



Examiner's Comments
09 ADMINISTRATIVE LAW
September 2025 Examinations

The exam comprised of three questions. All questions were compulsory. Question 1 was worth 12 marks, Question 2 was worth 56 marks and Question 3 was worth 12 marks.

Question 1

This was a problem question. It tested Student's understanding of the judicial review of delegated legislation (regulations).

Question 2

This was a problem question. It tested students' understanding of judicial review of administrative decisions.

Question 3

This was a problem question. It tested students' understanding of judicial review of administrative decisions.

Characteristics of poor or average responses

Question One

Poor responses tended to show little to no understanding of the jurisdictional requirements or the case law relating to the review of delegated legislation. Average answers tended to show a little knowledge but overall approached the answer as an ordinary administrative decision.

Question Two

Poor or average responses were often unstructured and sought to raise a large number of issues without going into sufficient detail. Alternatively, some responses failed to identify key issues. Some poor responses tended to state conclusions without explaining how those conclusions were reached (i.e. they did not build an argument and address counterarguments). A number of responses made arguments without providing legal authority for the principles they relied upon.

Question Three

Many poor responses lacked any real cohesion. A number of responses set out legal

principles but did not apply the facts to those principles at all or in any meaningful way. A number of poor to average responses did not address or misunderstand the law that was to be applied to statutory provisions seeking to limit judicial review or how it applied to the particular administrative decision in question.

Characteristics of very good or excellent responses

Overall these responses contained a clear structure identifying and addressing each step taken in judicial review proceedings.

Question One

Displayed a very good understanding of the differences that exist when undertaking judicial review of delegated legislation (as opposed to administrative decisions).

Question Two

A good structure was vital for this question. The key to a very good answer was reaching a convincing balance between explaining the relevant principles (including providing the relevant case(s) where appropriate) and applying the facts to those principles to reach a conclusion. In other words, identify the issue, set out succinctly (but properly) the relevant legal principles/test, apply the facts to those principles/tests and reach a conclusion.

Question Three

Displayed an understanding of how the administrative decision in question was dependent upon the overall decision making process. This understanding not only helped identify the correct grounds of review to address but also assisted in addressing statutory limits designed to impose limits on the judicial review process.

Common mistakes

Question One

The most common mistake was to only address standing. This was not sufficient to answer the question.

A less common mistake was to misunderstand what decision was to be reviewed (ie. the review was the making of the Regulation).

Question Two

Beyond failing to address sufficient relevant issues, some answers focused predominantly on the legal tests/principles while others stated facts without setting out the relevant legal test properly. Either of these two approaches made the answer less convincing and, in some cases, meant it did not adequately answer the question. Simply listing issues was not sufficient to obtain a pass mark. Simply setting out grounds of review was not sufficient to obtain a pass mark.

Question Three

A failure to apply facts to the legal principles was more common in answers for this question than the others.

Areas for improvement

Question One

Read what you are asked to advise on carefully – ie. not the facts but the specific question (although you must of course read the facts carefully too).

Question Two

Structure is always important, but it was particularly important for this question. An introduction is recommended. However, it needs to be an introduction that provides a road map for the marker, not an introduction that simply states facts from the question.

Identify key grounds of review rather than seek to address any possible ground that could arise. Do not address issues that do not arise on the facts.

For some students there is a need to more clearly set out the relevant legal test and provide appropriate authorities (this was generally done better for procedural fairness than the other grounds of review). For other students there is a need to apply more facts from the problem question to the relevant legal test.

Question Three

It is likely that better time management would have improved a number of answers. Although this does not just relate to Question Three as some students did not address the problem questions in their chronological order (which is perfectly fine).