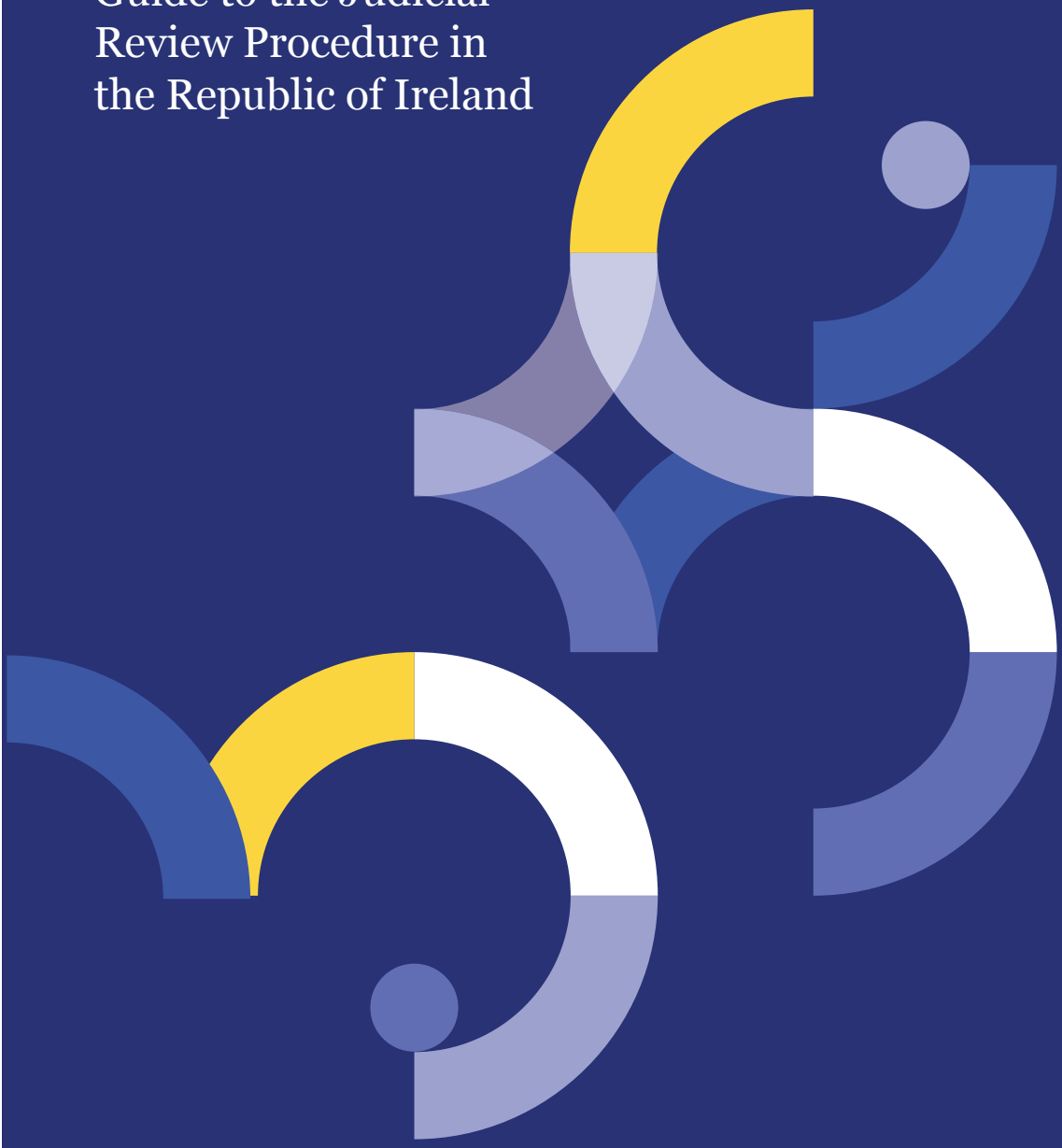
2022 NGO

ENGAGEMENT GUIDE SERIES

Guide to the Judicial Review Procedure in the Republic of Ireland



This project is a cross-border collaborative effort between law firms and NGO partners to develop guidelines on recourses to action for the NGO community in the areas of UN and EU mechanisms, judicial review and the appointment of an *amicus curiae*.

