the quality of VBS programmes. All material used for such processes will be treated as confidential, and the outcome will not affect your grade for the course.

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