

# **Tutorial Letter 201/1/2018**

**Ethics in public administration and  
administrative justice**

**PUB3707**

**Semester 1 module**

**DEPARTMENT OF PUBLIC  
ADMINISTRATION AND MANAGEMENT**

This tutorial letter contains important  
information about your module:

- **COMMENTS ON ASSIGNMENTS**
- **EXAMINATION : MAY/JUNE 2018**

Dear Student,

Congratulations on persevering with your studies. By this time you should have received your marked assignment(s). We trust that you have already started with your preparations for the examinations.

The purpose of this tutorial letter is to:

- provide feedback on the assignments that you submitted during the course of the semester; and
- give an indication of the format of the examination paper, the nature and extent of possible examination questions and advice on how to prepare for the examination.

## 1. ASSIGNMENTS

### ASSIGNMENT 1: (Multiple-choice assignment)

Assignment 1 consisted of twenty multiple choice questions on which you had to mark the correct option. Questions 1-10 are from study guide 1 and questions 11-20 are from study guide 2. The correct options are indicated below.

QUESTION	CORRECT ANSWER	QUESTION	CORRECT ANSWER
1	5	11	2
2	1	12	3
3	4	13	3
4	3	14	4
5	2	15	1
6	2	16	2
7	2	17	2
8	5	18	1
9	2	19	4
10	2	20	4

## **ASSIGNMENT 2: (Essay-type question)**

Assignment 2 consisted of an essay-type question. There were specific instructions to follow when preparing the answer.

### **An appropriate answer to this question is as follows:**

Question: write a short essay on “Ethical guidelines for public officials”.

(Study Guide 1: Theme 2, study unit 5, pages 40 - 44)

In answering this question, you had to pay attention to and shortly describe the following:

The actions of public officials are often called unethical. Describe the concept of “ethical guidelines”.

What serves as a guideline for public officials to distinguish between right and wrong? Some possible guidelines are -

- The Constitution, 1996, and other laws
- Policy documents
- Codes of conduct

There may be other guidelines and you may have included them in your discussion. In an essay, you had to discuss the main aspects of this question. You had to try to also make use of your own examples and (motivated) opinions/insights where possible.

## **2 EXAMINATION**

Please take note of the format of the exam paper and the advice on how to approach the examination.

### **2.1 The question paper**

The duration of the examination is 2 hours.

The exam paper consists of two sections, each with a number of shorter and longer questions. All the questions are compulsory.

You will have to be careful with the use of time on the day: spend about 12 minutes on a 10-point question, 18 minutes on a 15-point question, et cetera. A number of even shorter questions with mark allocations of 5, 6 and 8 may also be included in the paper. The basic principle is that you must use the mark allocation for each question to determine the length of your answer and the time you can spend on each answer.

### **2.2 Previous examination papers**

The previous examination papers for this module are available on myUnisa for your information. These examination papers will give you an idea of the kind of questions that

can be expected in the examination and how an examination question is posed. Please do not assume that you will find all these questions in the next exam paper.

## 2.3 Preparing for the exam

To assist you in your preparation for the coming examination we are providing references to the relevant sections in the study material where answers to each of the following questions can be found. Please note that our intention is not to provide model answers here. The aim is simply to assist you in locating the relevant sections in the study material that have direct relevance to the following examples of typical examination questions. Please bear in mind that this is not intended to be an exhaustive list of possible examination questions but only examples of possible examination questions.

### STUDY GUIDE 1

1. Public officials are placed in a position of trust. But what are the implications for that position of trust if an official in the service of the state receives a commission to ensure that someone who is not eligible for a state pension does receive one? [15]

See activity 1.3 in Study Guide 1 (pp 8-9).

2. Define the following concepts, distinguish them from one another and explain how they are related to public administration: ethics / Ethics [10]

See sections 3.2 and 3.3 of Study Guide 1 (pp 29-31) as well as the following parts in the book "Reflective Public Administration: Ethics, 2014": pp 4 – 7.