The pathways to justice described in these guides are all too often overlooked or misunderstood due to the overwhelming amount of complex or academic information on these mechanisms. These guidelines steer our NGO partners through easily accessible resources on the different avenues to accessing justice.

The Free Legal Advice Centre (FLAC), The Public Interest Law Alliance (PILA), a project of FLAC based in Dublin, and The Public Interest Litigation Support (PILS) Project in Belfast identified a need in the NGO community for better information and resources on legal recourses to action in the following areas:

1. Individual non-court mechanisms at European level
2. Engagement with UN Special Procedures mandate holders
3. Taking individual complaints to UN treaty bodies
4. *Amicus curiae* procedure
5. Judicial Review

To address this need, PILA, The PILS Project and Arthur Cox offices in Belfast and Dublin collaborated to develop and finalise guideline documents in each of the target areas. The guides were written or revised by the Arthur Cox offices on a *pro bono* basis and were peer reviewed by colleagues from the legal sector in the North and South.

The aim of this project is to provide NGOs with the information they need to understand the available recourses to action and to determine which (if any) to pursue. Should an NGO decide to explore a recourse to action further, the NGO may contact PILA or The PILS Project for assistance through the respective *pro bono* referral schemes.

Contents

Information sources and useful websites are hyperlinked throughout this guide. Updated links to the NGO Engagement Guides are available on the Public Interest Law Alliance website (www.pila.ie) and the PILS Project (www.pilsni.org) website.

What is Judicial Review?

Judicial Review is a legal process that allows individuals, groups, and organisations to challenge the decisions (or omissions) made by bodies when they are carrying out public functions.[1] In Ireland, this process is usually controlled by Order 84 in the Rules of the Superior Courts.[2] The aim of Judicial Review is to ensure that public functions are carried out fairly.

Although public functions are usually carried out by public bodies, sometimes, a public function will be delegated to a private body. Where this happens, the private body's decisions on that matter can also be challenged through Judicial Review.

Judicial Review is not an appeal. The applicant is only asking the court to review the process used by the body in reaching its decision, not the decision itself. The Court does not examine whether the decision arrived at was the right one, simply whether the process used was legal, fair, and rational.

[1] As Judicial Review applications can be brought in respect of both decisions and omissions, references in this Guide to 'decisions' should be deemed to also include omissions.

[2] Certain areas of the law, such as issues of asylum, planning and pollution control, are subject to specific Judicial Review processes which have been set out in specific laws. Before bringing a Judicial Review application, it is important to confirm which process applies.

Who can bring an application for Judicial Review?

To bring an application for Judicial Review, you must have "sufficient interest" in the decision being complained of. This is also called having "standing" or "*locus standi.*"

Although it is unclear if "sufficient interest" must be established for the purposes of getting "leave" from the Court to even commence a full Judicial Review application (see How to bring a Judicial Review claim below), it is advisable to assume that it must.

Whether a person has "sufficient interest" is not the subject of a strict test, but will be determined based on the individual circumstances. The Court usually takes a generous approach and the applicant generally must only show that they have a genuine interest in challenging the lawfulness of the decision. However, one circumstance where an applicant is particularly vulnerable to failing this test is where the Court can easily identify other person(s) who would be better placed to seek Judicial Review.

Where a person (including a legal person, such as an NGO) does not, on the face of it, have a "sufficient interest" in a decision, they may still be able to make an application for Judicial Review on behalf of one or more of their members (i.e., a representative application) or society as a whole (i.e., a public action application). In the latter case, you would usually need to establish that the application relates to a matter of great public importance and to explain why any person(s) more directly affected by the decision complained of cannot bring their own application (e.g., because of disability).

In any case, you must bring your application in good faith and satisfy the Court that you are the best qualified person available to make the application.

For some types of case (e.g., asylum and planning cases), the standard is raised from *"sufficient interest"* to *"substantial interest"*. Here, any applicant must show significant personal or peculiar interest in the matter (and so, the potential for representative or public action applications is very significantly reduced).

Potential role for NGOs in Judicial Review?

It is becoming more common for NGOs to play a part in Judicial Review applications. NGOs can add credibility, a distinct perspective and additional information to an application and these aspects should not be overlooked.

In certain situations, an NGO may be the best placed and well-funded party to bring the application for Judicial Review.

