

JUSTICE PRESS RELEASE

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JUSTICE welcomes cross-party conclusion that unjustified judicial review reforms limit access to justice and undermine the rule of law

In a Report published today, the Joint Committee on Human Rights (“JCHR”) – an influential cross-party Committee of MPs and Peers – concludes that the Government’s proposals to reform judicial review and limit legal aid for public law challenges are incompatible with access to justice and endanger the rule of law.

The Report emphasises the important constitutional function of judicial review and concludes that the Government case for reform is not made.

The Committee highlights efforts by the Lord Chancellor to cast judicial review as an abused political tool. The Committee rejects this premise entirely, together with the Government’s claim that judicial review claims have grown massively. Statistics show that ordinary judicial review numbers have remained broadly static.

JUSTICE welcomes the robust conclusions of the JCHR. We consider that the latest package of reforms – found in the Criminal Justice and Courts Bill and the latest civil legal aid regulations – are ill-evidenced and unnecessary. We regret that the changes to legal aid for judicial review – in force since 22 April 2014 – will render administrative justice out of bounds for all but those with deep pockets. Other changes would restrict the discretion of domestic courts to protect claimants from deterrent costs in public interest litigation.

Andrea Coomber, Director, JUSTICE, said:

“Judicial review is one of the very few means we can challenge public bodies and Government departments which act unlawfully. We should all be watchdogs when the Government tries to rewrite the rules in its favour.

Pressing ahead with these changes will shield Government – big and small – from scrutiny, will deprive individuals without means of an often much-needed remedy and will undermine the rule of law. MPs and Peers must act now. The ballot box should not be the only realistic remedy for unlawful public action.”

For further comment, please contact Angela Patrick on 020 7762 6415 (direct line) or apatrick@justice.org.uk.

Notes for editors

1. The Joint Committee on Human Rights Report, *The implications for access to justice of the Government's proposals to reform judicial review*, (Thirteenth Report of Session 2013-14) is published at 00.01, Wednesday 30 April 2014. Embargoed copies are available on request from the Joint Committee from Monday 28 April 2014. The report will be published here: www.parliament.uk/jchr.
2. The JCHR is extremely critical of the Government's proposals for reform of judicial review and new restrictions on legal aid. It is also critical of the role played by the Lord Chancellor and Secretary of State for Justice, Chris Grayling MP. By way of summary, the key conclusions, observations and recommendations of the Committee are:
 - a. **The importance of judicial review:** *"Judicial review is one of the most important means by which the Government and other public bodies are held legally accountable for the lawfulness of their decisions and actions"* (para 12).
 - b. **The case for reform:** While the Government is entitled to examine the effectiveness and efficacy of judicial review, its proposals for reform should be put to close scrutiny by Parliament and the public (para 17). The Committee concludes that the Government has failed to evidence any need for reform:

"The premise of the Government's Consultation Paper is that the use of judicial review has expanded massively in recent years and it is open to abuse" (para 24)

"We note that the number of judicial reviews has remained remarkably steady when the increase in the number of immigration judicial reviews is disregarded [The Committee earlier notes that immigration judicial reviews have been removed from the High Court to the Upper Tribunal]. We therefore do not consider the Government to have demonstrated by clear evidence that judicial review has "expanded massively" in recent years as the Lord Chancellor claims, that there are real abuses of the process taking place, or that the current powers of the courts to deal with such abuse are inadequate" (para 30).
 - c. **The role of the Lord Chancellor and Secretary of State:** The Committee is critical of the role played by the Lord Chancellor in promoting the reforms:

"[T]he Lord Chancellor suggested that the rationale for the Government's proposed reforms is that judicial review is being used as a "promotional tool by countless Left-wing campaigners". Such politically partisan reasons for restricting access to judicial review, in order to reduce the scope for it to be used by the Government's political opponents do not qualify as a legitimate aim ... capable of justifying restrictions on access to justice, nor are they easy to reconcile with the Lord Chancellor's statutory duties in relation to the rule of law." (para 21)

"[T]he Lord Chancellor's energetic pursuit of reforms which place direct limits on the ability of the courts to hold the executive to account is unavoidably problematic from the point of view of the rule of law" (para 22).
 - d. **The Committee recommends that the Government should abandon or significantly amend each of its proposals for reform** (paras 54-56; 79, 80 - 82; 92 - 93, 101 - 103).
 - e. **Legal aid cuts and Parliament:** The Government should not have made the latest cuts to legal aid for judicial review by secondary legislation, but should have afforded Parliament the opportunity to consider the impact of the proposals on access to justice in a full debate. The Committee calls for the Regulations in question to be set aside and the changes to be considered as part of the Criminal Justice and Courts Bill, currently before the House of Commons (paras 80 - 82). The House of Lords will next debate the Regulations on 7 May 2014. The Criminal Justice and Courts Bill will return to the House of Commons for its Report Stage in the coming months.
 - f. **The views of the senior judiciary:** The Committee is critical of the Government's response to concerns raised by the senior judiciary: *"The Government ought not so lightly to go against the views of the senior judiciary on a matter concerning the practical impact of its proposal on court proceedings"* (para 48).
3. The recommendations of the Committee broadly echo the written evidence submitted by JUSTICE and many others to the inquiry. JUSTICE's full evidence to the JCHR can be accessed [here](#). JUSTICE's full briefing on the Criminal Justice and Courts Bill can be accessed [here](#). JUSTICE's briefing on the Civil Legal Aid (Remuneration)(Amendment)(No 3) Regulations can be accessed [here](#).

Chairman of Council **Baroness Kennedy of The Shaws QC Director Andrea Coomber**

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