3. Explain the relations between a personal morality and a “public service morality” and the advantage that a clear vision of his or her personal morality has for a public official. [10]

See activity 3.2 in Study Guide 1 (pp 32-34) as well as pp 5 – 7 in the book "Reflective Public Administration: Ethics, 2014.

4. Read the following report and write a short essay reflecting on the possible role of codes of conduct to improve professionalism and professional ethics of airport personnel. [10]

If you're going to Lagos, take along some bribe money  
Tim Sullivan

Lagos, Nigeria – the sign Above the check-in counter Speaks volumes about Lagos's Murtala Muhammed International Airport

Don't give bribe it orders in block letters. Underneath those signs, travellers have long counted bills into the hands of waiting airport employees and thuggish looking secret police officers.

A short walk away, customs officers gladly stop harassing travellers after demanding tips.

What do you have for me? is nearly as commonly heard in airports as Have a nice flight.

Security officials sometimes stare blankly at the ceiling as luggage rolls through X-ray machines. The lights in the terminal occasionally flickers.

See activity 5.3 in Study Guide 1 (pp 44-47) as well as pp 7-15 and 23-25 in the book "Reflective Public Administration: Ethics, 2014.

5. With reference to inter alia, the research by Hauser and Singer 2005, discuss the following statement: "People's ethical evaluations of the same situation do not always correspond". [10]

See study unit 2, section 2.3 (pp 20-21) in Study Guide 1.

6. Critically discuss the place of ethics in Public Administration. [20]

See section 3.3 in Study Guide 1 (pp 31-34). In the book pages 5-7, and 17-19.

7. Write an essay on the role of professionalism and professional ethics in Public Administration. [15]

See section 4.2 + 4.3 in Study Guide 1 (pp 36-40).

8. Critically discuss the role of ethical guidelines in promoting ethical conduct in the public sector. [15]

See section 5.1 in Study Guide 1 (pp 41-45).

9. Explain in a few sentences the difference between passive and active representation as explicated by Muthien. [5]

See study unit 7, section 7.4 and activity 7.3 in Study Guide 1 (pp 64-66).

10. Write an essay in which you reflect on the various ethical guidelines available for public officials. [20]

See study unit 5, section 5.1, 5.2, 5.3, 5.4 (pp 41-43) in Study Guide 1.

11. Public officials are in a position of trust with an obligation to deliver public services in an ethical manner. Discuss this statement and include the provisions of section 195 of the Constitution of the Republic of South Africa, 1996, in your discussion. [15]

See study unit 1, par 1.1 (pp 5-6) in Study Guide 1.

12. Public officials must have the ability to make ethically justifiable choices in their relationship with their political principal. Explain this statement shortly and indicate who the "political principal" usually is on each of the three (3) levels of government. In addition, explain the five (5) ground rules that Robson (2014:27-28) mentions as essential for the public official to keep to in such a relationship. [15]

See study Unit 8, par 8.3 (pp 69-70) in Study Guide 1, as well as the parts by Robson in the prescribed book "Reflective Public Administration: Ethics": pp 27-28.

13. The actions of public officials are often called unethical. Under the following headings discuss what serves as a guideline for public officials to distinguish between right and wrong:  
□ the Constitution, 1996, and other laws

- ☐ policy documents
- ☐ codes of conduct.

[20]

## STUDY GUIDE 2

1. Give a short definition of the concepts of “justice” and “administrative justice”. [10]

See section 1.2 and 1.3 on page 5 of Study Guide 2.

2. Section 33 of the 1996 Constitution reads as follows:

“33 (1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.

(2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons”.

- (a) Give a short definition of “transparency in public administration”. [4]

- (b) On what would you base an opinion that the application of section 33 does have the potential to promote transparency in public administration? [8]

- (a) See section 2.6 on pages 35-36 of Study Guide 2 for a definition of “transparency”.