If an NGO can prove that it is sufficiently interested in a decision, it can bring its own Judicial Review application. As highlighted above, this can be brought either on its own behalf or on behalf of one or more of its members (i.e., a representative application) or society as a *whole (i.e., a public action application)* (see Who can bring a Judicial Review claim? above). The latter two options may be of particular interest to NGOs.

Alternatively, an NGO could become involved as a third party to an existing Judicial Review application. An applicant (or the Court of its own initiative) could request that the NGO is added as a *"notice party"* or, in certain circumstances, an *amicus curiae*. In the former case, the NGO would be kept up to date with the application as it progresses, while, in the latter, the NGO would be invited to provide information to the Court (further information on the *amicus curiae* process is set out in our guide, *A Guide to the Amicus Curiae Procedure for NGOs*).

What decisions can be subject to Judicial Review?

Judicial Review is focussed on decisions made by bodies when they are performing a "public function." It is the nature of the function being performed, and not the nature of the body performing the function, that is important.

Usually, "public functions" are carried out by public bodies (e.g., government departments, licensing or planning authorities such as An Bord Pleanála, District and Circuit Courts and tribunals) and so, these are the bodies against whom Judicial Review applications are most often brought. A list of the main public bodies in Ireland can be found at www.ombudsman.gov.ie.

However, sometimes "public functions" are delegated to private bodies, and, in those circumstances, any decisions made by those private bodies when carrying out the delegated "public function" can also be challenged through Judicial Review.

Similarly, public bodies may sometimes carry out a "private function" (e.g., employing staff or purchasing stationery) and those decisions will not be subject to Judicial Review.

Judgments of the High Court, Court of Appeal and Supreme Court cannot be made the subject of a Judicial Review application. The judgments of the High Court and Court of Appeal can only be appealed on substance to a higher court (up to the Supreme Court).

What is a "public function"?

A "public function" is one which contains at least one public element.

In deciding whether a function has a "public element," the Court takes a broad approach, but primarily examines whether: (a) the body gets its power to carry out the function through a public source (e.g., legislation or government delegation); and/or (b) decisions made in relation to the exercise of the function will have implications for the public generally.

When must an application for Judicial Review be brought?

Generally, applicants must apply for "leave" to make an application for Judicial Review (see *How to bring a Judicial Review claim* below) within 3 months of the date when the basis for a Judicial Review application first arose (e.g., the date of the decision complained of).

However, some laws apply different (usually shorter) time limits – for example, applications in respect of some planning, immigration or award of public contract matters can be subject to time limits as short as 8 weeks, 14 days, and 30 days, respectively.

Time limits for Judicial Review applications are strictly enforced by the Court. However, where an applicant misses the time limit, an application for an extension may be brought. To obtain an extension, the applicant will need to show:

a. there is "good and sufficient reason" for giving the extension; and

b. that the reason(s) for the applicant missing the deadline:

   iii. were outside of their control; or
   iv. could not reasonably have been anticipated by them.

In considering whether to extend the deadline, the Court will consider the following non-exhaustive list of factors:

a. The time limit for applying for "leave" (the more demanding the time limit, the more likely an extension will be given);

b. Whether the decision-maker or any third party would be affected by an extension being given;

c. Whether the applicant's delay has caused or is likely to cause prejudice to the decision-maker or any third party;

d. The applicant's personal responsibility for the delay;

e. The importance of the Judicial Review application for the applicant; and

f. Whether the applicant otherwise has an arguable case for Judicial Review.

It should not be assumed that an extension will be granted and so, all steps should be taken to ensure that the general 3-month time limit is met.

What will a Judicial Review claim look at?

Judicial Review is not the same as an appeal. The Court will not consider whether the decision-maker applied the specific substantive law correctly. For example, in an application for Judicial Review of a decision by An Bord Pleanála, the Court will not carry out a detailed investigation of the Planning Acts.

Instead, the Court will look at the process through which the decision was arrived at and whether the decision is consistent with certain key overarching legal provisions.

There are generally accepted to be 5 broad grounds for Judicial Review (although, as reflected below, some of these can be further divided into related sub-grounds):

1. Error and Illegality

"Error" applies where the decision-maker made a significant mistake (of relevant facts and/or laws) as part of the process that resulted in the decision complained of. Generally, the Court will be more likely to intervene in cases where mistakes of fact are alleged.

