

**GOVERNANCE AND PUBLIC POLICY**

**Diploma stage examination**

**5 June 2008**

**MARKING SCHEME**



**Question 1**

*There are several parts of this question where a range of answers may be valid, even though they do not mirror the marking scheme. Such answers should be awarded appropriate credit.*

- (a)** The UK constitutional tradition is that MPs and governments, elected for up to five years, are effectively being given the right to act and make decisions on the electorate's behalf. (This principle was first enunciated by Edmund Burke who, on election as an MP in 1774, told his electorate that he promised to work hard for them and to listen to their views. But his actions in parliament would always be determined by his own judgment.) 1

This type of government contrasts sharply with participatory or direct democracy, where citizens exercise closer control over their elected representatives through such mechanisms as referendums. 1

There is no element of the UK constitution that gives citizens the right to vote on particular issues by referendum. 1

While there have been occasional UK referendums (e.g. that seeking to ratify the UK's continuing membership of the EU) these only take place when there are significant issues of national interest at stake. 1

Although a referendum was promised ahead of adopting the failed European Constitution, the government is claiming that the EU Reform Treaty is a much lesser document that has built in much greater protection of UK national interests than the Constitution. 1

(5)

- (b) (i)** Parliamentary sovereignty means that Parliament is the UK's ultimate legal authority (the 'Queen in parliament'). It is the supreme law-making body. It can make or repeal law on any subject whatsoever and it can do so retrospectively. 1

Arguments supporting the view that UK parliamentary sovereignty has been impaired by EU membership include:

- The European Communities Act 1972 gave the force of law within the UK to obligations arising under the EU treaties. EU law now has general and binding authority in the UK. It takes precedence over all UK law whenever there are inconsistencies between the two. It precludes the UK parliament from legislating on matters within EU competence where the EU has formulated rules to 'occupy the field'.
- The role of the EU Council of Ministers has had a major impact on diminishing UK parliamentary sovereignty. It is the EU's crucial decision-making institution that converts proposals from the Commission into EU legislation. The various voting methods (unanimity, qualified majority and simple majority, dependent upon the issue under consideration) are frequently the subject of heated debate in the context of parliamentary sovereignty. In particular, the increase in majority voting has diminished sovereignty.

Arguments against the view that UK parliamentary sovereignty has been impaired by EU membership include:

- Acts of Parliament are not binding on future Parliaments, and this principle is not changed by EU membership. All acts can be repealed, and hence the European Communities Act 1972 could be overturned.
- If the UK refuses to pass amending legislation where its law is inconsistent with EU law, test cases imply that the European Court of Justice cannot hold national legislation as being void.
- As far as economic policy is concerned, there has been no loss of parliamentary sovereignty due to EU membership. Fiscal policy continues to be legislated in parliament and monetary policy is now the responsibility of the Bank of England.

*One mark for each valid point well made, up to an overall maximum of 6 marks*

- (ii) The failed EU Constitution would, on balance, have eroded British parliamentary sovereignty. 1
- But the UK government is arguing that the EU Reform Act is inherently different from the failed EU Constitution and does not transfer significant powers from the parliament to the EU. 1
- The Government insists that the UK's "red lines" have been met: Britain's parliament will retain control over foreign policy, tax and benefits, criminal justice and get an opt-out on a charter of fundamental rights. 1
- However, the Opposition argues that the treaty is basically the same as the failed constitution, and surrenders significant powers to Europe. 1
- (10)

**(c) EU institutions – role and functions**

The EU has four principal governmental institutions:

- The European Commission
- The European Council of Ministers
- The European Parliament
- The European Court of Justice.

*The EU Reform Treaty will change some of the issues referred to below. Candidates who recognise this should be awarded appropriate credit.*

**The European Commission**

This can be compared with the British civil service, having the task of carrying out EU policy. It also has two autonomous roles:

- As an initiator of policy.
- To develop ideas that transcend national interests (the 'conscience of the European community').

The members of the Commission are appointed by national governments, one from most countries but two from each of the five largest nations.

### **The European Council of Ministers**

This is the main decision-making institution. Each meeting focuses on a particular area of policy, for example the Council of Agriculture Ministers brings together the agriculture ministers from each EU country. Altogether there are 16 different groupings based on policy areas.

The ministers are supported by civil servants, both from their own countries and from the commission. Most of the preparatory work is done by these civil servants so that all but the most controversial policies need only to be 'rubber stamped' by the ministers themselves.

Presidency of the Council is held by each country in turn for a six-month period. This inevitably lays great importance on the skills and experience of the permanent secretariat of the Council.