- (b) The opinion is based on the implications of section 33(2) for public administration in general and transparency in particular. See the discussion of “The right to be given written reasons” in section 2.4.1 on pages 16-17 and of “Reasons for administrative action” in section 2.5.4 on pages 28-32 of Study Guide 2 and the implications of the right to administrative justice (section 33 of the Constitution) for public administration on pages 35-36 (section 2.6) of Study Guide 2.

3. The principle of procedural fairness of administrative action affecting members of the public (as mandated by section 4 of the Promotion of Administrative Justice Act, 3 of 2000) prescribes the following five different procedural options of which public officials must follow any one:

- Public inquiry
- Notice-and-comment procedure
- A combined procedure (public inquiry and notice and comment)
- A fair, but different, procedure
- Another appropriate procedure.

Write brief notes on each of the five procedural options.

[20]

See pages 26-27 of Study Guide 2 where the five different procedural options are explained.

4. Write explanatory notes on the implications of the right to administrative justice for public administration in terms of the following:

- Accountability; and
- Public participation.

[20]

See pages 36-39 of Study Guide 2 where the implications of accountability and public participation are explained in detail.

5. On what four assumptions is the *trias politica* based? [4]

See section 3.2 on pages 55-56 of Study Guide 2 where the four assumptions are mentioned. Briefly explain each assumption.

6. Write an essay on the status of the Constitution of the Republic of South Africa, 1996. [15]

See section 2.3 on pages 12-13 of Study Guide 2.

7. To what extent is the theory of the *trias politica* followed in South Africa? [8]

See section 3.2 on pages 55-56 of Study Guide 2 where the four assumptions on which the *trias politica* is based, is described. Examine now the extent to which South Africa complies with each of the four basic assumptions (see section 3.4 on pages 56-58 of Study Guide 2).

8. Section 195(1) of the 1996 Constitution deals with the basic values and principles governing public administration and reads as follows:

- (d) Services must be provided impartially, fairly, equitably and without bias.
- (e) People's needs must be responded to, and the public must be encouraged to participate in policy-making.
- (f) Public administration must be accountable.
- (g) Transparency must be fostered by providing the public with timely, accessible and *accurate* information" [our italics].

Write brief notes on how the application of the right to administrative justice (section 33 of the 1996 Constitution) can contribute to the fulfilment of the values and principles mentioned in subsections (d) - (g) of section 195(1) of the 1996 Constitution. [10]

See section 2.4 on page 14 of Study Guide 2 where the contents of section 33 of the 1996 Constitution is mentioned to get an idea of what the scope of administrative justice is. Now use the information in the rubrics on "interpretation of section 33" (section 2.4.1 on pages 14 to 18 of Study Guide 2) and "implications of the right to administrative justice for public administration" (section 2.6 on pages 35-42 of Study Guide 2) to illustrate how the values and principles of fairness, equitability, participation, accountability, and transparency are applied in public administration to give effect to the constitutional obligation of administrative justice.

9. Write brief notes on the following:

- (a) What is administrative discretion? [5]
- (b) How is administrative discretion exercised? [5]

- (a) See section 7.3 on page 96 of Study Guide 2 where the meaning of administrative discretion is described.
- (b) See section 7.4 on pages 96 and 97 of Study Guide 2 where an explanation of how administrative discretion is exercised is provided.

10. Write brief notes on the jurisdiction of the Public Protector. [7]

See section 9.5 on page 121 of Study Guide 2 for a brief description of the nature and extent of the jurisdiction of the Public Protector.

11. Using the yardstick of the general characteristics of a classic ombudsman, assess the nature and essence of the office of Public Protector so as to evaluate the extent to which the Public Protector performs the role of an ombudsman institution. [15]

See section 8.3 on pages 108 to 110 of Study Guide 2 for a brief description of the ten general characteristics of a classic ombudsman. Use the information provided on the Public Protector in Study Unit 9 (pages 117-122 of Study Guide 2) to evaluate the extent to which the Public Protector performs the role of an ombudsman institution.

