

Judicial Review Practice and Procedure: an update

Polly Brendon

The Public Law Project

13 September 2018

Introduction

- Case law
- Administrative Court Judicial Review Guide 2018
- CPR

R (Talpada) v SSHD [2018] EWCA Civ 841

- *“The need for procedural rigour in public law litigation.”*
- Grounds of appeal to be clear and succinct
- Only grounds for which permission has been granted to be pursued
- Deprecates grounds “evolving” in e.g. skeleton arguments
- Administrative Court Guide 2018 6.3.4.1

Hickey v SSWP [2018] EWCA Civ 851

- Lord Justice Hickinbottom judgment [§ 74-75]
- Permission to appeal granted on one ground
- Tried to rely on others in amended grounds
- *“An appellant who has obtained permission to appeal and wishes to add to or otherwise amend his grounds must make a formal application to do so under CPR rule 52.17 as soon as he reasonably can.”* [§74]
- Administrative Court Guide 8.1.1 and 8.2.2

Liberty v SSHD and Secretary of State for Foreign and Commonwealth Affairs [2018] EWHC 976

- Application for extension of time for skeleton argument made after deadline expired
 - Granted, but...
 - Defendant to pay Claimant's costs of the application in any event, costs outside costs cap and on indemnity basis
- Application to rely on further evidence filed during and after hearing
 - Granted but...
 - Defendant to pay Claimant's costs of the application in any event, costs outside costs cap

Fayed v SSHD [2018] EWCA Civ 54

- Properly plead and particularise damages claims in judicial review [§ 48, 54-56]
- Administrative Court Guide 11.8.2.3: “*where the claim includes a claim for damages under the Human Rights Act 1998, the claim for damages must be properly pleaded and particularised.*”

Miscellaneous

- *SB (Afghanistan) v SSHD* [2018] EWCA Civ 215 approves *Madan v SSHD* [2007] 1 WLR 2891
- N463 now requires explanation for late instruction: Administrative Court Guide 16.2.2.1
- Updated requirements for emails to the Court: Administrative Court Guide 6.7.6
- Listing policy now included in the Administrative Court Guide, Annex 4