### **The European Parliament**

In the early years of the Parliament it had very few powers. It could only offer non-binding opinions on legislation, sack the Commission, or scrutinise the work of the Commission and Council.

Since that time, there has been a gradual increase in Parliament's powers, crucially giving it:

- Control over the EU budget.
- The power to reject legislation.
- The right to veto the accession of new states.
- Power in relations with other non-EU states.

Members of the European Parliament (MEPs) are elected in numbers that are roughly proportional to the size of each EU country.

### **The European Court of Justice**

The European Court of Justice (ECJ) includes justices from the various EU countries. Its aims are to interpret various EU treaties, enforce the laws, review the actions of other European institutions, and act as a court of appeal.

European law takes precedence over national laws, and can be considered to act in a country even though not formally part of that nation's laws. The European Court of Justice can decide that a British law does not apply in a particular case, because the British law does not comply with European law. In other words the British Parliament is no longer sovereign.

*Maximum of 2 marks for comment about each institution's nature and role up to an overall maximum of 8*

### **EU Institutions and the Democratic Deficit**

In the EU, the only institution that is directly accountable to the electorate (through direct elections) is the European Parliament. Although the EU Parliament's powers are slowly increasing, parliament has traditionally had little control over other major EU policy actors, such as the EU Commission and the Council of Ministers.

The important role of the commissioners represents a democratic deficit since the Commission is not answerable to the European Parliament.

The key decision-making institution, the Council of Ministers, suffers from a democratic deficit. Although it comprises elected ministers from member countries, such members are indirectly rather than directly elected to the Council by voters.

In addition, the Council's voting system (unanimity, qualified majority and simple majority, dependent on the issue under consideration) means that Council members from individual countries may often be unable to translate the wishes and interests of their home electorates into EU policy decisions.

Some of the actions of the ECJ have concerned politicians, for example their ability to create new laws by interpreting legal principles, or when applying old laws in new situations. This can be seen as an example of a democratic deficit, since judges are not elected.

*Maximum of 1 mark for a plausible comment about each institution and the democratic deficit; overall maximum of (4)*

(12)

**(d) (i) Environmental issues – candidates are required to comment on any two key environment issues**

**Agriculture**

In the early years of the European Economic Community, the Common Agriculture Policy (CAP) took up three-quarters of the community's budget. That figure has since decreased, but there is still concern about how much of the EU's budget is taken up in supporting the farming industry and especially about the costs of supporting inefficient farmers and the waste stemming from over-production.

Following the expansion of the EU in 2007 to 27 members, it is likely that the question of agricultural subsidies will become more important, especially since many of the new entrants will be eligible for significant funding through the social and development funds.

Other agricultural issues include: lowering prices of agricultural products, ensuring food safety and quality, guaranteeing stability of farmers' incomes, and animal welfare.

**Pollution**

The question of airborne pollution is a major international issue. As countries acting independently in their own self interest tend to pollute each other, there is little incentive for individual countries to make the expensive changes needed to reduce such emissions. A key benefit of the EU is that all the countries involved can work together to solve such problems.

In addition, the EU can expect to have a greater impact at a global level than individual countries by supporting international initiatives such as the Kyoto Agreement.

**Fisheries**

Fishing is also a major international issue. The EU has to help decide what is a suitable balance between:

- the benefits of supplying relatively inexpensive fish for consumers;
- the need to control fishing to levels that will allow fish stocks to recover from previous over-fishing;
- the damage caused to fishing communities (for example, in Scotland) by setting controls; and
- the wishes of different EU members (for example, Scotland and Spain).

**Other EU directives**

A number of EU directives on environmental issues have received publicity and some criticism in the UK. Examples include directives on the quality of drinking water and the cleanliness of beaches, and on the recycling of refrigerators and old cars.

**The EU as ‘environmental vandal’**

Although the EU is widely seen as an institution that can improve environmental conditions, there are examples of the EU as an ‘environmental vandal’. These include:

- A number of large civil-engineering schemes have caused significant environmental damage.
- The CAP has encouraged intensive farming (with associated environmental damage) and promoted many examples of drainage of wetlands (with the resulting loss of wildlife habitat).

*There is scope for a wide range of answers to this question  
Marks should be awarded for any relevant, plausible and  
well made points up to a maximum of 2 marks per  
environmental issue and an overall maximum of 4*

**(ii) Social issues– candidates are required to comment on any two key social issues**

The EU has established **funds** that may be used to create social benefits. The Structural Operations funds spend about 33% of the overall budget, the two most important elements being:

- The European Regional Development Fund, which aims to reduce inequalities between different regions of the EU.
- The European Social Fund, which aims to increase employment opportunities and flexibility in the workforce.

