

## Higher National Unit specification

### General information for centres

**Unit title:** Administrative Law

**Unit code:** F1A4 34

**Unit purpose:** This Unit is designed to provide candidates with an understanding of administrative law and its function within public administration in Britain. It is primarily intended for candidates who expect to take up employment in the delivery of public services within the United Kingdom.

On completion of the Unit the candidate should be able to:

- 1 Explain the nature of, and constitutional issues affecting the British Constitution.
- 2 Explain the process of Judicial Control of administrative action.
- 3 Explain the functions of Tribunals and Inquiries and the Council on Tribunals.
- 4 Research the role of the Offices of Ombudsman in relation to maladministration.

**Credit points and level:** 2 HN credits at SCQF level 7: (16 SCQF credit points at SCQF level 7\*)

*\*SCQF credit points are used to allocate credit to qualifications in the Scottish Credit and Qualifications Framework (SCQF). Each qualification in the Framework is allocated a number of SCQF credit points at an SCQF level. There are 12 SCQF levels, ranging from Access 1 to Doctorates.*

**Recommended prior knowledge and skills:** Access to this Unit is at the discretion of the centre. However, candidates would normally be expected to have competence in Communication at SCQF level 6 or equivalent. It is also recommended that the candidate has previous knowledge of the legal system together with an understanding of delegated legislation and it would therefore be advantageous for candidates to have completed the HN Unit F1A7 34 *Scottish Legal System* which covers these areas.

**Core Skills:** There are opportunities to develop Core Skills of communication at SCQF level 6 and Problem Solving at SCQF level 5 in this Unit, although there is no automatic certification of Core Skills components.

**Context for delivery:** If this Unit is delivered as part of a Group Award, it is recommended that it should be taught and assessed within the subject area of the Group Award to which it contributes.

**Assessment:** The whole of the Unit will be assessed holistically, with two assessments covering all four Outcomes. The first assessment will take the form of written and/or oral responses to structured questions which will sample the knowledge and skills required in all four Outcomes. The second assessment will take the form of a case study or case studies with structured questions, producing a report which will sample the knowledge and skills required in Outcomes 3 and 4.

## **Higher National Unit specification: statement of standards**

**Unit title:** Administrative Law

**Unit code:** F1A4 34

The sections of the Unit stating the Outcomes, Knowledge and/or Skills, and Evidence Requirements are mandatory.

Where evidence for Outcomes is assessed on a sample basis, the whole of the content listed in the Knowledge and/or Skills section must be taught and available for assessment. Candidates should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion.

### **Outcome 1**

Explain the nature of, and constitutional issues affecting the British Government

#### **Knowledge and/or Skills**

- (a) British constitution:
  - ◆ Characteristics
  - ◆ Legal and non-legal sources
  - ◆ Key principles
  - ◆ Human Rights issues affecting citizens
- (b) British Government:
  - ◆ Effects of devolution
  - ◆ Impact of European Union membership

### **Outcome 2**

Explain the process of Judicial Control of administrative action

#### **Knowledge and/or Skills**

- (a) Process of Judicial Review:
  - ◆ Preliminary conditions
  - ◆ Remedies
  - ◆ Application
- (b) Principles of procedural and substantive ultra vires:
  - ◆ Procedural
  - ◆ Substantive

## **Higher National Unit specification: statement of standards (cont)**

**Unit title:** Administrative Law

### **Outcome 3**

Explain the functions of Tribunals and Inquiries and the Council on Tribunals

#### **Knowledge and/or Skills**

- ◆ Role and functions of Tribunals
- ◆ Role and functions of Inquiries
- ◆ Role and functions of the Council on Tribunals
- ◆ Relevant reports, case law and legislation

### **Outcome 4**

Evaluate the role of the Offices of Ombudsman in relation to maladministration

#### **Knowledge and/or Skills**

- ◆ Role of the Parliamentary Commissioner for Administration
- ◆ Role the Scottish Public Services Ombudsman
- ◆ Relevant current legislation and case law

### **Evidence Requirements for this Unit**

Candidates will be required to provide written or oral evidence of knowledge of the law by:

- (i) answering structured questions sampling across all 4 Outcomes to show that they can explain the law
- (ii) providing written or oral evidence of being able to apply their knowledge by evaluating the role of the Ombudsman in a minimum of one case of maladministration

For (i) the sampling of knowledge could be achieved by providing structured questions sampling across all four Outcomes to include all of the following:

- ◆ In Outcome 1, any two topics from Item (a) and one topic from Item (b)
- ◆ In Outcome 2, one topic from both items (a) and (b)
- ◆ Any one topic from the knowledge and/or skills from either Outcome 3 or Outcome 4

This assessment should be carried out under supervision, with the candidate being allowed one A4 sheet of notes, to be completed within a period of approximately 1.5 hours. One error will be allowed over all four Outcomes.

