Public Law 1

View Online

94 items

Reading Materials (9 items)

We have not chosen one set text book but have recommended a range that are available in the library because of their combination of scholarship and accessibility. You will sometimes be directed to readings from these text books particularly the first two:

Public law: text, cases, and materials, by A. P. Le Sueur; Maurice Sunkin; Jo Eric Murkens, 2016
Book | Core (Must Read)

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland; EBL (Ebook library), 2012
Book | Core (Must Read) | E-Book

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland, 2015
Book | Core (Must Read)

Constitutional and administrative law, by A. W. Bradley; K. D. Ewing; Christopher Knight, 2015
Book | Core (Must Read)

British government and the constitution: text and materials, by Colin Turpin; Adam Tomkins, 2012
Book

British government and the constitution: text and materials, by Colin Turpin; Adam Tomkins, 2012
Book | Core (Must Read)

Public Law
Journal | Core (Must Read)

The changing constitution, by Jeffrey L. Jowell; Dawn Oliver; Jeffrey Jowell, 2011
Book | Recommended (Should Read)

Autumn term.

Seminar 1 Introducing Public Law (2 items)
Week 2

Reading (2 items)

You will be given in the seminar a short news item relevant to Public Law. You will be asked to read it in the seminar. The seminar leader will then lead a discussion on the topic and invite comments from students.

UK Human Rights Blog
Website | Core (Must Read)

Blog | UK Constitutional Law Association | affiliated to the IACL
Webpage | Core (Must Read)

Seminar 2 Models of Democracy I (3 items)

Week 3

Preparation (1 items)

Models of democracy, by David Held, 2006
Book | Core (Must Read) | pages 1-8 (from the Introduction) and
Chapter 3, (pages 56-66) 'The Development of Liberal Democracy: For and Against the State' (It is recommended you read the whole chapter which you will be required to do for the next seminar).

These extracts can be found in the Public Law 1 materials pack.

Further Reading (2 items)

Our republican constitution, by Adam Tomkins, 2005
Book | Background (Could Read) | pp 67-87

Models of democracy, by David Held, 2006
Book | Background (Could Read) | Chapters 2 and 4.

Seminar 3 Models of government II (3 items)

Week 4

Preparation (1 items)

Models of democracy, by David Held, 2006
Book | Core (Must Read) | Chapter 3, (pages 65-95) 'The Development of Liberal Democracy: For and Against the State'.

Further Reading (2 items)

Our republican constitution, by Adam Tomkins, 2005
Book | Background (Could Read) | pp. 67-87

Models of democracy, by David Held, 2006
Book | **Background (Could Read)** | Chapters. 2 and 4.

Seminar 4 Rule of Law (6 items)
Week 6

Preparation (4 items)

The Rule of Law and its Virtue - in Law quarterly review, by Joseph Raz, 1977
Article | **Core (Must Read)** | Log in needed for Westlaw.

THE RULE OF LAW - in The Cambridge Law Journal, by Lord Bingham, 2007-3
Article | **Core (Must Read)**

A v SSHD [2006] 2 AC 221 (Torture case). You will also be required to read Lord Bingham's dissenting judgment for next week's seminar.

(All these texts are in the Materials Pack).

Further Reading: (2 items)

Models of democracy, by David Held, 2006
Book | **Background (Could Read)** | Chapter 5.

Lord Bingham, 'The Rule of Law and the Sovereignty of Parliament', Lecture given at Kings College, London, 31st October 2007. (This is in the materials pack and on moodle).

