JUDICIAL REVIEW CHART

Does a claimant have a right to make a JR application?



Is the decision challenged issued by a public body? Does the claim raise public law issues?

Is the claim filed within 3 months or within the statutory time limit? (whichever is lesser)

Is the applicable legislation limited by ouster clause?

See principles laid out in *Anisminic*



Does the claimant have 'sufficient interest'? OR

Is the claimant a 'victim' under the HRA 1998?



Identify the grounds

Illegality

Where the decision maker has acted outside their power as laid down by Parliament or construed by the Court/s; acts without legal authority; Wrongly delegates to another; Fettering of discretion; Improper/unauthorised purposes; relevant and irrelevant considerations; errors of law and/or fact

Irrationality

Whether an authority has acted or reached a decision in a manner 'so unreasonable that no reasonable authority could ever have come to it' (*Wednesbury test*)

'A decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it' (CCSU test)

Decision is arbitrary, capricious, frivolous, vexatious and/or acting perversely.

HRA

Under the HRA, the only test is the 'victim' test that needs to be satisfied. UK Courts use the doctrine of 'proportionality' when Human rights/Convention rights are involved. The concept of 'proportionality' is the means used should not be excessive or disproportionate to the objective to be achieved.

Rules of natural justice

Procedural impropriety; Rule against bias, direct interests, right to oral hearing, right to a fair trial, right to have representation, right to put your case to the decision maker, right to know the details of the case against you, right to have the opportunity to refute it, legitimate expectations, reasons of a decision must be issued to both parties,

