

A Guide to the 'Learnings from Judicial Review Proceedings' Webinar

A link to the recording of the webinar is [here](#)

TIME

- **00:00** Slide 1 Introduction
- **02:40** Slide 2 Presentation Context & Local Authority Planning Functions
- **06:00** Slide 3 Key Topics - Presentation Overview
- **09:30** Slide 4 Judicial Review – What is it?
- **16:40** Slide 5 Court Interpretation of Planning Documents
- **19:05** Slide 6 Consistency with National and Regional Plans
- **22:20** Slide 7 Reasons and Irrelevant Considerations
- **25:50** Slide 8 “Have Regard To”
- **28:40** Slide 9 Status of Guidelines within Plans
- **31:00** Slide 10 Ministerial Directions
- **35:00** Slide 11 Section 15 of the Climate Act
- **44:00** Slide 12 Environmental Assessment

With judicial reviews (JRs) featuring prominently in the planning and development landscape, a clear understanding of the practicalities around JRs, is essential for both elected members and planners. **Slide 4** (09:30) sets out these practicalities and details the main grounds for JR, an understanding of which will help to ensure your plans and decisions stand up to legal scrutiny.

The presentation also sets out clear guidance on planning and legal terminology, which all elected members and planners, at some stage have to grapple with in their work, including how to interpret such commonly used legal standards as “*consistent, as far as practicable*” – **Slide 6** (19:05) and “*have regard to*” – **Slide 8** (25:50).

In **Slide 7** (22:20) the presentation outlines when and to what standard, reasons need to be given by elected members, in the discharge of their development plan making functions and highlights the importance of giving clear and adequate reasons, particularly when departing from the recommendations of the Chief Executive. The presentation reminds us that a local authority has no powers to give legally binding commitments in respect of future development plans and also gives clarity around what constitutes irrelevant considerations in plan making.

Slide 9 (28:40) advises caution when referring to Section 28 Guidelines in the body of a development plan and gives an example from the South Dublin County Development Plan, where the High Court found the use of the wording “*in accordance with*” in an objective, had the legal effect, of elevating Section 28 Guidelines from that of “*have regard to*” to a duty to be “*in compliance*”.

Slide 11 (35:00) outlines the significant strengthening of Section 15 of the Climate Act, when it was amended in 2021, and the original “*have regard to*” obligation was replaced with the wording “*A relevant body shall, in so far as practicable, perform its functions in a manner consistent with – (e.g. the climate Action Plan, National Climate Objective)*”. The presentation details the relevance of this in the context of the recent Coolglass Wind Farm v An Bord Pleanála judgment and includes wider commentary around this judgment.

Slide 12 (44:00) sets out which environmental assessments are relevant to plan preparation and which are relevant to projects and also outlines specific requirements and details relating to each.