Seminar 5 Rule of Law and its limits (3 items)
Week 7

Preparation (2 items)

A v SSHD [2006] 2 AC 221 (Torture case). You must read Lord Hope's majority decision and also Lord Bingham's judgment

The strange alchemy of life and law, by Albie Sachs, 2011
Book | **Core (Must Read)** | Ch. 1

Further Reading (1 items)

The changing constitution, by Jeffrey L. Jowell; Dawn Oliver, 2011
Book | **Background (Could Read)** | The Rule of Law

Seminar 6 Parliamentary Sovereignty (5 items)
Week 8

Preparation (3 items)

Lord Bingham, 'The Rule of Law and the Sovereignty of Parliament', Lecture given at Kings College, London, 31st October 2007. **A v Secretary of State for the Home Department [2005] 2 AC 68 (Belmarsh Case). Baroness Hale's judgment from pp 170-175. Both texts are in the materials pack.**

Public law: text, cases, and materials, by A. P. Le Sueur; Maurice Sunkin; Jo Eric Murkens, c2013
Book | **Core (Must Read)** | Chapter 2

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland, 2015
Book | **Core (Must Read)** | Chapter 2

Further Reading (2 items)

Jackson and others (Appellants) v. Her Majesty's Attorney General (Respondent) **[2005] UKHL 56. (In the materials pack)**
A v Secretary of State for the Home Department [2005] 2 AC 68 (Lord Bingham's judgment). (In the materials pack)

The changing constitution, by Jeffrey L. Jowell; Dawn Oliver, 2011
Book | **Background (Could Read)** | The Principle of Parliamentary Sovereignty in Legal, Constitutional and Political Perspective

Seminar 7 The Royal Prerogative (7 items)
Week 9

Preparation (6 items)

The nature of the crown: a legal and political analysis, by Maurice Sunkin; Sebastian Payne, 1999
Book | **Core (Must Read)** | The Royal Prerogative

The nature of the Crown: a legal and political analysis, by Maurice Sunkin; Sebastian Payne , 1999
Book | Core (Must Read) | E-Book The Royal Prerogative

R v Secretary of State for the Home Department, ex parte Northumbria Police Authority [1989] 1 QB 26 (CA)

Public law: text, cases, and materials, by A. P. Le Sueur; Maurice Sunkin; Jo Eric Murkens, 2016
Book | Core (Must Read) | Chapter 9

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland; EBL (Ebook library), 2012
Book | Core (Must Read) | E-Book Chapter 4

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland; EBL (Ebook library), 2012
Book | Core (Must Read) | Chapter 4

Further Reading (1 items)

Lord Hoffman's judgment in Bancoult v Foreign Secretary (No 2) (HL) (2009) 1 AC 453 (available in the Materials Pack)

Seminar 8 Assessment one, Drop in session(1 items)

Preparation and Questions for Seminar 8 (week 11)to be handed out prior to seminar.

Seminar 9 Sovereignty and the EU(8 items)

Preparation (3 items)

Read and prepare a written case note on: Thoburn -v- Sunderland City Council [2002] EWHC 195 (Admin), [2003] QB 151. (Available on moodle but we suggest you use westlaw or Lexus to look find it independently). You will be required to show your written case note to your seminar leader.

The changing constitution, by Jeffrey L. Jowell; Dawn Oliver; Jeffrey Jowell, 2011
Book | Core (Must Read) | chapter 6 (materiasls pack)

Public law: text, cases, and materials, by A. P. Le Sueur; Maurice Sunkin; Jo Eric Murkens, 2016

Book | Core (Must Read) | chapters 8 and 12

Further Reading (5 items)

In the name of European Law: the Metric Martyrs case - in European Law Review, by Sophie Boyron, 2002
Article | Background (Could Read) | Find on westlaw

And some fell on stony ground" - a review of Giandomenico Majone's Dilemmas of European Integration - in European Law Review, by Michael Dougan, 2006
Article | Background (Could Read) | Find on westlaw

The constitutionalisation of the European Union: discourse, present, future and facts - in European Law Review, by Arthur Dyevre, 2005
Article | Background (Could Read)

Metric Martyrs and Martyrdom by Henry VIII clause - in Law Quarterly Review, by Geoffrey Marshall, 2002
Article | Background (Could Read)

The Metric Martyrs and the Entrenchment Jurisprudence of Lord Justice Laws - in Public Law, by James Young, 2002
Article | Background (Could Read)

