Understanding the Leave Stage in Judicial Review

by
Dr. Stephen Thomson,
Associate Professor,
School of Law,
City University of Hong Kong

Dr. Stephen Thomson is an Associate Professor and Director of the PhD and JSD Programmes at the School of Law, City University of Hong Kong. He is a Legal Adviser to the Ombudsman of Hong Kong, a member of the Constitutional Affairs and Human Rights Committee of the Law Society of Hong Kong, and an examiner on the Overseas Lawyers Qualification Examination. Dr. Thomson is the author of the leading text on 'Administrative Law in Hong Kong', and also the author of the only book to have been written on equitable jurisdiction in Scotland, which has been cited with approval in the supreme civil court in Scotland. He holds a Ph.D. in judicial review from the University of Edinburgh (UK), and has practical legal and commercial experience, having worked at a UK law firm and acted on a consultancy and advisory basis to law firms, private clients and public bodies in Hong Kong and the UK.

The leave stage is an important preliminary aspect of judicial review procedure. If an application fails at this stage, it will not be considered at a substantive hearing. This intermediate level course will give an overview of the leave stage, beginning with the relevant statutory and court rules.

We will examine five main areas which can prove decisive at the leave stage: (i) delay, (ii) failure to demonstrate standing, (iii) non-justiciability of subject matter, (iv) the application is insufficiently connected with a public law matter, and (v) non-arguability. Each of these areas will be considered at the level of principle, case law and practice.

Is delay always fatal for an application for leave to apply for judicial review? Who can demonstrate standing in an application, and what are some of the factors that can be used to establish standing? When does the subject matter of an application deem it non-justiciable, and therefore not subject to judicial review? When is an application insufficiently connected with a public law matter? When is an application likely to be considered non-arguable, and what are some of the issues faced in demonstrating arguability? These and other questions will be addressed with regard to this important aspect of judicial review procedure.

Contents

- The leave stage
- Delay
- Standing
- Non-justiciability
- Insufficient public element
- Non-arguability

Scan to Calendar

Code:	**EVT000000279**	Level:	**Intermediate**
Date:	**2 August 2019 (Friday) (Amended)**	Language:	**English**
Time:	**14:30 - 17:45** (Reception starts at 14:00)	Accreditation(s):	**LSHK 3.0 CPD Points**
Venue:	**Kornerstone Institute** 15/F, Hip Shing Hong Centre 55 Des Voeux Road Central Central, Hong Kong	Request for Rerun:	**Please Contact Us for Details**

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