

1 Introduction

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Introduction

This subject guide, together with its study pack, is designed to help you study the public law of the United Kingdom, which comprises constitutional law and administrative law. Each chapter will highlight the most important aspects of the topic and give guidance as to essential and further reading. Within each chapter you will find activities designed to test your understanding of the topic and self-assessment exercises to monitor understanding and progress. Feedback to the activities is provided at the end of this guide: use it to check that you have a full understanding of the topic. There are also sample examination questions with advice on possible approaches to the questions.

At the end of each chapter there is an opportunity for you to reflect on and review your understanding of the issues contained in that chapter. You are strongly advised to carry out these reviews and to go over any points that you still feel unsure about before proceeding to the next chapter.[†] At several points you will find guidance on how to improve the effectiveness of your studies. This will direct you to the *Learning skills for law* guide.

[†] Reflection is a key element of your learning portfolio or learning journal. See section 1.4.

The key to successful study of public law is understanding, not rote-learning. Constitutional law offers a mixture of statutory and common law sources, non-legal but binding rules, conceptual analysis and – just as important – an appreciation of the political practices that form the background against which the constitutional actors operate. It is essential that you develop the practice of reading a British daily broadsheet newspaper (*The Times*, *Daily Telegraph*, *Independent* or *Guardian*) and follow current affairs through journals and the media. The UK constitution is a living dynamic organism and cannot be contained within the covers of any textbook, however up to date.

LEARNING OUTCOMES

When you have completed this chapter you should be able to:

- ▶ approach the study of public law in a systematic way
- ▶ describe what the various elements of the text are designed to do
- ▶ begin your study of public law with confidence.

1.1 Studying Public law

1.1.1 A broad and integrated subject

Public law is challenging: it requires knowledge of the entire system of government.

For those of you with an academic background which includes history, government and/or politics, some of the terrain will be familiar – although now it will require a particular perspective: that of the constitutional lawyer. For those without any relevant academic background, it would be helpful to read an introductory text[†] on government in the United Kingdom. Many of the individual topics for study are not clear-cut and are subject to debate. It is important that you adopt a critical and reflective approach to the subject, studying the rules and authorities with care but then attempting to form your own view. This must be developed with care: it is very easy to react instinctively – either positively or negatively – to a particular matter or approach. That, however, is not enough. You must always strive to develop logical and reasoned arguments in order to justify conclusions that you reach. Public law requires the same disciplined approach and logical analysis as any other legal subject, and as usual you also need to develop the skill of thinking and arguing conceptually.

The study of the constitution does not lend itself to academic compartmentalisation. Whereas it may be possible – although not desirable – to approach some subjects by treating each topic as a distinctive isolated part of the whole, this is not true of constitutional and administrative law. It is, of course, necessary to work through the syllabus in an organised and logical manner. However, it is of the utmost importance that you become aware of the integrated nature of most of the syllabus. To give just two examples (many more could be given):

- ▶ Parliamentary sovereignty is of necessity studied as a discrete topic: nevertheless many – if not most – other topics in public law have a bearing on sovereignty and you cannot fully comprehend sovereignty until you have covered the full syllabus.
- ▶ The same is true of the non-legal sources of the constitution – constitutional conventions – which permeate the entire constitutional structure; the ability to see the constitution ‘in the round’ and as a whole is essential to successful study.

The study of the constitution of the UK requires an appreciation of a variety of conceptual, historical, legal and political factors.[†] The UK appears to be almost unique in not having a constitution which is conveniently set out in a single written document. However, not too much should be made of the ‘unwritten’ nature of the constitution. In all constitutions some of the rules will not be written, and still less will they be collected within a single document. Irrespective of the labels attached to constitutions, a true understanding of constitutional law can only be grasped by appreciating the historical and socio-political framework within which the rules are set. However, while historical origins set the scene for the study of the contemporary constitution, it must be remembered that the principal emphasis of the syllabus is on the constitution of the UK today and not on the many centuries of development that underlie it. With that point in mind, when we evaluate the many constitutional issues that present themselves today we must necessarily draw on historical sources and events to understand the contribution they have made to creating today’s constitution.