Seminar 10 - Devolution (8 items)

Preparation (3 items)

Public Law: Text, Cases, and Materials, by Sunkin; Andrew Le Sueur, 2019
Book | Core (Must Read) | chapter 5

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland, 2018, ©2018
Book | Core (Must Read) | pages 421-442

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www.gov.uk The UK Government. Enter devolution as a term.

www.assemblywales.org National Assembly for Wales

www.niassembly.gov.uk Northern Ireland Assembly

www.northernireland.gov.uk Northern Ireland Executive

www.scottishparliament.uk Scottish Parliament

www.scotland.gov.uk Scottish Government

www.wales.gov.uk Welsh Assembly Government

Further Reading (5 items)

Beyond the Unitary Conception of the United Kingdom Constitution - in Public law, by Neil Walker, 2000
Article | **Background (Could Read)**

The Politics of the British Constitution - in Public law, by Keith Ewing, 2000
Article | **Background (Could Read)**

The changing constitution, by Jeffrey L. Jowell; Dawn Oliver, 2011
Book | **Background (Could Read)** | Scottish Devolution: Developing Practice in multi-layer governance

The changing constitution, by Jeffrey L. Jowell; Dawn Oliver, 2011
Book | **Background (Could Read)** | Northern Ireland and the British Constitution since the Belfast agreement'

The changing constitution, by Jeffrey L. Jowell; Dawn Oliver, 2011
Book | **Background (Could Read)** | Devolution and the Changing Constitution: Evolution in Wales and the Unanswered English Question'

Seminar 11 – European Convention on Human Rights (7 items)

Preparation (7 items)

Public Law: Text, Cases, and Materials, by Sunkin; Andrew Le Sueur, 2019
Book | **Core (Must Read)** | ECHR in the textbooks either pages 179-185

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland, 2018, ©2018
Book | **Core (Must Read)** | pages 588-594

Read the ECtHR decision Hirst v. UK (No 2)

Public Law: Text, Cases, and Materials, by Sunkin; Andrew Le Sueur, 2019
Book | **Core (Must Read)** | pages 196-202

Public Law: Text, Cases, and Materials, by Sunkin; Andrew Le Sueur, 2019
Book | **Core (Must Read)** | pages 704-707

Learn the ECHR rights, as listed in the textbooks or in the ECHR document on moodle – you will need to be familiar with these for several other modules throughout your degree.

NB: You are required to find the cases yourselves via Lexus or Westlaw

Seminar 12 – Human Rights Act: What is public? What is private? And why does the difference matter to public lawyers? (9 items)

Preparation (3 items)

- The House of Lords decision in YL (by her litigation friend the Official Solicitor) (FC) (Appellant) v. Birmingham City Council and others (Respondents) [2007] UKHL 27. In particular read:

- The headnote
- paragraphs 38 – 48 in which Baroness Hale very clearly set out the facts of the case, the introductory and concluding paragraphs to each of the opinions and 7paragraphs 3 -75
- Lord Bingham's judgment paragraphs 1 & 2 and paragraphs 19 & 20;
- Lord Scott's judgment paragraphs 21 & 22 and paragraphs 33 – 35;
- Lord Mance paragraphs 76 – 78 and paragraph 123;
- Lord Neuberger paragraphs 124 – 126 and paragraph 170

AND two opinions in full – chose one from the majority and one from the minority.

Chapter 3 of The Meaning of Public Authority under the Human Rights Act, Ninth Report of Session 2006–07 Joint Committee on Human Rights (JCHR) (in materials pack)

Further reading (6 items)

· Read the case in full ensuring that you understand how each of the judges reaches his or her decision

· Read a case note on YL, for instance 'YL v Birmingham City Council: contracting out and "functions of a public nature"' Alexander Williams.

