

**Response to the Panel of the Independent Review of Administrative Law call for
Submission of Evidence on Effectiveness of Judicial Review**

I provide this brief response in a personal capacity drawing upon experience as an academic public lawyer. I have been involved separately, through my position as a co-convenor of the Society of Legal Scholars (SLS) Public Law Section, in contributing to the Society's collective response.

There is one particular point which I would like to suggest the Panel considers as a part of their holistic review and which I set out below.

In recent times, there has been an increase in the crowd-funding of judicial review and the value or potential difficulties of this could be considered. Although it may allow an alternative method by which to bring forward a case, there is a potential risk of an increase in politicisation of the mechanism of judicial review, particularly given that the crowd-funding tends to attach to high profile and particularly controversial challenges in an already fraught arena (for example, *Johnson v Westminster Magistrates' Court* [2019] EWHC 1709 – where the High Court quashed the Magistrates' Court decision in a crowd-funded private prosecution – also demonstrates the need to prevent 'vexatious' or 'political' motivations (para.44-45), and, more recently, *Dolan v Secretary of State for Health and Social Care* [2020] EWHC 1786 (Admin)). Also, there are now websites that openly advocate crowd-funded reviews (see <https://www.crowdjustice.com>) which raises other questions, such as whether citizens should have some protection from fraudulent websites. Additionally, even if the crowd-funding procedure is only *perceived* as political, this has implications for judicial review and the rule of law more generally. Perceptions regarding the origins and fairness of judicial review should not be discounted. After all, as Lord Hewart said almost a century ago, 'Justice should not only be done, but should manifestly and undoubtedly be seen to be done' (*R v Sussex Justices, ex parte McCarthy*, [1924] 1 KB 256). I do not take a position on whether crowd-funding should be encouraged or discouraged but rather suggest it is an aspect worthy of consideration in this review and is a field with scope for further research.

This suggestion is, of course, set in the context of the fundamental role which the process of judicial review plays in upholding the rule of law as a part of the wider framework of administrative law.

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