"Illegality" applies where the body carried out an illegal act as part of the process that resulted in the decision or omission complained of. It can include a breach of a substantive legal provision such as a statute, or a provision of EU law, the European Convention on Human Rights, or the Constitution.

This area is very unsettled due to several contradictory judgments and so, it can be exceedingly difficult to predict what approach the Court will take when examining this issue.

2. Unfair Procedure

Here, the Court will consider the process which resulted in the decision complained of and whether any element of that process was "unfair."

Examples of unfair processes include:

- Circumstances where the decision-maker was not independent;
- Failure to provide sufficient information or evidence to allow an applicant to prepare a response to the decision-maker's position in advance of the decision complained of being made;
- Failure to give adequate reasons for the decision complained of; and
- Failure of the decision-maker to abide by relevant rules in coming to the decision complained of.

As part of its "Unfair Procedure" considerations, the Court may also consider whether the applicant had a "reasonable expectation" (sometimes referred to as a "legitimate expectation") which has been disappointed by the decision complained of. To rely on this sort of disappointment, the applicant must show that:

- the decision-maker made a clear representation (either expressly or impliedly) about how it would act in respect of an identifiable area of activity which is relevant to the decision complained of. This representation can be made through words, conduct or silence (inaction);
- that representation was addressed or conveyed, directly or indirectly, to an identifiable person or group of people (including the applicant) in such a way that:
  - it formed part of a transaction or relationship entered into between the applicant and the decision-maker; or
  - the applicant acted in reliance on it; and
  - it was reasonable for the applicant to expect that the decision-maker would abide by the specific representation such that it would be unjust to let the decision-maker now resile from that specific representation.

While claims of reasonable/legitimate expectations are common in applications for Judicial Review, the Court tends to apply the above test strictly and only cases of the very clearest and most specific representations are successful.

3. Breach of Fundamental Rights

Unlike the first two grounds, Breach of Fundamental Rights involves the Court looking at the substance of the decision complained of (and not just the process through which it was arrived). The Court will consider whether the decision complained of involves an infringement or denial of a significant constitutional right of the applicant.

Where a prima facie infringement or denial by the decision complained of is found, the Court will then consider whether this was proportionate in all the circumstances. If found to be proportionate the Court will not generally interfere.

To be "proportionate," the decision complained of must be rationally connected to the pursuit of a legitimate objective and not be arbitrary, unfair, or based on irrational considerations. Further, the constitutional rights of the person(s) affected must be impaired to the least amount possible to achieve the legitimate objective and there must be a reasonable relationship between the level of impairment caused and the level of benefit obtained through achieving the legitimate objective.

This area is still developing and there is limited case law or commentary. Therefore, again, it can be exceedingly difficult to predict what approach the Court will take when examining this issue.

4. Unreasonableness and *Ultra Vires*

Again, these grounds involve the Court carrying out some limited review of the substance of the decision complained of.

Bodies have a legal duty to act reasonably and rationally when carrying out public functions. Under the ground of "Unreasonableness," the Court will consider whether, applying a common-sense standard, the substance of the decision arrived at was unreasonable. The Court is very reluctant to interfere with a decision solely on the basis that it is "unreasonable" and, indeed, it has been stated that such cases will be "limited and rare." An applicant would need to provide noticeably straightforward evidence that the substance of the decision complained of does not correspond with common sense and would fail where the decision-maker can point to any relevant material at all which supports its decision.

Recently, Irish Courts have introduced an additional requirement – a consideration of proportionality. The applicant must (in addition to showing a lack of common-sense reasonableness) also show that the decision-maker did not take all relevant considerations into account and that the decision is not proportionate to the harm caused to the applicant (more detail on proportionality is set out at Breach of Fundamental Rights above).

Ultra vires, also known as abuse of power, is generally applicable when, in coming to the decision complained of, the decision-maker clearly exceeded its authority. This is sometimes referred to as acting "beyond its powers" or "outside its powers." This could happen, for example, where a body has the authority to make decisions in one area but tries to make a decision in respect of another. A good starting point is to consider where the body has got its powers from, and then check if it has gone beyond what is included there.

5. Breach of European Union Law

Courts will review decisions (and, where relevant, the Irish laws giving the decision-maker authority) to confirm whether they breach EU law.

Which ground to choose?