Candidates should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion.

For (ii), the candidate will be provided with at least one scenario or statement requiring him/her to prepare a report in response to specific questions for the situation identified, evaluating the Ombudsman's role and the decision taken in the scenario. The report will include sources, research notes and identify relevant legislation and case law to illustrate the candidate's argument. The report should be approximately 1,500 words in length and will be carried out by the candidate as a practical home based exercise over a period of time negotiated with the lecturer, with access to all relevant materials.

## **Higher National Unit specification: statement of standards (cont)**

**Unit title:** Administrative Law

### **Assessment Guidelines for this Unit**

For the first assessment a case study or case studies could be provided with structured questions covering the relevant knowledge and skills required. If preferred the candidate could be given structured questions which they require to explain without the use of case studies. The candidate will be allowed access to one A4 sheet of notes but will not be allowed access to text books. Where case studies are provided, the candidate will be given the case studies seven to ten days prior to the assessment event, but are not allowed access to the questions they will be asked prior to assessment. Where the assessment is simply structured questions without the use of case studies, the candidate will not be allowed access to the questions prior to assessment.

For the second assessment, a short scenario or statement could be provided as a basis for the assessment and be devised in such a way as to provide candidates with an opportunity to demonstrate their ability to evaluate the topics listed in the knowledge and/or skill section.

It is recommended that a time limit for submission of the assessment is applied and adhered to.

If the evidence is presented in an oral format, this should be recorded.

## Administrative Information

**Unit code:** F1A4 34  
**Unit title:** Administrative Law  
**Superclass category:** EC  
**Original date of publication:** March 2007  
**Version:** 01

### History of changes:

Version	Description of change	Date

**Source:** SQA

© Scottish Qualifications Authority 2007

This publication may be reproduced in whole or in part for educational purposes provided that no profit is derived from reproduction and that, if reproduced in part, the source is acknowledged.

SQA acknowledges the valuable contribution that Scotland's colleges have made to the development of Higher National qualifications.

Additional copies of this Unit specification can be purchased from the Scottish Qualifications Authority. Please contact the Customer Contact Centre for further details, telephone 0845 279 1000.

## Higher National Unit specification: support notes

### Unit title: Administrative Law

This part of the Unit specification is offered as guidance. The support notes are not mandatory.

While the exact time allocated to this Unit is at the discretion of the centre, the notional design length is 80 hours.

### Guidance on the content and context for this Unit

This Unit is primarily intended to give candidates an understanding of administrative law and its significance for the delivery of public services in the United Kingdom.

The following areas should be covered:

#### Outcome 1

- ◆ Characteristics of the British Constitution — written, unwritten, flexible, rigid
- ◆ Sources of the Constitution — statute law, common law, royal prerogative, parliamentary privilege, conventions, authoritative writings
- ◆ Key Principles of the British Constitution, ie
  - Rule of Law
  - Separation of Powers
  - Parliamentary Supremacy
- ◆ Human Rights — relevant legislation (Human Rights Act 1988)
- ◆ Devolution — role of Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly; relevant legislation (Scotland Act 1998, Government of Wales Act 1998, Northern Ireland Act 1998)
- ◆ Impact of EU membership — relevant legislation (European Communities Act 1972), and relevant case law

#### Outcome 2

- ◆ Process of Judicial Review — preliminary conditions/remedies/ application
- ◆ Principle of Ultra Vires — difference between procedural and substantive and relevant case law

#### Outcome 3

- ◆ Relevant reports, case law and legislation — The Franks Report 1957, Tribunals and Inquiries Act 1992

#### Outcome 4

- ◆ Functions of office of Ombudsman — roles, jurisdiction, strengths and weaknesses
- ◆ The Parliamentary Commissioner for Administration, relevant legislation (PCA 1967 and PCA 1994) and case law
- ◆ The Scottish Public Services Ombudsman, relevant legislation (SPSA 2002) and case law

The content of this Unit should be updated as changes in legislation take place.

