



Judicial Review

This leaflet may be of use to you if you are unhappy with a decision the Council has made which affects you and are considering Judicial Review.

Other information which may interest you includes our leaflet outlining our Corporate Complaints Procedure and our leaflet about our Homelessness Appeals Procedure.

This leaflet can be provided in a range of different languages or formats as required.

What is judicial review?

Judicial review is a specialised type of court procedure that can be used to challenge the way in which the Council or any other public organisation has made a decision that affects you. It is almost like a way of supervising public bodies to make sure they're acting within their legal powers and that they have proper procedures in place to deal with people fairly and openly.

By going down the route of judicial review, you're asking the Court of Session to:

- Look at how the decision was made (and not whether the decision itself was right or wrong).
- Check that the organisation didn't abuse its powers.
- Check that it acted lawfully.

To do this, you have to raise a 'petition for judicial review'.

Judicial review is not the same as an appeal, so it is not the right way to go if you want to try and get a decision against you reversed or changed. It's a way of asking the court to look at the way in which a decision that affects you was made to check that the organisation you're complaining about acted properly and within its powers.

Will I be able to use the judicial review procedure?

It depends. Judicial review is a complicated and specialised legal procedure. It is often a last resort and will only be appropriate in a few cases.

However, if you are unhappy about the way a decision has been made by the Council, or the way you've been handled throughout a process (for example, if you've applied to the Council as homeless) then judicial review may be an option for you.

Which court will my case go to?

If your case is being judicially reviewed, it will be dealt with by the Court of Session in Edinburgh.

Will I need a Solicitor?

Yes, you will definitely need specialised legal advice from a Solicitor. They will be able to advise you on whether it's worth applying for judicial review in the first place.

You will also need an Advocate or Solicitor-advocate to represent you in the Court of Session. Your Solicitor will 'instruct' someone appropriate to appear on your behalf.

The Citizen's Advice Bureau can assist you with this process.

How can judicial review help me?

Judicial review can only help you by getting the Council to look at their decision-making processes again. The court won't be able to change a decision that's already been made by the Council but it can force it to look at its procedures again and make sure it's acting within the law.

For example, judicial review may be able to help you if the Council:

- Refuses to house you while it carries out enquiries.
- Ignores relevant factors (such as your health) in deciding whether temporary accommodation you are in is suitable.
- Refuses to review its original decision.
- Refuses to provide you with accommodation while a review is being carried out.

What if judicial review isn't appropriate in my case?

In most cases, judicial review won't be an option for you. However, that doesn't mean that you can't get help elsewhere.

If you're not happy with the way the Council are dealing with you, you could put in a complaint.

If you have already complained to the Council and your complaint was not upheld, you could also consider making a complaint to the Scottish Public Services Ombudsman. The letter from the Council should explain this. The Scottish Public Services' Ombudsman's contact details are at the end of this leaflet.

Where can I get more advice?

This leaflet doesn't give you enough information to bring a judicial review yourself. You will need the help of a Solicitor experienced in judicial review matters, and possibly in the specific area which concerns you, for example, housing. In addition,

the Citizen's Advice Bureau may help you with this process. Your Solicitor would also be able to advise you of the likely costs involved.

You may require information as to whether you would qualify for legal aid. Legal aid allows people who would not otherwise be able to afford it to get help for their legal problems. The Scottish Legal Aid Board can help you to find a Solicitor who can do publicly funded work. They will also be able to advise you further on whether you can get funding to bring a case. Their contact details are at the end of this leaflet.

Contacts

Orkney Islands Council

Housing Services

Address: Council Offices, School Place, Kirkwall, KW15 1NY.

Telephone: 01856873535.

Email: homeless@orkney.gov.uk

Emergency out of hours repairs service: 01856873430.

Emergency out of hours homelessness officer: 07921582962.

Voluntary Sector Contacts

Citizens Advice Bureau

Address: 6 Bridge Street, Kirkwall, KW15 1HR.

Telephone: 01856875266.

Shelterline

Free 24 hour advice.

Telephone: 08088004444.

Website: <https://scotland.shelter.org.uk/>

Scottish Public Services Ombudsman

Address: 4 Melville Street, Edinburgh, EH3 7NS.

Telephone: 08003777330.

Fax: 08003777331.

Website: <https://www.spso.org.uk/>

Legal Services Agency Ltd.

Address: Fleming House, 134 Renfrew Street, Glasgow, G3 6ST.

Telephone: 01413533354.

Email: lsa@btconnect.com

Website: <https://lsa.org.uk/>

The Scottish Legal Aid Board

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HE.

Telephone: 01312267061.

Email: general@slab.org.uk

Website: <https://www.slab.org.uk/>

Details of Solicitors engaged locally in private practice can be found in the Yellow Pages Directory.