It is particularly true of the UK’s constitution that it is difficult to see clearly the demarcation lines between constitutional law and political science. For example, the study of the constitutional relationship between the government and the legislature today encompasses a knowledge of the political background, the rules of parliamentary practice and the non-legal or conventional rules that apply in a given situation. Furthermore, in studying the legislative supremacy of Parliament, it is of fundamental importance to grasp that, in terms of constitutional legal theory, the power of Parliament is omnipotent or sovereign. That legal fact however must be seen in light of the political and, possibly, economic constraints on the exercise of that seemingly unlimited power, but without allowing these ‘extra-legal’ factors to obscure the constitutional position. It is the **constitutional rules** that are of prime importance: the political and other factors that have an impact on the working of those rules, while of great significance, are ancillary.

[†] A suitable introductory text is Barnett, H. *Britain unwrapped: government and constitution explained*. (Harmondsworth: Penguin, 2002) [ISBN 978-0140291704], especially Chapters 1, 2 and 12.

[†] This understanding of diverse sets of information and factors is a key element in your development of graduate skills.

1.1.2 A constitution under reform

The election of a Labour government in 1997 – after 18 years of Conservative Party rule – led to major constitutional reform. The incoming government's agenda included devolution to Northern Ireland, devolution to Scotland and Wales, reform of the House of Lords, reform of the electoral system and the introduction of a Freedom of Information Act. Of the greatest significance was the intention to incorporate into domestic law – under the Human Rights Act 1998 – most of the rights and freedoms protected under the European Convention on Human Rights. By 2002 much of the reform agenda had been accomplished: devolution to the nations had taken place, a Freedom of Information Act had been introduced, the Human Rights Act 1998 was fully in force and a partial (but not yet complete) reform of the House of Lords achieved. Some reforms have been made to the electoral system, including a register of political parties and statutory regulation of donations to political parties. Given that some reforms are on-going it is particularly important at this time to keep abreast of current affairs.

1.1.3 Outline structure of this subject guide

This subject guide has been structured to enable you to proceed from the basic foundations through to a detailed understanding of the different topics that rest on these foundations. The guide falls into five principal parts:

Part 1 Constitutional fundamentals (Chapters 1–7)

The structure of the constitution and its basic principles.

Part 2 The government and Parliament (Chapters 8–12)

The Crown, Prime Minister and Cabinet, the structure of central government and the workings of Parliament. Also in this part is an introduction to regional and local government, both of which have powers devolved upon them by the UK Parliament.

Part 3 The European Community and Union (Chapters 13–14)

As a member state of the European Community (which forms the major part of the larger European Union), the United Kingdom has committed itself to a form of supra-national governance with its own legal and institutional framework. EC law has, since 1973 when Britain first joined, become an increasingly important part of domestic law. British judges are required to apply Community law as interpreted by the Court of Justice of the European Communities, and Parliament is under an obligation to pass laws which are consistent with the overriding European law.

Part 4 The individual and the state (Chapters 15–17)

This part is a study of individual freedoms and rights as protected by statute and common law. Of seminal importance here is the European Convention on Human Rights and its jurisprudence (case law) and the emerging case law under the Human Rights Act 1998 which now makes it possible to enforce Convention rights against the state within the domestic legal system. Also included in this part is the difficult issue of state – or national – security and the law that regulates the security agencies as well as the law on official secrets and terrorism.

Part 5 An introduction to administrative law (Chapters 18–19)

In many degree courses in the UK, administrative law is a full one-year or half-year subject. Within the LLB for external students, the syllabus includes the study of judicial review of administrative action (the process through which government powers are controlled by the courts), and study of the Commissioners for Administration ('Ombudsmen'), the machinery by which citizens' complaints against central and local government and bodies such as the National Health Service are investigated.

1.2 Learning outcomes for Public law

When you have finished studying this module, you should be able to demonstrate that you have studied in depth the public law of the United Kingdom, which comprises constitutional law and administrative law.

a Introduction

- ▶ describe the characteristics of the constitution
- ▶ explain the powers and role of the Crown, including the royal prerogative
- ▶ summarise the sources of the constitution
- ▶ explain the sovereignty of Parliament
- ▶ explain the separation of powers
- ▶ describe and discuss the rule of law
- ▶ describe and explain central and local government
- ▶ explain devolution and the structure of the United Kingdom.

b Parliament, etc.