· E.H.R.L.R. 2008, 4, 524-531 (you can link to this via Westlaw)

Law and administration, by Carol Harlow; Richard Rawlings; Daswsonera, 2009
Book | Background (Could Read) | chapter 2 'The changing state'

The Human Rights Act and Private Law - in Law quarterly review, by Buxton, 2000
Article | Background (Could Read) | (for the argument against horizontal effect of Convention rights)

Horizons of Horizontality - in Law quarterly review, by H R W Wade, 2000
Article | Background (Could Read)

The 'horizontal effect' of the Human Rights Act - in Public law, by M Hunt, 1998
Article | Background (Could Read)

Cases & materials on constitutional & administrative law, by Brian Thompson; Michael Gordon, 2014
Book | Background (Could Read) | Ch. 9

Seminar 13 – Policing demonstrations in the United Kingdom (1 items)

Preparation (1 items)

Read the House of Lords decision Austin v Commissioner of Police of the Metropolis [2009] UKHL 5 [2009] 1 AC 564

Read the ECtHR decision Austin v UK 15th March 2012

Read R (on the application of Moos and McClure) v Commissioner of Police of the Metropolis [2011] EWHC 957 and the Court of Appeal decision, R (McClure and Moos) v Commissioner of Police of the Metropolis [2012] EWCA Civ 12

Of kettles, cordons and crowd control – Austin v Commissioner of Police for the Metropolis and the meaning of 'deprivation of liberty' David Mead, European Human Rights Law Review

Helen Fenwick: An appeasement approach in the European Court of Human Rights? http://ukconstitutionallaw.org/2012/04/05/helen-fenwick-an-appeasement-approach-in-the-european-court-of-human-rights/

(All the readings are in your materials pack except the cases which you can find via lexus or westlaw)

Ensure that you know what Article 5 of the ECHR provides. The study guide to the Human Rights Act provided with your ELS materials will help. Lord Hope's opinion sets out Article 5 at para 12. See if you can find the JCHR's reflections upon kettling.

Seminar 14 – The Preliminaries of Judicial Review including Standing (4 items)

Preparation (3 items)

Public Law: Text, Cases, and Materials, by Sunkin; Andrew Le Sueur, 2019
Book | **Core (Must Read)** | pages 681-704 from chapter 16

Regina v H.M. Inspectorate of Pollution and Ministry of Agriculture, Fisheries and Food [1994] 2 C.M.L.R. 548

Public law in a multi-layered constitution, by Nicholas Bamforth; Peter Leyland, 2003
Book | **Core (Must Read)** | Chapter 15 (in the materials pack)

Further reading (1 items)

- R v Secretary of State for the Environment, ex p Rose Theatre Trust [1990] 1 QB 504
- **R v Secretary of State for Foreign Affairs ex p World Development Movement Ltd [1995] 1 WLR 386**
- **R v Somerset County Council and ARC Southern Ltd, ex p Dixon [1997] JPL 1030**

Seminar 15 – The Grounds of Judicial Review – Illegality and Procedural Impropriety (4 items)

Preparation (3 items)

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland, 2018, ©2018
Book | **Core (Must Read)** | pages 704 -745 of chapter 16

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland, 2018, ©2018
Book | **Core (Must Read)** | pages 445-458

Council of Civil Service Unions v Minister for the Civil Service **[1985] AC 374 (N.B : this case is often referred to as the GCHQ case although the full citation is as given)**

Further Reading (1 items)

GCHQ revisited, Public Law Jan 2010 Sir Louis Blom-Cooper & Richard Drabble

Seminar 16 - Grounds of Review - Irrationality and Proportionality (4 items)

Preparation (3 items)

Public Law: Text, Cases, and Materials, by Sunkin; Andrew Le Sueur, 2019
Book | Core (Must Read) | Chapter 16

Constitutional law, administrative law, and human rights: a critical introduction, by Ian Loveland, 2018, ©2018
Book | Core (Must Read) | pages 464-473

- Read the following cases:

Wheeler v Leicester City Council (1985) in the Court of Appeal ([1985] 2 All ER 151), and in the House of Lords ([1985] 2 All ER 1106)

R (Daly) v Secretary of State for the Home Department [2001

3 All ER 433

When reading the relevant cases, retain a sense of the constitutional significance of judicial review, and try to develop an understanding of how judges are attempting to foster standards of 'good administration'. Approach the cases critically, and question whether judges are venturing too close to the merits of a decision. Overall, you should consider whether the legality/merits distinction is sustainable, and how courts should strike the balance between governmental concern and individual rights. You should also be mindful of the constitutional role of judges.

