

PRINCIPLES FOR ADMINISTRATIVE JUSTICE

Foreword

I am pleased to present the AJTC's *Principles for Administrative Justice*. These Principles are designed to be used by officials in public bodies and beyond, who are making tens of thousands of decisions every day that are of real importance to individuals and their families. They also apply to those dealing with complaints or appeals against those decisions and they are designed to give users of public services a clear sense of what they can reasonably expect.

The AJTC's role since 2007 has been to keep the whole administrative justice system under review, with particular focus on the needs of the people who use the system. In 2009, we published *The Developing Administrative Justice Landscape*, which explains the concept of administrative justice, and how it sits alongside the more established fields of civil, family and criminal justice. This paper sets out the AJTC's view of the general principles that should apply right across the administrative justice landscape, in terms that we hope will help the system to help itself to maximise customer satisfaction and access to justice.

The seven Principles presented here build upon the foundations laid by others both here in the UK and across the world. Taken together, these Principles define an approach to administrative justice that is fair, accessible and efficient; and one which encourages respectful engagement between service users, initial decision makers, and appeal bodies of all kinds.

It has been said that these Principles are common sense. We take that as a great compliment. Common sense is generally much easier for individuals to achieve than it is for such a complex system as administrative justice. In order that organisations may judge their adherence to the Principles, we have provided a Self-Assessment Tool at Annex 2. This sets out a more detailed breakdown of the concepts in the Principles and facilitates a more searching analysis as to whether organisations match up to them in practice.

The AJTC is also keen that users themselves can engage in the process of continuously improving the administrative justice system. For that reason, the basic text for a short handout for users is included at Annex 1. We hope that organisations within the administrative justice system will find this a helpful document to give to their users, tailored where necessary to their specific circumstances.

Richard Thomas
Chairman, AJTC

Summary

1. This paper sets out the AJTC's Principles for Administrative Justice. It is aimed at organisations and individuals who either deliver or commentate on administrative justice. A version of the Principles aimed at people who use the system is appended at Annex 1. The Principles build on previous work in this field, and in particular on the Parliamentary and Health Service Ombudsman's Principles of Good Administration. The AJTC hopes that public bodies of all kinds will find them of value in their own work and that they will seek to adhere to them, to assess the extent of their adherence and to make improvements where necessary.

A good administrative justice system should:

- 1 make users and their needs central, treating them with fairness and respect at all times;
- 2 enable people to challenge decisions and seek redress using procedures that are independent, open and appropriate for the matter involved;
- 3 keep people fully informed and empower them to resolve their problems as quickly and comprehensively as possible;
- 4 lead to well-reasoned, lawful and timely outcomes;
- 5 be coherent and consistent;
- 6 work proportionately and efficiently;
- 7 adopt the highest standards of behaviour, seek to learn from experience and continuously improve.

Introduction

2. The Administrative Justice and Tribunals Council (AJTC) has a statutory role to keep the administrative justice system ('the system') under review, with the aim of making it fair, accessible and efficient¹. Its particular focus is to see that the system works well for the people who use it. This paper sets out the principles against which the AJTC considers the system. It should be read in conjunction with its sister paper *The Developing Administrative Justice Landscape* ('Landscape paper')².
3. The contrast between the images of 'landscape' and 'system' is instructive. 'Administrative justice' in practice covers a collection of bodies and procedures that have evolved from a wide variety of origins for a variety of purposes. In this sense, 'landscape' is the better descriptive metaphor. However, the choice of the word 'system' in the Tribunals, Courts and Enforcement Act 2007 is indicative of the need to bring greater order, coherence, simplicity and accessibility to the delivery of administrative justice for the benefit of citizens both as users of the system and as taxpayers. The AJTC regards its Principles as a contribution to meeting that need.
4. The Landscape paper provides a brief description of the main components of the administrative justice system:
 - initial decision-making in local and central government (the first and by far the largest element), other public bodies and outsourced agencies;
 - ombudsmen, regulators and independent complaint handlers;
 - tribunals, inquiries and courts;
 - other organisations closely concerned with administrative justice in the fields of advice and representation, public legal education and alternative dispute resolution (ADR).
5. The complexity and fragmentation of the 'landscape' presents a range of challenges in developing 'system' principles. These include:
 - the blurred boundaries of the 'system' and its dynamic and developing nature, especially as more public services are delivered by private and voluntary bodies;
 - the inclusion of both citizen versus state and party versus party jurisdictions³;
 - the plurality of approaches within administrative justice: adversarial versus inquisitorial or investigative; legally qualified judges or lay people; legal representation or self-representation, with or without advice and guidance, and so on.
 - the complexities of UK devolution and its benefits and challenges;
 - the need to differentiate between user concerns about 'rights' and about 'standard of service' and the different paths that such concerns might take;

¹ Tribunals, Courts and Enforcement Act 2007, Schedule 7(13)(1)

² Available at <http://www.ajtc.gov.uk/adjust/articles/landscape_paper.pdf>

³ *Landscape paper*, paragraph 23.

