Examination Period 3: 2017

LAW200817N

Module Title: Public Law
Level: Five
Time Allowed: Two hours

Instructions to students:

- Enter your student number not your name on all answer books.
- Answer two out of five questions.
- All questions are equally weighted.
- Begin each question in a separate answer book; label each answer book clearly with the number of the question you are answering.
- All questions should be answered with reference to decided cases and other relevant authorities.

No. of Pages | 5
No. of Questions | 5
Answer two out of five questions.

1. The (hypothetical) Business Rent Adjudication Tribunal (BRAT) was established by Parliament to decide commercial rent disputes. The statute which established the tribunal states that it is able to deal with rent disputes in relation to property which is used for “business purposes”, but provides no definition of the phrase “business purposes”. The statute also states:

“The BRAT may impose any solution it thinks fit” when dealing with a dispute.

And

“Decisions of the BRAT are final and conclusive”.

Kate rents a small house with an attached garage from William. She lives in the house, and uses the garage as storage space for the small market stall which she runs selling clothing. When William raises the rent, she complains to the BRAT as she feels that the existing rent is already too high. The BRAT subsequently upholds her complaint, and tells William that he must reduce the rent by 5% rather than increase it.

William is unhappy with this outcome and wishes to seek judicial review of the BRAT’s decision. He believes that the BRAT should not have heard Kate’s complaint in the first place as the property is not used for “business purposes”, and also that the BRAT’s decision is completely unreasonable.

Examine the availability or otherwise of judicial review in the light of the provisions of the statute.

2. ‘In the context of judicial review, it makes little difference whether the courts ask if a public authority is acting unreasonably or whether they ask if it is acting disproportionately. In the vast majority of cases, the answer will be the same.’

Evaluate the accuracy or otherwise of this statement.

Questions continue overleaf
3. The Disciplinary Panel of the University of Hobbiton has recently dealt with the three student cases outlined below. In each case, examine the extent to which the University has acted in accordance with the right to be heard. You should spend roughly the same amount of time on each case.

a. Russell celebrated the end of his exams by taking off all of his clothes and diving into the University's fish pond in broad daylight. Russell did not dispute the fact that he had committed the actions in question, and his case was referred directly to the panel. The panel decided that Russell's actions warranted immediate expulsion from the University, and that no hearing was necessary as Russell could say nothing which would change the outcome.

b. Alana was accused of cheating in her examinations. The panel received a report from Brian, the Senior Invigilator, stating that he had clearly seen Alana cheating by checking her phone during the examination, contrary to the examination regulations. Brian did not consult Alana before compiling his report, but she was given an opportunity to appear before the panel. She admitted to the panel that she did check her phone but denied that she was looking at anything relevant to the examination paper. The panel rejected her explanation and suspended her from the University. Alana is the 15th student to be reported by Brian over the past two years, and in each case the panel upheld Brian’s conclusions.

c. Megan was accused of causing minor damage to property in her room in the University's Halls of Residence. Megan asked to appear before the panel in person, explaining that she wanted to raise "a number of sensitive issues which I would rather not put in writing". As her case was classed as a "minor" one under the University's Code of Conduct the panel had a discretion whether or not to give students an opportunity to appear before them in person. The panel refused Megan's request, explaining that it only had time to grant personal hearings in "serious" cases, and invited her to submit written comments.

Questions continue overleaf
4. Consider the following hypothetical situation.

In December 2016 it was announced that Kingstown will host the world famous Dog Beauty Pageant from 7-9th April 2017. This pageant attracts exhibitors from all over the world, all of whom compete for their dog to be crowned as the ‘Most Beautiful Dog in the World’.

Snoopy and Woodstock, residents of Kingstown, strongly believe that such dog beauty pageants should be banned due to the cruelty and trauma caused to the dogs involved, all of whom are made to wear ridiculous costumes, jewellery and cosmetics as part of such pageants. Snoopy and Woodstock decide to organise a march on the first day of the pageant to raise awareness of the cruelty involved in such events. They visit their local police station on 1st April and provide Snoopy’s name and address and the start time and route of their march.

On 7th April, Snoopy and Woodstock, accompanied by over forty fellow dog owners and their dogs, make their way slowly into Kingstown to the Exhibition Centre where the pageant is being staged. They wave banners opposing the dressing up of dogs in costumes and highlighting the harmful effects of cosmetics to a dog’s skin. They blow their whistles loudly. Otherwise their progress is peaceful, though many drivers beep their car horns at them, as their car journeys are held up by the protest.

Once outside the Exhibition Centre, which is in the centre of the town, Snoopy and Woodstock distribute leaflets to passers-by, asking them to sign their petition against such cruel pageants. Kingstown town centre is very busy with shoppers and tourists that afternoon and many pedestrians cross to the other side of the road to avoid being asked to sign the petition. Snoopy and Woodstock also try to distribute leaflets to the exhibitors as they enter and leave the Exhibition Centre. Snoopy pleads with the exhibitors to consider the welfare of their dogs. Many exhibitors react in an aggressive manner towards Snoopy’s impassioned pleas. WPC van Pelt asks Snoopy and Woodstock to move their demonstration away from the entrance to the Exhibition Centre. Snoopy and Woodstock refuse to move and WPC van Pelt arrests them both stating that ‘if she had had her way, she would have banned their procession as soon as she had found out that it had started, or at least she would have directed it to another venue to stop all this predictable trouble occurring outside the Exhibition Centre.’

The remaining members of Snoopy’s and Woodstock’s demonstration are moved away from the entrance to the Exhibition Centre into a nearby park. They are cordoned here for the next two hours until all the exhibitors from the pageant have left the Exhibition Centre. Marcie is one of the demonstrators cordoned in the park.

Advise Snoopy, Woodstock and Marcie on the legal issues arising in this hypothetical situation.
5. "The Crown’s administrative powers are now exercised by the executive, ie by ministers who are answerable to the UK Parliament. However, consistently with the principles established in the 17th century, the exercise of those powers must be compatible with legislation and the common law." (R (on the application of Miller and Another) v Secretary of State for Exiting the European Union [2017] UKSC 5 [45] (Lord Neuberger))

To what extent are the Crown’s administrative powers in practice subject to legislative limits and judicial control?