- ▶ describe and discuss electoral law and reform
- ▶ describe the composition and procedure and functions of Parliament:
 - ▶ legislative
 - ▶ financial
 - ▶ control of the executive
 - ▶ the role of the individual MP
- ▶ explain and discuss parliamentary privilege.

c The executive, etc.

- ▶ explain the powers of the Prime Minister
- ▶ explain the role of the Cabinet
- ▶ explain the characteristics and role of the Civil Service
- ▶ explain collective and individual ministerial responsibility and control of executive power.

d The European Union

- ▶ Describe the institutions of the European Union:
 - ▶ the Council
 - ▶ the Commission
 - ▶ the Parliament
 - ▶ the Court of Justice
- ▶ explain the sources of Community law
- ▶ discuss the relationship between Community law and national law
- ▶ discuss Community primacy and parliamentary sovereignty.

e The citizen, etc.

- ▶ summarise the legal protection of civil liberties in the United Kingdom
- ▶ explain the significance of the European Convention on Human Rights
- ▶ discuss the Human Rights Act 1998
- ▶ explain the extent to which the law effects a satisfactory balance between public order and civil liberties
- ▶ discuss the powers of the police in relation to assemblies and processions
- ▶ explain the role and powers of the security services, including the interception of communications
- ▶ explain the law relating to official secrecy
- ▶ explain the major legal provisions and case law relating to terrorism.

f Administrative law

- ▶ explain the constitutional role of judicial review
- ▶ explain the procedural requirements of judicial review
- ▶ explain and discuss the grounds for judicial review
- ▶ discuss the remedies available in judicial review
- ▶ discuss the powers and role of the Parliamentary Commissioner for Administration.

1.3 Acquiring graduate qualities

In addition to successfully learning the relevant law, you will need to develop a number of skills and the ability to:

- ▶ discern themes and patterns in large amounts of disparate information
- ▶ scan large amounts of written materials to draw out argumentative threads
- ▶ explain the different sides of a controversial issue
- ▶ make, apply and criticise precise distinctions
- ▶ separate rapidly the relevant from the irrelevant
- ▶ think logically
- ▶ think critically
- ▶ research
- ▶ plan
- ▶ communicate, argue fluently, concisely and persuasively, both orally and on paper
- ▶ concentrate, working with speed and stamina
- ▶ work independently with initiative and self confidence
- ▶ work co-operatively, to lead and to support with sensitivity.

Self-reflective skills are also essential, including the ability to:

- ▶ learn from experience
- ▶ gauge how the learning experience is working and to identify weaknesses
- ▶ use the above skills to evaluate your knowledge
- ▶ use those skills to analyse and solve problems.

As your studies progress, you should be thinking about how you can develop these skills.

1.4 A suggested approach to study

See also the *Student handbook* and the *Learning skills for law* guide.

You should start your study of Public law with this subject guide. It has been designed to help you succeed in your examinations.[†]

Start at the beginning and work through the guide sequentially, reading the textbook and doing the activities as directed. It may be tempting to start with, say, human rights or state security, but this is not a good idea. The course builds on the basic foundations without which an understanding of particular topics later in the course cannot be gained.

[†] Statistics from 2006 show that students who based their studies on the University's LLB subject guides performed significantly better in exams than those who did not.

1.4.1 Essential reading

Study pack

The study pack contains 25 extracts from books, journals, reports and case reports which have been chosen to assist your learning. Read them at points where they are referred to in this guide.

Primary textbook

- **Barnett, H.** *Constitutional and administrative law*. (Oxford: Routledge-Cavendish, 2006) sixth edition [ISBN 978-1845680336].

This book is supported by a companion web site created both to keep *Constitutional and administrative law* up to date and to provide enhanced resources for students and lecturers. The 'resources' section of the web site contains useful advice on answering essay and problem questions:

- ▶ www.routledgecavendish.com/textbooks/1845680332
Your *IOLIS* CD will also provide much useful material.