Further Reading - Additional Cases (1 items)

At this stage of the course you need to acquire knowledge of many more cases than we can cover in the seminars. You should now have the skills to be able to read these for yourselves – and IMPORTANTLY, use Westlaw, or Lexis to find current authorities (cases) for the legal principles established by these earlier cases.

Gough v Chief Constable of the Derbyshire Constabulary [2001] 3 Weekly Law Reports 1392 (read only paragraph 70-81)

· R (P) v Secretary of State for the Home Department; and R (Q) v Secretary of State for the Home Department [2001] Weekly Law Reports 2002 (this is a long case and not all of it is relevant for you, so selectively read the sections on 'proportionality')

· R v Cambridge Health Authority, Ex p B [1995] 2 All ER 129

· R v Secretary of State for the Home Dept., ex p, Brind[1991] 1 AC 696

· R v Ministry of Defence, Ex p. Smith [1996] QB 517 (CA)

· Smith and Grady v United Kingdom (1999) 29 EHRR 493

· R v Chief Constable for Sussex, ex p International Trader's Ferry (ITF) [1999] 2 AC 418

· R v Secretary of State for the Environment, Transport and the Regions, ex parte Alconbury [2001] UKHL 23 51

Seminar 17 – ‘A Debt of Honour’ and the limits of administrative justice (4 items)

Preparation (1 items)

Parliamentary Ombudsman Special Report on Wartime Detainees (on moodle and in the materials pack)

Challenging the Authority of the Ombudsman: The Parliamentary Ombudsman's Special Report on Wartime Detainees Richard Kirkham (2006) 69(5) Modern Law Review 792 – 8181 (in the materials pack)

R (Association of British Civilian Internees: Far East Region) v Sec of State for Defence [2002] EWCA Civ 473; [2003] QB 1397

Further reading (3 items)

The changing constitution, by Jeffrey L. Jowell; Dawn Oliver, 2011
Book | Background (Could Read) | Courts, Tribunals, Ombudsmen, ADR: Administrative Justice, Constitutionalism and Informality

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Law and administration, by Carol Harlow; Richard Rawlings; Daswsonera, 2009
Book | Background (Could Read) | Chapter 12

The changing constitution, by Jeffrey L. Jowell; Dawn Oliver, 2011
Book | Background (Could Read) | The Executive: Towards Accountable government and effective governance?

Seminar 18 - The role of Inquiries (6 items)

Preparation (2 items)

Law and administration, by Carol Harlow; Richard Rawlings; Daswsonera, 2009
Book | **Core (Must Read)** | Chapter 13 'Inquiries: A costly placebo?'

The legacy of Hillsborough: liberating truth, challenging power - in Race & class, by Phil Scraton, 2013
Article | **Core (Must Read)**

Further Reading (4 items)

- You can also browse the website of the Saville Inquiry

http://webarchive.nationalarchives.gov.uk/20101103103930/http://bloody-sunday-inquiry.org/

What went wrong on Bloody Sunday: a critique of the Saville Inquiry - in Public law, by Sir Louis Blom-Cooper, 2010
Article | **Background (Could Read)**

In the Full Glare of English Politics: Ireland, Inquiries and the British State - in British Journal of Criminology, by B. Rolston, 2005-07-01
Article | **Background (Could Read)**

, R v. Lord Saville of Newdigate, ex p. anonymous soldiers: what it the purpose of a tribunal of inquiry? - in Public law, by B Hadfield, 1999
Article | **Background (Could Read)**