Applicants can apply for a decision to be reviewed under as many of the above grounds as they wish. While there is some degree of overlap between them, each ground must be referred to specifically in the application for Judicial Review.

Although, in theory, all grounds can be specified in all applications, the applicant has the responsibility of showing that any ground specified applies to the circumstances. Each ground should, therefore, be analysed independently before including it in an application.

What are the potential outcomes of a successful Judicial Review application?

Even where a Judicial Review application is successful, there is a limit to the remedies which the Court can provide. Most fundamentally, the Court cannot substitute its own decision for the one complained of.

It is also important to remember that all remedies available for a successful Judicial Review application are discretionary. This means that, even where the Court agrees that there was a problem with the decision complained of, it may still decide that the applicant is not entitled to the type of remedy that they are seeking (or, less often but, any remedy at all).

The Court will consider whether giving the applicant a remedy would be "just and proper in all the circumstances" and, as part of this, will consider the parties' conduct before and during the Judicial Review process (e.g., did the parties communicate openly and honestly before the Judicial Review application was brought? Did the parties disclose all relevant information to the Court fully and accurately? Did the applicant delay in bringing its application for Judicial Review and, if so, might this have caused any prejudice?)

Where the Court decides that a remedy is appropriate, it may make any of the following orders:

1. Quashing Order (also known as "*certiorari*") – Cancels the decision complained of and puts the applicant back in the position they were in before the decision was made. It will usually be open to the decision-maker to make the decision again (without making the same error) and so, the decision-maker could reach the same conclusion again (but, for example, follow the correct procedures this time).

2. Prohibiting Order – Stops the decision-maker from acting in a particular way.
3. Mandatory Order (also known as "*mandamus*") – Requires the decision-maker to perform a clearly identifiable and unambiguous task. The applicant must have already asked the decision-making body to carry out this task before applying for Judicial Review. Even in those cases, the Court is generally extremely reluctant to make this type of Order.
4. Declaration – Clarifies what the law is on a particular issue and/or the rights and obligations of the relevant persons.
5. Injunction – Requires the decision-maker to do a specific act (known as a "mandatory injunction") or refrain from doing a specific act (known as a "prohibitory injunction"). Unlike Prohibiting/Mandatory Orders, injunctions can be given as interim remedies (i.e., before the Judicial Review process has started and/or while it is ongoing).
6. Damages – Requires that the decision-maker pay money to the applicant. Damages may be ordered where the Court is satisfied that the applicant would have been entitled to damages had they been able to bring a private lawsuit (as opposed to a Judicial Review application) about the matter.

An applicant can seek any number of remedies in one application.

How to bring a Judicial Review claim

Set out below is a brief overview of the key stages involved in a Judicial Review application. It is important to remember, however, that settlement, rendering the remainder of the Judicial Review process unnecessary, could occur at any time up to the Court's final decision.

1. Exhaust all other avenues

Judicial Review is a solution of last resort. The applicant for Judicial Review must use up all other avenues before applying for Judicial Review (e.g., completing any internal or appeal complaints procedures with the decision-maker first).

2. Apply for "leave" (i.e., permission) to apply for Judicial Review

The application for "leave" is based on a Statement of Grounds, which must be delivered by the applicant to the Central Office of the High Court. The documents which comprise the Statement of Grounds are:

a. A statement (in Form No. 13 to Appendix T of the Superior Court Forms available at https://www.courts.ie/content/judicial-review-and-orders-affecting-personal-liberty); setting out:

   i. the name, address, description of the applicant;

   ii. a statement of each relief (including any interim relief) sought;

   iii. a statement of the particular grounds upon which each such relief is sought (giving particulars, where appropriate, and identifying, in respect of each ground, the facts or matters relied upon as supporting that ground); and

   iv. the name and registered place of business of the applicant's solicitors (if any) or, where there are no solicitors engaged, the applicant's own address for service.

b. A sworn statement (called an "affidavit") verifying all facts the applicant seeks to rely upon (in Form No. 14 to Appendix T of the Superior Court Forms available at https://www.courts.ie/content/judicial-review-and-orders-affecting-personal-liberty)

To the extent possible, both above documents should be prepared by a lawyer who is familiar with Judicial Review applications. Where "leave" is granted, this Statement of Grounds will also form the basis of the applicant's full application for Judicial Review. Therefore, it should be prepared carefully and thoroughly. As mentioned above, it is also advisable to set out the applicant's full case on standing at this stage.