Important supplementary texts

- **Munro, C.R.** *Studies in constitutional law*. (London: Butterworths, 1999) [ISBN 978-0406981431].

You might also like to obtain:

- **Thompson, B. and M.J. Allen** *Cases and materials on constitutional and administrative law*. (Oxford: Oxford University Press, 2005) eighth edition [ISBN 978-0199278794 (paperback)].

Statute book

You should also obtain a statute book. Statute books are updated regularly: make sure you obtain the latest copy. Under the *Regulations* you are allowed to take one authorised statute book into the examination room. Information about the statute books and other materials that you are permitted to use in the examination is printed in the current *Regulations*, which you should refer to. Please note that you are allowed to underline or highlight text in these documents – but you are **not allowed to write notes** etc. on them. The *Regulations* for the LLB state:

5.6 Students may underline and/or highlight passages with a coloured pen in the materials, but all other forms of personal annotation on statutes and other materials permitted to be taken into the examination room are strictly forbidden.

Legal journals

In addition to the essential texts, you should consult a range of legal journals to keep yourself up to date with academic writing on the subject:

- *Law Quarterly Journal*
- *Modern Law Review*
- *New Law Journal*
- *Parliamentary Affairs*
- *Public Law*.

Many other legal periodicals will contain relevant articles and it is good academic practice to consult the latest editions in libraries, if you are able to do so.

Reading and essential reading

University students in England often describe themselves as 'reading for a degree'.

Of course they attend lectures, go to classes and tutorials, and take part in all sorts of other study activities: but reading is absolutely central.

Reading:

- ✓ increases your knowledge
- ✓ widens your understanding
- ✓ strengthens your English language skills.

In the University of London law subject guides we give you a certain amount of essential reading. '**Essential**' means that you **must read these items**.

For full advice on how to read academic texts, go to the 'Reading' section of your *Learning skills for law* guide.

Use the Online Library

As we are aware that many of you do not have access to a local law library we have for some years provided you with an online library at <http://www.external.shl.london.ac.uk/?id=law>.

The databases available through this facility contain everything you would find in a well-stocked law library and we therefore strongly encourage you to use it. You will need to register for your Athens user name and password which you can do when you use the URL given above. There are also many free databases for which you do not need a password.

You may at first find it a little daunting, but you should take the time to find your way around the password protected databases as some of the activities in this guide require you to use them.

To help you do this we have provided some online research exercises which you will find at: http://www.londonexternal.ac.uk/current_students/programme_resources/laws/research_exe/index.shtml

Although you do not need your password to access the information about these exercises, as many of them are centred around the password protected databases provided through the Online Library, you will need your Athens user name and password to actually tackle them. These exercises will take you through some of the databases in order to find cases and articles, and feedback is provided every step of the way in case you get lost.

Using the Online Library

You must get used to using the extensive facilities available in the University's Online Library, which is open 24 hours a day and free to use (apart from the cost of your telephone service).

The service, available at <http://www.external.shl.london.ac.uk/?id=law> is perhaps the best in the world. It contains huge numbers of law resources:

- ✓ cases (law reports)
- ✓ statutes
- ✓ articles and reports.

You will need your Athens name and password to access many of these. Write down the details here:

name:

password:

Plus there are extensive free access files, such as British Media On-line, where you can read the main UK newspapers and TV news.

For more information, see the 'Library' section of your *Learning skills for law* guide.

1.4.2 Structure of the guide

Each chapter follows the same basic structure:

- ▶ Title
- ▶ List of contents – main section headings
- ▶ Introduction – telling you what the chapter deals with
- ▶ List of 'learning outcomes' – the things you should be able to do after completing the chapter successfully
- ▶ The main text – divided into short sections
- ▶ Sample examination questions – these are the kind of questions you may have to answer in your exam. You are also given advice on how to answer them at the end of this guide
- ▶ Reflect and review page, where you can judge whether you are able to do what was stated in the chapter learning outcomes, what you need to revise, and whether you should continue to the next chapter.

1.4.3 How to proceed

For general advice on studying law courses and managing your study time, see the *Student handbook*. For advice on strengthening your command of the English language, see the *Learning skills for law* guide.