In **social policy**, the Social Chapter was included as part of the Maastricht Treaty. It was adopted by Labour in 1997. A wide range of regulations were designed to create minimum working and social conditions for all citizens of the EU. They included legislation on training, working hours, minimum wages, and health and safety standards.

**Human rights**

The European Convention on Human Rights (ECHR) was introduced into British law in 1998. Until that date British governments claimed that British citizens’ human rights were protected by common law.

*There is scope for a wide range of answers to this question  
Marks should be awarded for any relevant, plausible and  
well made points up to a maximum of 2 marks per  
social issue and an overall maximum of 4*

(8)

**(e) (i) Classification of Constitutions**

**Codified or uncodified?**

In the majority of countries the citizen can find a single document that contains the countries’ ‘fundamental laws’ or constitution. These countries have a **codified** constitution. 1

In other countries there is no single written document that can be called the constitution. These countries have an **uncodified** constitution. 1

**Federal or unitary?**

In **federal** countries, the country is made up of a number of states, regions or provinces. Each of the sub-levels has their own independent status and powers, guaranteed by the constitution. 1

In contrast, other countries have a **unitary** system of government; powers are devolved to local authorities, regional assemblies and parliaments. But central government can change or remove those powers at any time. The sub-levels are given their powers by central government; they do not have powers guaranteed by the constitution. 1

**Flexible or inflexible?**

Uncodified constitutions can adjust flexibly and relatively quickly to suit changing conditions. 1

No special processes are required to amend Constitutional law. 1

(6)

**(ii) Characteristics of UK Constitution**

In the UK there is no single document forming the constitution. The nearest thing is the Magna Carta of 1215, but that pre-dates many of the organs of state, so cannot offer complete guidance. The British constitution is therefore **uncodified**. 1

The UK is an example of a **unitary** system; powers are devolved to local authorities, regional assemblies and parliaments. But central government can change or remove those powers at any time. The sub-levels are given their powers by central government; they do not have powers guaranteed by the constitution. 1

**Flexible or inflexible?**

Because the UK has an uncodified constitution, it is claimed that it can adjust flexibly to suit changing conditions. Examples include the series of Acts from 1832 (which gave the vote to male householders and some leaseholders) to 1928 (which finally gave women the same voting rights as men). However, pressures to reform the House of Lords have been in place for over a century. Though there has been a gradual reduction in the Lords' power, reform has fallen short of that demanded by many pressure groups. 1

(3)



**(iii) Impact on UK Constitution of EURT**

The British constitution is **uncodified** because there is no single written document that can be called the constitution.

The ratification of the EU Reform Treaty would not change this characteristic of the UK constitution, as there would still be no single written document that could be called the UK constitution. 2

The UK is an example of a **unitary** system and constitution. The sub-levels to which powers are devolved do not have powers guaranteed by the constitution. The ratification of the EU Reform Treaty would not change this characteristic of the UK constitution, as the UK government would continue to maintain a high degree of centralisation of power. 2

The UK has an uncodified constitution that can be adjusted relatively easily to suit changing conditions. The ratification of the EU Reform Treaty would not fundamentally change this characteristic of the UK constitution. However, the fact that an increasing part of the constitution would be written and might be difficult to change without the agreement of the 26 other members of the EU, implies that the UK constitution would lose some of its flexibility. 2

(6)

(15)

**Question 2**

(a)

- Integrity: this is about being truthful, straightforward and honest, dealing fairly with people and situations; it rules out making misleading or false statements, whether by omission or inclusion of information, either knowingly or without taking care to find out. 1
- Objectivity: the avoidance of bias, whether for personal self-interest or because of pressure from another, and closely allied to independence. 1
- Professional Competence and Due Care: this is about acquiring and maintaining appropriate technical and other relevant skills and competence to perform our work, doing it thoroughly and correctly, on a timely basis, and ensuring that users of our output understand its context and limitations. (It is why IFAC has also made CPD compulsory in all its member bodies.) 1
- Confidentiality: information about organisations and people encountered in the course of accountancy assignments should not be disclosed, inside or outside the work environment, to anyone who does not have a legal or professional right to it, and especially not to secure a personal advantage for anyone. This principle is overridden only by the force of law. But if information has to be released, for example under the Freedom of Information Act 2000 or other Acts of Parliament (e.g. as a 'protected disclosure' under the Public Interest Disclosure Act 1998), the SOPP expects it to be reviewed to ensure that it is complete and presented in its proper context. So although at first sight this may appear at odds with the openness principle of public life, there is no material conflict. 1
- Professional Behaviour: this is about complying with standards and laws, and avoiding actions that might bring the profession into disrepute, such as making unsubstantiated criticisms of a fellow professional or exaggerating one's experience. 1

