Examination Period 3: 2017/18

LAW200818N

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 six 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.

---

No. of Pages: 4
No. of Questions: 6

Page 1 of 4
Answer two out of six questions.

1. As part of its policy to support domestic trade and business post-Brexit, the government announces a plan to build a new international airport on the outskirts of Eatanswill, a small town in central England. The plans are strongly opposed by local residents, who are concerned about the impact which the new airport will have on their daily lives. The government therefore agrees to set up a public inquiry to consider both the plan and the objections to it, and Fogg, who is a High Court judge, is appointed to conduct the inquiry. Fogg holds a series of meetings with local residents in order to ascertain their views. In one such meeting, he becomes impatient with the constant complaints of the residents, and states that “once it’s built, you’ll all see the benefits”. He immediately adds: “but of course no decision has been taken yet”. The report subsequently produced by Fogg at the end of the inquiry concludes that the plan to build the new airport should go ahead. It later emerges that Fogg is an aeroplane enthusiast and a keen plane-spotter in his spare time.

The residents do not feel that the inquiry has been impartial. Advise them.

2. “There is......a spectrum of possibilities, ranging from a rudimentary right to make written representations at one extreme, to something resembling a full-blown criminal trial at the other. The key issue becomes how to decide where a given case should be placed on that spectrum”. (M Elliott and R Thomas, Public Law (3rd edn, OUP 2017) 519).

Critically examine the principles which the courts have developed for addressing this key issue in the context of the right to be heard. To what extent are these principles clear and consistent?

3. “The debate as to whether judicial review should adopt an interventionist or a non-interventionist approach is now largely redundant, given that the non-interventionist principle of Wednesbury unreasonableness has been replaced by the interventionist principle of proportionality”.

Evaluate the merits or otherwise of this point of view.

4. ”The ambiguities surrounding the prerogative, including its definition, scope and the roles of both parliament and courts in checking its exercise, may be aptly described as one of the central problems of the UK constitution”. (Gavin Phillipson, ‘A Dive into Deep Constitutional Waters: Art 50, the Prerogative and Parliament’ (2016) MLR 1064, 1064)

To what extent do you agree with this assessment of the prerogative?
5. Parliament passes the (hypothetical) Sports Grounds Development Act 2017, which establishes the Sports Grounds Authority (SGA). Section 1 of the Act empowers the SGA to award grants to the owners of “sports grounds or facilities” for “development or improvement”, and section 2 defines a “sports ground or facility” as “any stadium, arena, or other indoor or outdoor venue which is used solely or primarily for the purpose of any sporting activity, whether amateur or professional”.

The Act further states that:

- The SGFA “may” award a grant “where it is satisfied that it is appropriate to do so” (section 3).
- Decisions of the SGFA “are final and conclusive, and may not be called into question in any court of law” (section 4).

The Moulton Snooker Club applies for a grant to renovate the hall which it currently owns and which is in a general state of disrepair. Its application is rejected by the SGFA for the following reasons:

a. As the club allows the local amateur photographic society to use a room in the hall for its weekly meetings, the hall is not used “solely or primarily” for the purpose of sporting activity.

b. In any event, the SGA has noted that the club’s membership has been declining in recent years, and believes that “as the club’s long-term future is far from certain, it would not be appropriate to award it a grant”.

The club wishes to challenge both of these conclusions by way of judicial review. Advise it as to whether or not it is prevented from so doing by section 4 of the Act.

How, if at all, would your advice differ if the Sports Ground Development Act 2017 stated that “a decision of the SGA may only be questioned in a court of law within 28 days of the date on which that decision is notified to the applicant”?

Page 3 of 4
6. Honey, Max and Bertie organise the ‘Greyhound Liberation Front’ (GLF), an organisation which always forcefully and vociferously, though generally peacefully and non-violently, opposes greyhound racing. This is due to the suffering that greyhounds endure in this ‘sport’.

To raise and maintain public awareness of the issues relating to greyhound racing, the GLF hold a demonstration against greyhound racing every first Friday of the month. This has happened for the past two years. The demonstration always starts at the same time and place and ends at the local greyhound stadium, though the actual route taken every time varies depending on who is leading the protest. Generally these protests pass off peacefully, even when there is a greyhound race meeting taking place at the stadium when the GLF arrives there.

Honey, Max and Bertie hear on the radio that a greyhound race meeting will take place on Friday 6th April 2018. This is four days away and the 6th April is the first Friday of the month. On the 6th April, Honey, Max, Bertie and 40 members of the GLF make their way across town towards the greyhound stadium. As they march along, they wave banners on which there are pictures depicting the cruelty involved in this ‘sport’ and chant loudly ‘you bet – greyhounds die’ and ‘greyhounds die racing’. When they are twenty minutes away from the greyhound stadium, PC Galgos orders Honey, Max, Bertie and the rest of the GLF to stop where they are and to turn back. PC Galgos fears a breach of the peace and serious public disorder if the GLF’s march arrives at the greyhound stadium. The stadium is already full with fans of greyhound racing and many more people are congregating outside the stadium still trying to get into it. Max refuses to stop the march and turn it around and is arrested. Honey, Bertie and the other members of the GLF are cordoned into a nearby park, where they are kept until the last race at the greyhound stadium is finished. This is over four hours later.

Meanwhile, outside the front entrance gates of the greyhound stadium stand Kai, Tess and a small group of GLF members. They hand out leaflets showing graphic pictures of the cruelty involved in such racing and ask people attending the greyhound race meeting to sign their petition to ban greyhound racing. Many people walk round to other stadium entrances to avoid being given a leaflet or having to sign the GLF’s petition. Kai starts to shout loudly at the race goers who pass by him as they enter the stadium. “This is not a sport. This is torture and death to greyhounds. You wouldn’t do this to your pet dog - so why do it greyhounds! Any deaths are on you!” The race goers start to heckle Kai in an increasingly aggressive manner, crowding round him as they do. PC Saluki asks Kai to shut up, as he fears a breach of the peace if Kai continues shouting. Kai refuses to shut up and is arrested.

Advise PC Galgos and PC Saluki on the legality of their and the protestors’ actions.