This guide takes you through the entire subject of public law in a logical and systematic way, with each chapter covering a particular topic or group of topics. It is based on the textbook *Constitutional and administrative law* (sixth edition) by Hilaire Barnett, who is the main author of this subject guide. References in the text to 'Barnett' are references to this textbook.

Much of your study time should be taken up reading the textbook, although it is also recommended that you study the cases in the law reports.

Working through a chapter of the subject guide

- 1 Begin each chapter of the subject guide by noting the contents and then reading the Introduction.
 - 2 Next you will see a heading 'Essential reading'. This tells you which parts of the textbook are required reading for the topic you are studying.
- ▶ Note: 'essential' means that you **must** read this material: this is where you will find the information that you will need to pass your exam. Do not skip the 'readings'.
 - ▶ You should read the readings **at the point** when they are referred to. As an example, this is what should happen when you read Chapter 11, 'Electoral law'.[†] After reading the Introduction you will see that the 'essential reading' is Chapter 13: 'The electoral system' of *Constitutional and administrative law* by Hilaire Barnett. You should read this chapter of Barnett before going any further into the subject guide. You will be told to read parts of it again later.
- 3 When you have finished reading Chapter 13 of Barnett, look at the list of 'learning outcomes' in the subject guide. Keep these in mind as you work through the rest of Chapter 11. You will be asked to reflect on these learning outcomes later.
 - 4 Now proceed to work through the sections of Chapter 11. In Chapter 11, section 11.1 immediately gives you some more essential reading: it is Barnett Chapter 13 again, but this time only pages 343–346. Read these pages again – carefully and in more detail.
- ▶ Make a note of anything you do not understand, and add any new words and phrases to your vocabulary index cards (see the *Learning skills for law* guide).
- 5 Now read the rest of section 11.1 and continue onto section 11.2.

You will need a workbook or ring binder for Public law. Use it to note down key ideas and additional information that you get from your reading.



[†] We are using Chapter 11 of this subject guide as an example only. You should study the chapters in their numerical order.

1.4.4 Learning by doing

You will of course learn a great deal from your reading, but reading is not enough. Solid long-term memory and understanding come from doing things with the facts and ideas that you encounter. For this reason, it is vital to work through the activities, self-assessment exercises and sample examination questions in the subject guide with care.

Activities

In sections 11.3 and 11.4, and at many other points in the subject guide, you will find 'activities'. These are exercises that are designed to help you learn and understand important issues. They do this by getting you to think about a question and devise a response. Activities will not have simple 'yes' or 'no' answers: often you will need to write down a few sentences, and in this way they also give you useful practice in using legal English. Feedback is provided at the end of the guide.

It is essential that you complete an activity before looking at the feedback.

Tackle each activity to the best of your ability, and then check the feedback. Reflect on how well you did. If your answer to the activity was incorrect or incomplete, think carefully about what went wrong. Do you need to re-read part of the textbook, or work through the subject guide chapter again?

'Self-assessment questions' are different. These are factual questions designed to test your memory of the chapter you have just worked through. You may find it useful to ask a friend, fellow-student or family member to test you on these questions. No feedback is given to SAQs because you can always find the answer somewhere in the text of the subject guide chapter.

Sample examination questions

Most chapters contain one or two sample examination questions. These are examples of the kind of questions that have been asked on the particular topic in previous years.

You should answer the examination questions fully. This will give you practice in presenting your knowledge and understanding of the topic in a thorough and integrated way. Think about each question. Ask yourself:

- ▶ What does this question relate to?
- ▶ What data do I need to answer it, in terms of theoretical approaches, case law and constitutional authorities?
- ▶ Is this a topic on which there are differing academic views?
- ▶ What is an appropriate balanced solution to the question?

Then read the 'advice on answering the questions' that follows. This will help you put together an effective answer. Spend 35–40 minutes writing your answer.

By writing down answers you will develop the skill of expressing yourself clearly and logically on paper. It will also help you to approach the examination at the end of the year. You need as much practice as possible in writing fluently and lucidly throughout the academic year.

Cases

Numerous cases are mentioned in the text, or listed as essential reading. These cases are not chosen at random: they are the important cases that have established or modified the law. You should read them in full whenever possible, and make notes in your Public Law notebook or ring binder. Here, making notes is the 'doing' element, which will help you learn.

