

Unit 8: Public Law II

Learning hours: 72 hours

Unit level : H1 (H1 or H2 for BTEC Higher Nationals only)

Unit description

The aim of this unit is to provide a sound understanding of constitutional law. In addition this unit will also provide an introduction to the administrative law. On completion of this course learners will have a sound knowledge regarding the executive and judicial review. Furthermore learners will be able to explore the roles of EU institutions and critically analyze the effect of EU on the national law of UK. On completion learners should be able to analyze the effect of Human Rights Act 1998 on Constitutional Law.

Summary of learning outcomes

To achieve this unit a learner must:

1. Define the roles of **the Executive** and critically analyze its sources and control of power.
2. Identify definition, applications and grounds of **Judicial Review**
3. Explain the roles of **the European Union** and its impact on national law.
4. Explore the importance of **Human Rights Act 1998**.

Content

1. The Executive

The Executive: Crown and the Privy Council; Prime Minister and the Cabinet; Civil Service; Sources of executive power including the Royal prerogative; Delegated legislation; Ministerial responsibility; Control of Executive power- Parliamentary Commissioner for Administration..

2. Judicial Review

Judicial Review: Meaning and definition of judicial review; Applications for judicial review: what the court considers; significance of O'Reilly v Mackman;

Grounds on which judicial review could be sought: illegality, irrationality, procedural impropriety.

3. The European Union

The EU and EC: Historical Introduction; Distinguish between EU and EC, main objectives of EC.

Institutions of the European Union: (i) The Council (ii) The Commission (iii) The Parliament (iv) The Court of Justice; Sources of Community law;

Impact of Community law on national law.

4. Human Rights Act 1998

Human Rights Acts 1998: The rights under European Convention on human Rights; Role of European Court of Human Rights; Scope and limitations of Convention rights; Discuss arguments in favour of incorporation of Convention rights into English Law;

Impact of HRA 1998 : Impact on Parliamentary Sovereignty and Separation of Powers;

Learning outcomes and assessment criteria

Learning outcomes	Assessment criteria for pass To achieve each outcome a learner must demonstrate the ability to:
1. The Executive	<ul style="list-style-type: none"> • Explain and analyze the advantages and disadvantages of British constitution. Explain the sources of constitution • Evaluate the principles of parliamentary sovereignty and the effect of EU on it. • Evaluate the importance of separation of powers. • Evaluate the principles of rule of law and the practical implications of rule of law in English legal system.
2. Judicial Review	<ul style="list-style-type: none"> • Explain the meaning and definition of judicial review; • Discuss the significance of O'Reilly v Mackman; • Explain the grounds on which judicial review could be sought-illegality, irrationality, procedural impropriety.
3. The European Union	<ul style="list-style-type: none"> • Distinguish between EU and EC • State the main objectives of EC; • Identify the institutions of EC and describe their functions and critically discuss the balance of powers between these institutions; • Analyse the impact of Community Law on the national law
4. Human Rights Act 1998	<ul style="list-style-type: none"> • Explain the role and rights under European Convention on human Rights • Discuss the scope and limitations of Convention rights; • Discuss arguments in favour of incorporation of Convention rights into English Law; • Evaluate the Impact of HRA 1998 on Parliamentary Sovereignty and Separation of Powers

Guidance on delivery and assessment

Delivery

The outcomes in this could be covered with personal preference. Group work and other active methods of learning can be employed to enhance learners' experience and promote the required understanding. The use of case studies and specimen documentation is to be particularly encouraged, both as a means of assessment and as part of the normal learning process. Students may take part in research.

Assessment

Evidence of outcomes may be in the form of:

- Essays
- Reports on reforms
- Case studies
- Oral presentation

Links

This unit links to Public Law I. The learner will have an advanced knowledge on public law on the completion of this unit.

Resources

Textbooks

- a. Hilaire Barnett-Constitutional and Administrative Law 7th ed
- b. Colin R. Munro-Studies in Constitutional Law 2nd ed
- c. Michael Allen, Brian Thompson-Cases and Materials on Constitutional and Administrative Law 9th ed

Websites

www.dca.gov.uk

Centre devised unit