

<b>Neutral Citation No: [2019] NIQB 49</b>	<b>Ref: McC10973</b>
<i>Judgment: approved by the Court for handing down (subject to editorial corrections)*</i>	<b>Delivered: ex tempore 01/05/2019</b>

**IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND**

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**QUEEN’S BENCH DIVISION (JUDICIAL REVIEW)**

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**IN THE MATTER OF AN APPLICATION BY WILLIAM YOUNG  
FOR LEAVE TO APPLY FOR JUDICIAL REVIEW**

**McCLOSKEY J**

**Introduction**

[1] The court will not make a final decision in this case today. I make the following interim decision.

[2] Mr Young is challenging what he describes as the refusal of Land and Property Services (“the proposed Respondent”) to comply with the determination of the Appeals Tribunal dated 8 November 2017. That determination was followed by two further decisions on the part of the proposed respondent. First there was what I would call a Regulation 7 superseding decision which was made on 9 December 2017. Next there followed what I will describe as a Regulation 4 revision decision dated 14 March 2018.

[3] At the heart of these two further decisions of the proposed Respondent appears to lie what the Respondent would say is their discovery for the first time of a lump sum pension totalling some £26,000. That appears to be the impetus for each of the two further decisions. The further decisions are under appeal. A hearing was convened on 26 June. Mr Young attended, whereas it would appear that the proposed Respondent were not represented. This gave rise to a decision dated 26 June signed by the legally qualified Tribunal member and directed to Mr Young and presumably the proposed Respondent. The effect of this decision was to adjourn the hearing of the appeal. Reasons for this adjournment’s determination were provided. One of the reasons given is that *“Mr Young indicates that he is currently proceeding with a judicial review in respect of his contention that LPS has failed to implement the Tribunal decision of 6 November 2017.”*

[4] Mr Young was indeed proceeding with judicial review proceedings of that kind. He swore an affidavit on 30 July 2018 thereby initiating this judicial review challenge. It is clear to the court that, as a minimum, there is some nexus between the first Tribunal decision in Mr Young's favour, that is the decision dated 8 November 2017, and the two unresolved appeals before the Appeal Tribunal, each of which relates to the subsequent decisions of the proposed Respondent.

[5] Judicial review is a remedy of last resort. There is a misunderstanding in the approach which the Tribunal has adopted. It should have ensured that the appeals were exhausted before this judicial review continued. It took exactly the opposite approach considering that the fact of the judicial review provided a justification for adjourning the appeals. This is misconceived. Regrettably, almost one year later the appeals remain undetermined.

[6] Giving effect to the well-established principle that judicial review is a remedy of last resort, I hereby make an order staying these proceedings pending completion of the two appeals in question. I trust that the Appeal Service will be able to complete those appeals with the minimum of delay. There shall be liberty to apply and I reserve costs.