Further reading

When you have completed your study of a section or chapter of the guide and textbook, check whether any 'useful further reading' is recommended. Particularly helpful is Professor C.R. Munro's *Studies in constitutional law*. Munro is not a textbook and does not cover the whole subject, but it contains a collection of critical and challenging essays on many of the most difficult areas of constitutional law. It can help you develop a more critical understanding of the subject.

1.4.5 Ten golden rules for studying public law

- 1** Learn each topic as you study it and revise frequently. Public law is not a subject that you can 'cram in' at the last minute.
- 2** Read each chapter in your textbook at least twice. What is unclear at first reading will often become clear on a second or subsequent reading.
- 3** Read as many of the important cases as you can. Textbooks have to summarise cases succinctly, and summarising can be an obstacle to understanding. You are more likely to understand a decision in a particular case if you have read the case yourself.
- 4** Read as much of the recommended further reading as you can. This will be important for essay questions in the examination.
- 5** Take full notes of what is said in lectures and tutorials, and of everything that you read – chapters in textbooks, articles and cases. Keep these notes in a notebook or ring binder so that you can add new material to each section as the need arises.
- 6** Read with a book of statutes at hand for reference. You are allowed to bring a statute book into the examination hall,[†] but you will not be able to use it effectively unless you are already familiar with its contents. Statutes are not easy to read, and you will need to take time over this, reading each section that your book or article refers to several times to ensure that you have grasped all its details.
- 7** Condense your own full notes into a skeleton set of notes. Your skeleton notes will be infinitely more valuable than someone else's, and are essential to ensure that you learn and revise properly. You will need a notebook or ring binder with separate sections for each topic that you learn.

[†] Please note: a list of the materials that you are permitted to take into the examination is given in the *Regulations*. You should check the current version for details.

When you have finished studying one topic in Public law, go through all your full notes and condense them into a pattern of propositions or steps in an argument set out under headings, sub-headings and any further divisions that are convenient. Do this at first on rough paper so that you can find the best way of setting things out and of summarising your full notes. Then copy your final version onto a right-hand page of your notebook or ring binder, making sure you add the names of the cases and statutory references that support each proposition. On the left-hand page summarise each case referred to on the right-hand page in not more than three or four lines. When you have done that, put your skeleton notes aside, take some more rough paper, and see if you can write out from memory what you have just written. Check it with the skeleton and, if need be, repeat the exercise until you have the whole section clearly in your memory.

8 Practise answering the sample examination questions. Begin by looking up as much as you need to answer the question. Make any notes you think necessary, including a framework for an answer. Then put your notes aside and try to write your answer in 35–40 minutes. Later, choose another question and try to answer it in the same period of time, but without any preliminary reading. Make a plan for your answer as part of the ‘unseen’ exercise within the 35–40 minute period.

9 Keep up to date. To some extent, every textbook is out of date as soon as it appears in the bookshops because the law is constantly changing. Read the law reports in *The Times* and the appropriate law journals (see section 1.4.1 above). Decisions of the European Court of Human Rights, with other human rights materials, are available at www.echr.coe.int/hudoc.

Refer to the Companion web site:
www.routledgecavendish.com/textbooks/1845680332, which is updated approximately every three months.

10 See the law in action. What you read in books or hear about in lectures will often make more sense if you can go to see proceedings in court.

Developing skills

There are three aspects to producing a good answer to problem and essay questions:

- ✓ knowledge
- ✓ understanding – including a critical appreciation of the issues
- ✓ effective framing of your answers.

The skills involved in framing an answer to an essay or a problem question are as important as knowledge. Indeed, knowledge is almost useless unless you know how to organise and deliver it effectively.

The ‘golden rules’ in this section will help you – and so will the advice given in the *Learning skills for law* guide.

Above all, **practise your skills**. Answer activities and sample essay questions in full, in writing, and do so in good legal English. Write mini-essays or full exam-type essays in response to questions like ‘Should all or any of the conventions of the constitution be given statutory force?’ in Chapter 3.