The Court will decide whether to give "leave" (either based on the Statement of Grounds only or, more commonly, after a short hearing), without notice of the application for "leave" needing to be given to the decision-maker. In this regard, the Statement of Grounds should be accompanied by an ex parte docket in the form appended to High Court Practice Direction No. 59. This docket should be handed into the Court Registrar when the application for "leave" is made in Court.

In some cases, however, the Court may direct that the decision-maker must be given notice of the application and a chance to respond to it before any decision on "leave" can be made (and such notice is mandatory if the application relates to a decision made in certain areas, such as certain planning decisions).

Where notice of the application for "leave" is given to the decision-maker and they wish to oppose that application, they must deliver a Statement of Opposition (to the Court and the applicant) within 3 weeks, setting out the ground(s) for such opposition and the name and registered place of business of their solicitor (if any).

It is not sufficient for the decision-maker to include bare denials of the ground(s) set out in the applicant's Statement of Grounds and, instead, the decision-maker must state precisely each ground of opposition (giving particulars where appropriate), identify, in respect of each such ground, the facts or matters relied upon in support, and deal specifically with each fact or matter relied upon in the Statement of Grounds (other than claims of damages, if any) of which the decision-maker does not admit the truth.

If the decision-maker wishes to rely on any facts in support of the ground(s), the Statement of Opposition must be accompanied by a sworn statement (i.e., an "affidavit" in the Form No. 14 to Appendix T of the Superior Court Forms available at https://www.courts.ie/content/judicial-review-and-orders-affecting-personal-liberty) verifying such facts.

The applicant will then be required to respond to any defence(s) to Judicial Review set out in the Statement of Opposition. The Court may also, of its own initiative, ask that the applicant amend their Statement of Grounds to incorporate further information.

Once all the relevant documents have been delivered, the Court will need to determine whether the applicant has established an "arguable case" for Judicial Review of the decision complained of, in which case, "leave" to make a full Judicial Review application will be given. In some cases, such as those relating to planning and asylum matters, the standard is raised to a need to establish "substantial

grounds." It is important to establish which standard applies to your individual circumstances.

In most cases, the Court will only refuse "leave" where it determines that the applicant's case is hopeless or has a fundamental problem. The most common reasons for such a determination are:

a. The applicant has no standing (see *Who can bring an application for Judicial Review?* above); or

b. The application for "leave" is out of time (see *When must an application for Judicial Review be brought?* above).

3. Apply for full Judicial Review

Assuming that "leave" is given, the applicant can then proceed to make a full application for Judicial Review of the decision complained of (also known as making a "substantive application" for Judicial Review).

The applicant must deliver copies of each of the following documents to all the parties affected by the application (including any notice parties):

a. Notice of Motion – setting out the basis for the applicant's Judicial Review application and the relief(s) sought by the applicant;

b. Order giving "leave" for the full application for Judicial Review; and

c. Their Statement of Grounds (and any exhibits thereto).

Where the applicant is seeking a Quashing Order, a copy of the decision sought to be cancelled should also be delivered (along with a sworn statement verifying the accuracy of the copy), if not already included as part of any of (a) – (c) above.

Unless the Court directs otherwise, the Notice of Motion must be delivered within seven days of "leave" being given. The Court will usually give additional directions on time limits for delivery of each of the other above-mentioned documents at the same time as giving "leave."

Where no notice of the application was given to the decision-maker at the "application for leave" stage, they will have three weeks from the date of delivery of the above-mentioned documents to deliver a Statement of Opposition and, where relevant, supporting affidavit. The same rules as set out above (in respect of circumstances where the decision-maker is notified at the 'application for leave' stage) in respect of the content of this Statement of Opposition and supporting affidavit apply here.

Before the Judicial Review application is brought back to Court, on what is called the "return date" of the Notice of Motion, the applicant must file an Affidavit of Service

with the Court. This, essentially, shows the Court that the decision-maker (and any other parties that had been added to the case) have been properly informed of the "return date." This sworn document must specify the names and addresses of all of the people who had the above-mentioned documents delivered to them, the date upon which delivery occurred and the address to which delivery occurred. Where the applicant has been unable to deliver the above-mentioned documents to a relevant party, this fact, and the reason(s) for it, must also be set out.