You should prepare both study guides with all the activities and the assignments for the exam. The prescribed book is background information and a source for the activities in study guide 1. Most of the activities in the study guide requires the reading of parts of the prescribed book.

In Study Guide 2 you will only be tested on study units 1, 2,3,7,8 and 9. You will not get direct questions from study units 4, 5, and 6. You are however urged to read attentively through the latter study units to gather background information to the rest of the study guide.

We are worried by the fact that some of the students have not started on those activities that were not part of the assignments. Those activities are part and parcel of the work that you should have done throughout the semester.

The activities are important because they facilitate your understanding of the work. The student, who understands the work, will pass easily in the examination. It is therefore very important that you ensure that you understand the different themes and study units in broad outline - that you can formulate the so-called "big picture" of the different themes and study units.

When a student does not understand something, it is often a good sign. It means that he or she has engaged or is really involved with the work. Phone the lecturers to solve your problem. Do not phone to try and obtain the exam questions. You will be wasting your time.

### **3. Concluding remarks on the examination**

The Examination department of Unisa (telephone number (012 429-4122) will inform you shortly of the examination date and examination centre.

Finally, we would like to wish you all the best for the examinations!

#### **(Study Guide 1 and 2)**

<b>Prof M Van Heerden</b>	012 429 6749	<a href="mailto:vheerm@unisa.ac.za">vheerm@unisa.ac.za</a>
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UNIVERSITY EXAMINATIONS

UNIVERSITEITSEKSAMENS

**PUB3707**

October/November 2017

**ETHICS IN PUBLIC ADMINISTRATION AND ADMINISTRATIVE JUSTICE**

Duration : 2 Hours

100 Marks

**EXAMINERS :**

FIRST :

PROF DJ BRYNARD

PROF M VAN HEERDEN

SECOND :

PROF EJ NEALER

EXTERNAL :

PROF EJ VAN ROOYEN

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**Closed book examination.****This examination question paper remains the property of the University of South Africa and may not be removed from the examination venue.**

This paper consists of 2 pages.

Write the number of each question that you answer clearly at the top of your answer, and also in the space provided on the cover of the examination answer book.

**ANSWER ALL THE QUESTIONS.**

*Note:* Be very careful with the time you spend on the different questions. For each 10 mark question you have approximately 12 minutes. In determining the length of your answers, you should be guided by the marks allocated to each question.

**[TURN OVER]**

## **SECTION A: STUDY GUIDE 1: ETHICS IN PUBLIC ADMINISTRATION**

### **QUESTION 1**

What is “professional ethics” in the context of public administration? Your answer must include Clapper’s view of professional ethics. [15]

### **QUESTION 2**

Discuss “codes of conduct” as ethical guidelines for officials when rendering public services. Include Robson’s view of the value of codes of conduct in your answer. [15]

### **QUESTION 3**

Discuss the relationship between public officials and their political principal during the course of their duties. Your answer must include what Robson has written about this relationship. [20]

**Sub total [50]**

## **SECTION B: STUDY GUIDE 2: ADMINISTRATIVE JUSTICE**

### **QUESTION 4**

Section 5 of the Promotion of Administrative Justice Act, 3 of 2000 (PAJA) stipulates that any person whose rights have been materially and adversely affected by administrative action, and who has not been given reasons for the action, is entitled to request that the public official concerned give him/her written reasons for the action. Write an essay to explain the practical functioning of this duty to provide reasons. [25]

### **QUESTION 5**

To what extent is the theory of the *trias politica* followed in South Africa? Mention the four (4) assumptions on which the theory of the *trias politica* is based and briefly examine the extent to which South Africa complies with each one of the assumptions. [10]

### **QUESTION 6**

Write brief notes on the influence of the Ombudsman institution (or Public Protector) on public administration with reference to the following facets:

- Information and communication.
- Efficiency and effectiveness.
- Humanisation of public administration.

**[15]**

**Sub total [50]  
TOTAL [100]**