(5)

(b) **Self-interest** can arise in any situation in which an accountant, or someone close to an accountant, has a vested interest in an outcome over which the accountant has a degree of influence or control. This threat is not limited to purely financial interests, but could arise in connection with many areas of self interest such as a child's education, a friend's planning application, a relative's healthcare, or the activities of a voluntary body on which an accountant serves. 1

**Intimidation** involves the exercise of disproportionate pressure by someone in a position of power and influence. It could involve threats of violence against the accountant or someone close, but is more likely to take the form of hints at damage to your career, the loss of a contract, or some withdrawal of co-operation that will make your life difficult. 1

**Self-review** is a threat to independence caused when an accountant is required to check, audit or approve a piece of work that the accountant was also involved in originating. For example, a public auditor who had previously worked in an authority that is now an audit client would be vulnerable to self-review if later undertaking its audit. 1

**Familiarity** arises through long association with individuals, either in an accountant's own organisation, a client, a supplier or a customer. Objective critique of the work of someone you know well becomes harder because it impacts on personal relationships. Similarly, long associations with buyers or salespersons may influence the commercial relationship. 1

**Advocacy** is a threat to independence, mainly affecting auditors who take on a role representing a client, or promoting a client's interest in another context. The threat to independence is that in taking the client's part, the accountant is compromised if an issue arises where the facts do not suit the case and, in consequence, this leads to the making of false or misleading statements. 1

(5)

- (c) The principal ethical issues raised by this case are:
- Objectivity: How should you demonstrate your independence from the Chief Executive?
  - Professional behaviour: Can you allow the payments without adequate explanation and continue to carry out your professional duty as FD to the organisation?
  - Professional competence and due care: Would the proposed payments comply with financial regulations?

*This is a discursive question and is likely to generate a wide range of valid answers. The three issues above are likely to be central in most answers, but alternative approaches should, if plausible, be awarded appropriate credit. 1 mark for each point well made, up to a maximum of 10 marks.* (10)

(20)

**Question 3**

(a) *Candidates are required to identify and briefly describe **any two** of the following seven models of policy making. They should be awarded up to 1½ marks for each model so identified and described. 1½ further marks for each model may be awarded for plausible comment about the extent to which the model reflects the realities of policy making in public life. Jones et al. comment that all the models seem to contain some element of truth, but that no one model seems to tell us how policy is actually made.*

1. The ruling class – the Marxist view that all involved in government consciously or unconsciously protect the values of the economic ruling class.
2. The pluralist model – power is held by various interest groups and the government acts as a more or less neutral referee.
3. Corporatism – interest groups have power over government, provided they also exert control over their members to ensure that they conform with government decisions.
4. Party government – policy is formulated within the party and then adopted by the government.
5. The Whitehall model – civil servants are the key originators of policy, decisions being taken on the basis of conflict between various departments and offices.
6. Rational decision making – decision makers carry out a logical process of decision making. This model fits with the traditional view that civil servants undertake the analysis and that politicians then base their decisions on the public's wishes.
7. Incrementalism – in contrast with the rational view, this model claims that policy makers start with the status quo and 'muddle through', continually adjusting to new situations.

6

**(b) Initiation**

The initial introduction of new ideas into central government may occur in many ways:

- Ministers may make a public announcement or a statement in Parliament.
- Civil servants, select committees, enquiries or the opposition may highlight an issue.
- The media may raise an issue.
- Party members may begin to discuss suggested changes.
- Pressure groups (commercial or from the general public) may gain media attention.

3

**Formulation**

For UK central government, policy formulation basically involves two key elements:

- Identifying and clarifying what is involved, and making decisions about future policy (the **bureaucratic process**).
- Several readings and debates in both the House of Commons and the House of Lords (the **legislative process**).

The two elements involve a number of different groups: ministers, civil servants, pressure groups and experts from the field.

The degree to which Prime Ministers become involved has varied enormously over the years. John Major delegated considerably, but Margaret Thatcher, Tony Blair (and Gordon Brown?) are said to have become heavily involved to ensure that policy making is centralised.

3

**Implementation**

Implementation is often the weakest of the three stages, the stage at which things are most likely to go wrong.

Effective implementation at central government level is dependent on good policy formulation and on cooperation from a wide range of groups, including the civil service, the electorate, and pressure groups. Any one of these can effectively disrupt implementation.

