

Public Law & Judicial Review

Legal Update | January 2026

Introduction

This legal update provides an overview of public law and judicial review in England and Wales, including grounds for review, procedure, and remedies. It is intended for practitioners challenging or defending public body decisions.

Grounds for Judicial Review

Judicial review is the process by which the courts supervise the exercise of public power. The traditional grounds were set out in *CCSU v Minister for the Civil Service* [1985] AC 374:

Illegality

The decision-maker must correctly understand the law and apply it. Errors include acting ultra vires (beyond powers), taking into account irrelevant considerations, failing to take into account relevant considerations, and fettering discretion.

Irrationality (Wednesbury unreasonableness)

A decision is irrational if it is 'so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it.' The threshold is high but may be adjusted in human rights cases.

Procedural Impropriety

This includes failure to follow statutory procedures and breach of natural justice (the duty to act fairly). Natural justice requires that a person affected by a decision has a fair hearing and that the decision-maker is not biased.

JR Procedure (CPR Part 54)

Judicial review claims must be brought promptly and in any event within 3 months of the decision (shorter limits apply in some cases). The procedure involves:

- Pre-action protocol letter (usually required)
- Permission stage - court considers whether arguable case
- Substantive hearing if permission granted
- Remedies: quashing order, mandatory order, prohibiting order, declaration, damages

Human Rights Act 1998

The HRA 1998 incorporated the European Convention on Human Rights into domestic law. Section 6 makes it unlawful for public authorities to act incompatibly with Convention rights. Courts must take Strasbourg jurisprudence into account when determining Convention questions.

Useful Resources

- BAILII - Administrative Court decisions

- [Judiciary.uk](#) - Judicial review guidance
- [GOV.UK](#) - Pre-action protocol for JR
- [UK Human Rights Blog](#)
- [Public Law Project](#) - JR resources

This document is for general information only and does not constitute legal advice.
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