Athletes need to practise to ensure good performance in competitions. A law student’s mental fitness will ensure good results in examinations.

1.4.6 How do we assess the quality of learning and thinking?

Your diverse learning about public law issues will enable you to develop a deeper understanding of the field. Your examiners will want to distinguish between deep and surface approaches to learning. A surface approach would rely almost entirely on memory of facts, and perhaps any ability to recall ‘model answers’ to a few central questions.

But facts without understanding and analysis will not impress the examiners. Examiners will assess you through more demanding criteria. They will ask:

- ▶ Is the student engaging in critical thinking to the depth or extent required?
- ▶ How thorough is their attempt to apply and evaluate ideas and theories?
- ▶ Are they showing sufficient inventiveness and flexibility?
- ▶ Do they really understand basic concepts?
- ▶ When engaged in evaluation and making judgments, are they generating appropriate and viable alternatives, enough data on the outcomes of those alternatives, and sufficiently rigorous criteria for judging those outcomes?

The outcomes of a deep approach to learning usually include an in-depth understanding of content, the ability to use what has been learnt to describe, interpret, predict and theorise about events and the ability to formulate new insights and new ways of defining and approaching problems. These are usually regarded as the proper outcomes of a higher education.

1.4.7 Study time

You should set aside a specific amount of time each week to study this subject, increasing the amount in the six weeks before the examination. Remember, though, that individuals vary greatly in their needs; the time to stop studying is when you know the topic thoroughly, and not until then. It is very important to plan your time carefully. Do not forget to leave time every week and month for revision in addition to the period before the examination. Revision must be a continuous process.

1.5 The portfolio/learning journal

One of the key elements in demonstrating these skills will be your portfolio. Throughout this guide you will notice certain portfolio prompts. In the University of London programme we have a specific portfolio – the *Skills portfolio* – that any student who wishes to obtain a Qualifying Law Degree for England and Wales must develop and present for assessment in their final year. This is to ‘demonstrate’ the subject-specific and transferable skills that we expect you to attain. You may feel that you have these skills, but the point is to formally demonstrate them in an assessed mode. From your second year you should use the online e-portfolio system to compile your evidence base and reflection on your evidence. However, your Public law notebook, ring binder or learning journal will always support your learning, whether or not you are going to submit your *Skills portfolio* for assessment. Making entries in your notebook or ring binder will give you an opportunity to reflect on your learning, to map out the process and gauge whether you are meeting the learning outcomes for the subject.

The important aspect here is reflection: in the other first year subject guides you may find reflection prompts rather than portfolio prompts, but what unites these is the belief that reflection is necessary for authentic self-understanding and learning processes that last.

Throughout the guide we will give prompts, indicated by this symbol: 

1.6 The examination

ESSENTIAL READING:

- *A guide to examination technique.*

1.6.1 General advice

At the end of the academic year there is the examination. If you have worked consistently and well throughout the year this should not be too daunting. All you are being asked to do is demonstrate to the Examiners that you have mastered the subject to the required standard; you will be able to do this if you have undertaken sufficient study throughout the year. Where too many students go wrong is to think that they only have to study and revise four, five or six topics. That is a mistake. The topic you were relying on may not appear on the examination paper, or it may appear, but in a way which you are not expecting. You may therefore not have the confidence to attempt an answer. Or one topic might be combined with another and you find that you have only revised half the question. If you have worked conscientiously and covered the syllabus fully you will not fall into any of these difficulties.

Having said that, it is not necessary to revise the entire syllabus. There may be one or two topics that you just cannot get to grips with. If that is the case, then look at the topic intelligently and ask yourself whether it is sufficiently unrelated to other topics to safely leave it out of consideration for the examinations. But be careful: so much of public law hangs together and cannot be compartmentalised. In particular, you cannot hope to pass without a good grounding in the basic principles of the constitution considered in the first part of the guide.

1.6.2 The format of the examination

Important: the information and advice given in the following section are based on the examination structure used at the time this guide was written. However, the University can alter the format, style or requirements of an examination paper without notice. Because of this we strongly advise you to check the instructions on the paper you actually sit.[†]

The examination usually comprises eight questions. Many of these are essay questions, which require you to show knowledge of the law and a critical approach to the law. Others are problem questions which require you to apply the law to a given factual situation.