In the last 20 years, the policy that proved most difficult to implement was probably Margaret Thatcher's community charge. Here, the government changed from a system of rates (effectively taxing only the wealthy) for funding local services to a system in which virtually everyone contributed equally. This system was thought to be unfair by many and the costs of collecting the charge in some poor areas exceeded revenues. Its unpopularity, and the riots and other protests that it provoked, contributed to Thatcher's resignation. The community charge was replaced with the council tax and the uniform business rate by the subsequent Conservative Prime Minister, John Major.

3

(9)

(15)

**Question 4**

(a) A pressure group is a voluntary organisation that is taking political action, but whose main aim is not to win elected power. (1)

(b) A pressure group normally seeks to influence policy through lobbying, whereas political parties stand for office at elections. 1 ½

Occasionally, pressure groups do contest elections. But this is not usually with the aim of forming a government. Instead, the aim is normally to make a political point by indicating the level of public concern on an issue (for example, the environment) or by drawing support away from the government on a key issue (for example, Sir James Goldsmith's Referendum Party). 1 ½

Pressure groups typically have narrower concerns than political parties. They generally contribute selectively to the political debate from a particular standpoint or in a specific field of concern. They do not adopt a comprehensive programme which seeks to cover the entire field of politics, as political parties do. 2

(5)

**(c) Pluralism**

Decision making is a continuous process of interaction between a wide range of pressure groups and governing institutions. Groups have unequal resources, but no group becomes completely dominant, because:

- Groups counterbalance each other (for example, CBI/TUC).
- No group attempts to influence in more than a limited area.
- Membership of groups overlaps.

The large-scale expansion of cause groups since the 1960s supports the pluralist theory, but the model may be somewhat naïve about the issue of the real exercise of power. 3

**Corporatism**

This refers to a situation where consultation is limited to that between government and major sectional groups over economic policy. These pressure groups then implement or enforce agreements on economic policy and conduct.

It is limited as a general theory because it applies only to producer groups and to a fairly brief era that ended when Mrs Thatcher came to office in 1979. 3

**Policy networks**

Policy making is compartmentalised in a series of separate areas based on government departments, each of which has a distinct relationship with pressure groups. Government, together with institutions with interests in particular areas, constitute 'policy communities' that co-operate on the development of policy.

This is the most accurate description of the current relationship between government and pressure groups in the UK. 3

*½ mark for each model named  
Up to 1 mark for description of each model  
Up to 1 ½ marks for commentary about each model  
(maximum of 3 marks for each model)*

(9)



**Question 5**

(a) The prime minister's ability to appoint/sack members of Cabinet is limited by:

- Cabinet ministers must be answerable to Parliament; this means that the most important Cabinet ministers are almost always selected from the Prime Minister's own party in the Commons. 1½
- The ministers with special responsibility for Wales and Scotland are generally MPs from those two countries. 1
- There must be an overall balance in the ministers and the Cabinet, for example between the left and right wings of a party, between men and women and the range of views on Europe. 1½
- The Cabinet and the ministers (about 120 posts in all) must be filled from a parliamentary party of, typically, 300 members. 1

(5)

**(b) Collective responsibility**

The members of the Cabinet are bound by the principle of collective responsibility.

Once a decision has been taken in the privacy of a Cabinet meeting, ministers are expected to publicly support that decision or, at very least, not to openly oppose it. If dissent is expressed, the dissenting minister is expected to resign.

Cabinet members must not divulge Cabinet proceedings to, for example, the media.

If the government is defeated in the Commons on a vote of confidence, then the whole Cabinet resigns.

Two recent trends have been noticeable in relation to the principle of collective responsibility:

First, where it used to apply only to the Cabinet itself, it is increasingly applied to the whole of government.

Second, it seems that certain ministers may get around the principle by allowing documents to leak.

*Up to 1 mark for each well-made point,  
subject to an overall maximum of 5*

**Ministerial responsibility**

In theory, ministers are responsible for everything that goes on in their department. The minister can be forced to resign if they or their department performs badly.

The difficulty here is that the minister is a member of the majority party in Parliament; the other parties are rarely able to force a resignation. The decision is more generally taken by the minister and the Prime Minister.

In practice the minister may not resign for a number of reasons:

The convention has no legal force.

Many departments are so large that the minister cannot reasonably be expected to know exactly what is going on in each part.



It is not easy to define what is meant by a department, or a minister, 'performing badly'.  
The minister's colleagues may want to demonstrate strength by closing ranks; on the other hand, they may decide to find a scapegoat.  
The existence of agencies which are independent of ministers may make it difficult to apportion blame.

*Up to 1 mark for each well-made point, subject to an overall maximum of 5*

*(10)*

**(15)**