

Stephen CLEAR: The Necessity of Commercial Judicial Review: A Public Procurement Case Study

Public procurement judicial review has recently been subject to government scrutiny and some procedural reforms have been adopted, in particular reducing the time limit for instigating a judicial review claim in cases where a perceived Regulation right is being pursued. Since 2007 there has been a notable rise in the number of public procurement judicial review applications brought against central government services and national public bodies, as can be seen in several cases against the Law Society, and more recently, in November 2013 against the Lord Chancellor's Office. The growth in cases, and in particular the nature of these challenges, requires immediate examination and many interested parties (practitioners, public authorities, the courts and government departments) have called for an in-depth analysis of these developments (an analysis which is not being conducted by any other researchers in the field of judicial review).

This poster shall consider whether commercial judicial review is a necessary mechanism for resolving public procurement disputes. This will be achieved by examining what impact the public versus commercial divide has on resolving challenges by means of judicial review. It will also look at the differences, if any, in the operation of judicial review in traditional public law fields, for example in cases concerning welfare and education, as compared to cases of a more commercial nature. The poster will give an overview of how judicial review operates within each category, and will therefore not only advance understanding of procurement judicial review, but also reveal much about the conceptual, doctrinal and empirical nature of judicial review itself.