

Judicial Review: An Introduction

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14th January 2016

What is judicial review?

- A claim made under CPR 54
- Judicial scrutiny of administrative acts by public authorities
- Constrained by procedural rules and by common law
- “The Judge Over Your Shoulder”

The essential ingredients



- Challenge to the action (or inaction) of a public authority
- In respect of its public functions
- By a person who has standing to bring the challenge
- On the basis of a recognised ground of review
- In the absence of any alternative remedy
- Seeking one of the limited remedies available

The public authority & its public functions



- Public authorities:
 - Government ministers
 - Local authorities
 - Others?

- Public functions:
 - Excludes most employment disputes
 - Excludes most commercial contractual disputes
 - Excludes most property disputes
 - Excludes most negligence disputes

Standing



- Undefined concept
- Inseparable from substance of dispute
- Loosely interpreted where responsible claimants have a good case

Grounds for review

The Diplock grounds:

- Illegality
- Irrationality
- Procedural impropriety

Any others?

- Legitimate expectation as a separate ground
- Proportionality?

Absence of another remedy

- Range of statutory appeals e.g. to First-Tier Tribunal, Planning Inspector etc.
- Private law claims
- Prematurity

Judicial review remedies



- Quashing order
- Mandatory order
- Prohibiting order
- Injunction
- Declaration
- Damages?

Avoiding judicial review

- Damages claims
- Complaints systems including ombudsman
- ADR
- Settlement and reconsideration
- *Functus* authorities



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