

# **ADMINISTRATIVE LAW**

## **MODEL EXAM**



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## IRAC method of completing exams

- Issues** - Outline the issues that you are going to discuss.
- Rules** - Define the legal rules that are relevant to the question.
- Application** - Apply the legal rules to the facts of the question (this is the hard part!).
- Conclusion** - Tie things up, usually in the form of an advice to your hypothetical client.

Always use your reading time wisely to **PLAN YOUR ANSWER** before writing. This is of utmost importance as it will help you clarify your thoughts and ensure that you avoid following desperate exam strategies that unprepared students commonly resort to, such as:

- i) 'the kitchen sink' i.e. spilling all of your knowledge that is vaguely related to the topic onto the exam paper and hoping for the best.
- ii) 'the garden path' i.e. going off on an irrelevant tangent

Remember that the **APPLICATION IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. The actual conclusions you reach are often superfluous. Rather, your marker will be most interested in *how you arrived* at your conclusion.

### **Question One**

The (fictitious) British Citizenship Act 2006 provides that:

1. The Citizenship Department (hereafter referred to as 'the Department') must, before clearing persons for immigration assure itself that such persons have passed the 'British Citizenship' test. The 'British Citizenship' test must be tabled before Parliament.
2. In determining whether to accept immigration applications the Department shall have regard to (i) knowledge of British history and

culture (ii) acceptable level of English proficiency (iii) skills in industries with shortages. The Department has discretion to determine the weighting to individual components in accordance with the individual merits of the case.

3. The Department may grant citizenship having regard to the British Citizenship test.
4. The functions of the Department must be performed in conformity with any directions given by the Minister and international law.

The Department determines a new 'British Citizenship' test, which involves a written and oral component language component along with multiple-choice questions relating to British culture. Britain is also a signatory to the Economic Migration Convention under which it has obligations not to 'afford all applicants for economic migration procedural fairness'.

The Citizenship Test was also developed with guidance from the Minister. In a memorandum to the Department the Minister wrote: "It is imperative that we preserve the idea that citizenship is privilege, not a right. To ensure that people who come to Britain are able to fully participate in British life, I direct that all successful applicants must pass the oral component and have some skills that can be applied to the British economy' .....

### ***Question Two***

Michaela is a resident of Sunny Days Care Home which is run by Dolton Council. She has become concerned about a new policy of 12 hour daily confinement

which happens four times a week due to staff shortages and the fact that one day a week patients are not fed at all due to food shortages. Additionally, while the staff offer help to residents with minor disabilities, severely disabled residents seldom leave their room because they are told by staff that they are too busy.

a) Advise Michaela on whether she or her fellow residents have any convention rights engaged and whether Dolton Council will be amenable to judicial review.

b) How would your advice to Michaela differ if Sunny Days Care Home was run by a commercial organisation?

c) How would your advice to Michaela differ if Sunny Days Care Home was run by a charity?

d) Are there any other ways in which Michaela can protect her interests?

a) Under Human Rights Act 1998, s6, public authorities must act compatibly with Convention rights. Local authorities have been recognised as 'core' public authorities (***Aston Cantlow PCC v. Wallbank***<sup>1</sup>). Therefore, Michaela has convention rights e.g. article 3 (prohibition of torture) in respect of the 12 hour daily confinement, article 3 and article 8 (right to respect for private and family life) in respect of receiving no meals once a week, and articles 3 and 8 and article 14 (prohibition of discrimination) combined in respect of the fact that severely disabled patients are treated differently and are not afforded the same help as those with minor disabilities. Therefore, Michaela and her fellow residents have human rights which they can enforce against Dolton Council.....

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<sup>1</sup> [2003] 3 WLR 283

**Question Three**

Judicial review is a necessary part of a modern democracy. Discuss.

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