## Higher National Unit specification: support notes (cont)

**Unit title:** Administrative Law

### Guidance on the delivery and assessment of this Unit

Outcomes should be delivered in the order given to enable candidates to develop a logical and structured understanding of administrative law and its functioning.

Delivery of this Unit should encourage application of the law rather than mere explanation. This can be achieved by the use of case studies or scenarios which allow the candidates to demonstrate their knowledge and understanding of the law and its application.

Candidates should be encouraged to carry out independent research. Candidates should be directed to relevant websites and be expected to keep up-to-date with current matters via the media. Candidates should also be given the opportunity to inspect copies of relevant Acts, Statutory Instruments and Bye-laws.

Where possible, interviews with relevant practitioners and/or visits to a civil court, a tribunal or the Scottish Parliament will benefit candidates and will provide them with an insight into the operation and significance of law in public administration.

#### *Opportunities for developing Core Skills*

This Unit provides a range of opportunities for developing Core Skills. The extent of development will depend on this learning opportunities chosen by the candidate or the delivery and assessment methods selected by the tutor.

**Communication** — the delivery and assessment of this Unit may contribute towards the component *Written Communication* at SCQF level 6. The general skill for this component is ‘Produce well-structured written communication on complex topics’ and this can be developed in the written responses to all Outcomes. If candidates choose to give evidence in oral format then the oral component ‘Produce and respond to oral communication on a complex topic’ can be developed.

In both formative and summative assessment candidates should be encouraged to present all essential ideas/information and supporting detail in a logical and effective order; use a structure that takes account of purpose and links major and minor points in ways which assist the clarity and impact of the writing; use conventions which are effective in achieving the purpose and use spelling, punctuation and sentence structures that are consistently accurate.

Candidates should be encouraged to use an appropriate referencing method for the Outcome 3 and 4 report.

**Problem Solving** — This Core Skills will be developed at SCQF level 5 throughout this Unit particularly in planning the tasks (especially Outcomes 3 and 4). Tutors should encourage learners to explore appropriate strategies for managing their time and evaluating the considerable amount of data available on the topics contained within this Unit.

## **Higher National Unit specification: support notes (cont)**

**Unit title:** Administrative Law

### **Open learning**

This Unit is suitable for open and distance learning delivery. The assessment strategy and guidelines described in this Unit specification must still be applied if this method of delivery is chosen. For further information and advice please refer to the SQA document *Assessment and Quality Assurance for Open and Distance Learning* which is available on SQA's website: [www.sqa.org.uk](http://www.sqa.org.uk).

### **Candidates with disabilities and/or additional support needs**

The additional support needs of individual candidates should be taken into account when planning learning experiences, selecting assessment instruments, or considering alternative Outcomes for Units. Further advice can be found in the SQA document *Guidance on Assessment Arrangements for Candidates with Disabilities and/or Additional Support Needs* ([www.sqa.org.uk](http://www.sqa.org.uk)).



## General information for candidates

### Unit title: Administrative Law

This Unit will give you an understanding of the importance of administrative law and its role/significance for the delivery of public services in the United Kingdom. You will become aware of how individuals may be affected by administrative powers - whether that is in local government, housing, licensing, etc. You will focus on methods of controlling administrative actions as well as on the institutions and procedures available which provide redress for an individual's grievance.

In **Outcome 1** you will learn about the nature of the British Constitution by being introduced to the nature of a constitution, in other words, what it is, what it does and its characteristics. The British Constitution has been created from a number of sources and you will be able to identify all of the different sources. You will also learn about the three key principles of the British Constitution.

You will develop your knowledge and understanding of the British Constitution, by extending it to matters such as Devolution, Human Rights and the European Union.

**Outcome 2** looks at the process of Judicial Review. You will learn about the actual procedures that have to be followed in an application for Judicial Review as well as the possible remedies that may be sought and be able to identify the two types of ultra vires action.

In **Outcome 3** you will learn about the functions of Tribunals and Inquiries and the Council on Tribunals. You will be introduced to important reports and pieces of legislation that have had a profound effect on the functioning of the tribunal and inquiry system.

In **Outcome 4** you will look at the role and jurisdiction of the Offices of Ombudsman namely that of the Parliamentary Commissioner for Administration and the Scottish Public Services Ombudsman.