To cope with problem questions successfully, you must be able to see what issues arise on the facts and advise on them accurately and succinctly, referring always to the sources of law upon which you rely for your conclusions. The law may well be uncertain. If so, you must explain why, and then choose what you believe to be the decision most likely to be made by the court, giving reasons for your choice.

In general, you must be aware of major proposals for reform of the law. You must also show a capacity for independent thought. It follows that during your studies you should:

- ▶ think for yourself about the persuasiveness of the arguments put forward in what you read
- ▶ 'read around' the topic
- ▶ discuss problems with your tutor or lecturer
- ▶ discuss problems with fellow students.

[†] Instructions on an examination paper are called the 'rubric'.

1.6.3 Statute books

A list of the materials that you are permitted to take into the examination is given in the *Regulations*. You should check the current version for details.

1.6.4 Ten golden rules for developing examination technique

- 1 Prepare thoroughly.** In particular, practise doing the sample examination questions at the end of each chapter.
- 2 Read the exam paper carefully.** Choose the four questions that you want to answer, and make a rough allocation of time.
- 3 Once you have chosen your four questions, make rough notes on the answers to all four questions** before you begin to write a full answer to any of the questions. We do not always remember all the information that we have learned. If you adopt this plan, you give your memory the maximum opportunity to remember what you need for all the questions.
- 4 Answer the question set.** This is particularly applicable to essay questions, and it involves two prohibitions.
First, do not just write all you know about the topic. Very little, if any, credit will be given for that. Each question will have a particular 'slant' or 'angle' which requires careful thought and the selection of relevant information and knowledge.
Second, do not write an essay about a different topic. At the root of both of these faults is a failure to prepare properly. You do not prepare properly by 'question-spotting'.
- 5 Write tidily and legibly.** If you practise writing questions under examination conditions during your studies, you should find that you are able to write at speed, but also tidily and legibly, in the examination.
- 6 Follow the instructions on the front page of the answer book.** The instruction that candidates most commonly fail to obey is the one that tells them to tie in any extra pages at the end of the book, **inside the back cover**. Do not write in the space reserved for Examiners. Remember to fill in the numbers of the questions you have attempted in the **order in which they were attempted – not in numerical order**.
- 7 Do not write notes to the examiner.** It is pointless to write, for example, 'No time for more' at the end of the last question; the Examiner can see that for themselves.
- 8 Do not write too much or too little.** In particular, remember that you are allowed to bring a statute book into the examination hall to **give you more time to answer the questions effectively**. You are not expected to spend time reproducing substantial extracts from statutes. You will gain no credit for doing so, and you will lose the time required to write a good answer, so you will lose marks as well. Good planning of your time at the start of the exam should prevent you from writing too much on one question at the expense of the other questions. So should attention to the question, which itself will impose limits on what has to be covered. Of course, the careless or badly prepared student who settles down to write all they know about a particular subject is likely to end up writing far too much and failing. As a rough guide, a minimum of two sides of A4 paper and a maximum of six to eight sides should be enough for a good answer. This, of course, assumes that you write, as you should, on every line, and that your handwriting is not over-large.
- 9 Refer appropriately to cases to support your propositions of law.** When doing so, show some knowledge of the facts but only to the extent necessary. Where you are citing one or more cases as authority for a particular principle it is sufficient to place the case name(s) and date(s) in brackets. For example, 'The third principle relating to parliamentary sovereignty is that the judges will not question the validity of an Act of Parliament (*Pickin v BRB*, 1974)'. Underline case names by all means, but not references to statutes or anything else. Do not use highlighting materials. Spell the names of cases correctly. If you read the cases and note them properly, this should not be a problem.
- 10 The final piece of advice is a reminder to read the question carefully.** You must answer the question the Examiner has asked, not some variation on this. Irrelevant material will not earn any marks. Thus in Chapter 11, Sample Examination Question 2 asks you to write about the simple majority voting system and possible alternatives to it. But it asks you three specific questions in relation to that subject. Can you see what they are?

Good luck!

Hilaire Barnett and Marinos Diamantides

