

The Distinctive Features of Public Law Proceedings

by
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Lewis is a practising barrister at Parkside Chambers. He was called to the Hong Kong Bar in 2005, and worked in a public law litigation team of the Department of Justice prior to joining his current chambers. He has hands-on experience in judicial review, election petition and other statutory applications of constitutional significance from the perspectives of both advocate and the instructing solicitor. Lewis obtained his BBA(Law), LLB, PCLL and LLM from The University of Hong Kong, and was a Refugees Status Determination Officer of the United Nations High Commissioner for Refugees.

The procedures of public law proceedings are *sui generis*: rules of pleadings do not apply, no process of automatic discovery, cross-examination of witness is less common and costs do not necessarily “follow the event”. In judicial review, the major form of public law litigations, there is the additional issue of how the *ex parte* nature of the leave stage would impact on client’s interest, costs concern and the further development of the proceedings up to substantive hearing.

In the meantime the number of public law proceedings has been on the rise, and practitioners in different areas such as financial markets, land law or even medical negligence have often found them entangled with procedural issues peculiar to public law.

Lewis will take the participants of this course to various distinctive features of public law proceedings, which are not or less seen in private law proceedings, provide some general guidelines with reference to authorities and his insights into the specific issues identified, to be followed by a discussion.

The topics will include:

- Overview of different forms of public law proceedings
- Preparation of the originating documents and supporting affidavits
- Practical considerations in making an application for leave to apply for judicial review:
 1. Is there any reviewable decision?
 2. Have the alternative avenues been exhausted?
 3. Does the client have *locus standi*?
 4. When is the time bar?
 5. What relief should be pleaded?
 6. Should I ask for interim relief?
 7. Should I ask for protective costs order?
 8. Should I request a leave hearing if the Court is not minded to grant leave on paper right away?
 9. What do I expect the Court will do after the filing of Form 86?
 10. What do I expect the Putative Respondent may do?

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- Practical considerations on the respondent's side:
 1. Should I be proactive in resisting before leave is granted?
 2. Costs consideration
- After leave is granted:
 1. Discovery, duty of candour and public interest immunity
 2. Application for cross-examination?
 3. Preparation of further affidavits
- Procedural issues of other forms of public law litigations
 1. Parties - who is the proper respondent?
 2. What to expect on the 1st call-over date?
 3. Further procedures
- Departure from "costs following the event" on ground of public interest
- Settlement of public law disputes - Is it possible? How to do it?

Scan to Calendar



Code:	EVT000000086	Level:	Intermediate
Date:	21 August 2015 (Friday)	Language:	English
Time:	14:30 - 17:45 (Reception starts at 14:00)	Accreditation(s):	LSHK 3.0 CPD Points (LSHK Allocated Number: 20152533)
Venue:	Kornerstone Institute 15/F, Hip Shing Hong Centre 55 Des Voeux Road Central Central, Hong_Kong	Request for Rerun:	Please Contact Us for Details



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