Unless the Court orders otherwise, the applicant and the decision-maker must also file written legal submissions with the Central Office of the High Court and exchange submissions between themselves within three weeks of the decision-maker's delivery of its Statement of Opposition. The written submissions should detail the points or issues of law which the application/decision-maker proposes to make to the Court at the hearing of the application for Judicial Review.

Once all the relevant written documents have been delivered to the Court and exchanged between the parties, and any other matters arising in the application have been dealt with, the application will be assigned a hearing date.

During the hearing, both parties' solicitors/barristers will present arguments to the judge (as briefly detailed in the written submission). The applicant must establish that, "on the balance of probabilities," the decision complained of suffers from a flaw under one or more ground(s) of Judicial Review (see What will a Judicial Review claim look at? above).

The hearing can last from a couple of hours to several days depending on the complexity of the matter being reviewed. Generally, the application will be decided solely on the written evidence and legal submissions. However, in more complex cases, it is possible for the Court to request oral evidence from witnesses and interested parties etc. at hearing.

4. Potential for "telescoping"

Where the Court considers it appropriate, the "application for leave" and "application for full Judicial Review" stages can be dealt with together in one hearing (this is sometimes known as "telescoping").

"Telescoped" hearings can be achieved: (a) with the consent of all parties; or (b) on the application of one of the parties or the Court where there is a good and sufficient reason, and it would be just and equitable in all the circumstances to combine both stages into one.

"Telescoping" is usually done to save costs and time, particularly in cases where the application for Judicial Review must be heard extremely quickly (e.g., where a prisoner is seeking compassionate leave).

Can Judicial Review applications be appealed?

Unless there is a specific statutory restriction, any decision of the High Court on a Judicial Review may be appealed to the Court of Appeal. The appeal must be submitted within 28 days from the perfecting of the order appealed against (which may not be the same date on which the Court gave its judgment).

How are costs of Judicial Review applications dealt with?

When documents are being lodged in the Court Office as part of any Judicial Review proceeding, upfront fees called "stamping fees" must be paid. Unlike other fees relating to the proceedings, these must be paid at the time of lodgement and cannot be delayed until the outcome of the overall proceedings is known.

In respect of other fees, in normal Court cases, the successful party is entitled to claim back their costs for the proceedings from the losing party.

However, the Courts tend to depart from this rule in cases of Judicial Review and so, it is unlikely that an applicant with an unsuccessful Judicial Review application would be held liable for the decision-maker's legal costs. This is particularly likely to be the case where the Court feels that the applicant raised a genuine case with valid issues or concerns and matters of public importance, even where they lost, they ultimately were unsuccessful.

The Court can take numerous approaches to divide the costs incurred in Judicial Review proceedings in as fair a manner as possible. The most common order is for all parties to remain responsible for their own costs only.

In cases of exceptional importance and where the Court considered it necessary in the interests of justice, the Court has sometimes shown a willingness to order that the decision-maker pay the applicant's costs.

However, given the discretion that the Court has in respect of fees, caution should still be taken as it cannot be guaranteed that a cost order (for the decision-maker's costs) will not be made against an unsuccessful Judicial Review applicant.

In appropriate matters, it may also be possible for an applicant to apply for legal aid to help to meet the costs of their Judicial Review application.

Case Study: H v South Dublin County Council [2020] IEHC 250

The applicants, a married couple born outside of Ireland, had resided in Ireland since 2006. They had been renting a property in Dublin until March 2018, when their tenancy was terminated by the landlord and they were rendered homeless. The couple had made a previous application to the County Council for housing support in March 2017, which was subsequently refused. Of note, at the time of the first application they were not experiencing homelessness. In January 2019, the couple completed a second application form seeking assessment for housing support and retained the legal services of FLAC (Free Legal Advice Centres) to make the application on their behalf. By May 2019 the couple had still not received a decision from the County Council.

Mr Justice McGrath held that the applicants had established that the respondents had been in breach of its obligations to deal with their application within the allocated time period. He contended that there were no provisions within the Housing Act 2009 or the Social Housing Assessment Regulations 2011, when viewed in their entirety, which would preclude the consideration of a new application, particularly where the circumstances had changed. Therefore, the Council's argument that the second application was invalid was deemed to be unfounded and the applicants sought damages as a result.

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