

## Response ID ANON-CYDF-P373-K

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### A What is your name?

Name:

David Pollock

### B What is your email address?

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### C How are you responding to this consultation?

Choose an option from the list provided:

Individual

### D What is the name of your organisation?

Please add text to this box:

#### 1 Do you agree that it is appropriate to shorten the time limit for procurement and planning cases to bring them into line with the time limits for an appeal against the same decision?

Please add text to this box:

No. I make two preliminary observations, based on the way that the consultation paper implicitly assumes that the growth in JR is a bad thing. First, the growth over the last 20 years has been entirely in immigration and asylum cases where the Government's record is one of sloppy administration backed by intolerance. The way to reduce the number of asylum and immigration JRs is to improve the performance of the Home Office and its agencies. Second, there has been a huge growth in legislation and in recent years a significant cut in the numbers of officials to administer it. Poor decision-making is plainly a serious risk in such circumstances. The operation of JR is an entirely proper and welcome means to remedy bad decision-making by public authorities.

As to time limits, the risk of the reductions proposed is that cases will be ill-prepared and fail not on their merits but because of the time constraints. Given that most relevant appeals are brought by organisations that have their own internal decision-making procedures, a reduction to a month risks making it impossible for some bodies to complete their own internal procedures in time to bring an action.

#### 2 Does this provide sufficient time for the parties to fulfil the requirements of the Pre-Action Protocol? If not, how should these arrangements be adapted to cater for these types of case?

Please add text to this box:

#### 3 Do you agree that the Courts' powers to allow an extension of time to bring a claim would be sufficient to ensure that access to justice was protected?

Please add text to this box:

No. This would add cost, complexity and uncertainty to the procedure, risk abortive work in cases where extensions were not granted, and distract from the main task of preparation of cases.

#### 4 Are there any other types of case in which a shorter time limit might be appropriate? If so, please give details.

Please add text to this box:

#### 5 We would welcome views on the current wording of Part 54.5 of the Civil Procedure Rules and suggestions to make clear that any challenge to a continuing breach of multiple decisions should be brought within three months of the first instance of the grounds and not from the end or latest incidence of the grounds.

Please add text to this box:

This is quite inappropriate. For one thing, breaches may not immediately become apparent. For another, the first resort for anyone will in most cases be to make informal attempts to obtain a remedy or compliance. The effect of this change would be to drive complainants to the courts immediately.

#### 6 Are there any risks in taking forward the proposal? For example, might it encourage claims to be brought earlier where they might otherwise be resolved without reference to the court?

Please add text to this box:

**7 Do you agree with the proposal to use the existing definition of a court as the basis for determining whether there has been a “prior judicial hearing”? Are there any other factors that the definition of “prior judicial hearing” should take into account?**

**Please add text to this box:**

Whether any prior judicial process has considered "substantially the same issue" involves a considerable degree of uncertainty. What is prima facie similar issue may if the facts have altered be in reality quite different. Decisions on admissibility should be made on their merits, without the intervention of unnecessary procedural complications.

**8 Do you agree that the question of whether the issue raised in the Judicial Review is substantially the same matter as in a prior judicial hearing should be determined by the Judge considering the application for permission, taking into account all the circumstances of the case?**

**Please add text to this box:**

**9 Do you agree it should be for the defendant to make the case that there is no right to an oral renewal in the Acknowledgement of Service? Can you see any difficulties with this approach?**

**Please add text to this box:**

**10 Do you agree that where an application for permission to bring Judicial Review has been assessed as totally without merit, there should be no right to ask for an oral renewal?**

**Please add text to this box:**

Broadly yes, but I should wish to see some exceptional safeguard for those cases where at a previous hearing the case has been grossly badly handled by the applicant's lawyers: a rare occurrence but one that should be recognised.

**11 It is proposed that in principle this reform could be applied to all Judicial Review proceedings. Are there specific types of Judicial Review case for which this approach would not be appropriate?**

**Please add text to this box:**

**12 Are there any circumstances in which it might be appropriate to allow the claimant an oral renewal hearing, even though the case has been assessed as totally without merit?**

**Please add text to this box:**

See Q10.

**13 Do you agree that the two proposals could be implemented together? If not, which option do you believe would be more effective in filtering out weak or frivolous cases early?**

**Please add text to this box:**

**14 Do you agree with the proposal to introduce a fee for an oral renewal hearing?**

**Please add text to this box:**

**15 Do you agree that the fee should be set at the same level as the fee payable for a full hearing, consistent with the approach proposed for the Court of Appeal where a party seeks leave to appeal?**

**Please add text to this box:**

**16 From your experience are there any groups of individuals with protected characteristics who may be particularly affected, either positively or negatively, by the proposals in this paper? We would welcome examples, case studies, research or other types of evidence that support your views. We are particularly interested in evidence which tells us more about applicants for Judicial Review and their protected characteristics, as well as the grounds on which they brought their claim.**

**Please add text to this box:**