- the possibility of multiple avenues of redress for people in particular situations, and the risk that the system will not always guide them down the most beneficial path or enable them to change path when necessary.
6. This may mean that some of the Principles apply more directly in some jurisdictions than others or that some may be more easily achievable in practice than others. However, it is the Council's clear conclusion that the principles presented here represent reasonable expectations that citizens are entitled to have of administrative justice in all its forms.

DEVELOPING PRINCIPLES

7. There is a rich history of developing principles for administrative justice, both in the UK jurisdictions and across the world. This history is explored in the AJTC paper *Developing Principles of Administrative Justice*⁴. Most importantly, in the current UK context, there are well-developed principles in a number of specific fields. These include judicial review⁵; the work of tribunals⁶; good governance in ombudsman schemes⁷ and good administration; complaint handling and remedy⁸ by original decision-makers. In Scotland, a strong foundation has been laid by two recent reports on administrative justice⁹. In Wales, similar work has been initiated by the recent *Review of Tribunals Operating in Wales*¹⁰.
8. The AJTC is responsible for keeping the *whole system* under review, including the impact of innovations and developments¹¹. The health of the whole system is very much more than the sum of its parts. Nevertheless, any set of principles in this field of justice must have a provenance, and this paper builds on the foundation of what has gone before. The distinctiveness of the AJTC's approach is in the scale and reach of the landscape to which the Principles apply and in the consideration of the connections between the different parts of the administrative justice system that users must navigate. In this regard, the AJTC is uniquely placed to review the working of the administrative justice system as a whole.

⁴ Available at <<http://www.ajtc.gov.uk/publications/publications.htm>>

⁵ See, for example, Fordham M (2008, 5th ed): *Judicial Review Handbook*, Oxford: Hart Publishing

⁶ Council on Tribunals (2002, updated Feb 2006): *Framework of Standards for Tribunals*

⁷ BIOA (2009): *Guide to Principles of Good Governance*; BIOA (2007): *Principles of Good Complaint Handling*

⁸ PHSO (2007): *Principles of Good Administration*; PHSO (2007): *Principles for Remedy*; PHSO (2008): *Principles of Good Complaint Handling*

⁹ Philip (2008): *Report on the Future Administration and Supervision of Tribunals in Scotland* and Philip (2009): *Administrative Justice in Scotland*

¹⁰ AJTC Welsh Committee (2010): *Review of Tribunals Operating in Wales*

¹¹ Tribunals, Courts and Enforcement Act 2007, Schedule 7(13)(1)(c)

THE CHALLENGE OF PRINCIPLES

9. In setting out Principles, the AJTC is aware of some potential pitfalls. First, principles of themselves will not have an impact without a frame of reference against which to measure adherence. It is easy to say that ‘decisions must be fair’ but much harder to find decision-makers who see their own decisions as ‘unfair’. Ongoing evaluation will be essential, and the AJTC has started to develop tools to support that process. The self-assessment questionnaire at Annex 2 is the first of these.
10. Second, a comprehensive set of principles in any system will to some extent be in tension with each other. A system designed only to be efficient may not be very accessible. It might well run from one location, inviting people to come to it. Equally, a system designed to be accessible may not be efficient if it runs at great expense from many easily reached but under-used locations. An optimal system must balance competing principles.
11. Third, the AJTC’s statutory role includes the review of the system from a user perspective, and it will therefore wish to encourage expectations and achieve outcomes that may, on occasion, be at variance with the views of government departments, local government, the Tribunals Service, ombudsmen or judiciary. The AJTC’s Principles represent its contribution to the interests of citizens as users and taxpayers rather than any institutional interest.
12. Fourth, the AJTC is an advisory body and does not seek to impose its Principles on others. The Principles are therefore not drafted in the language of obligation, but they are a statement of what the AJTC believes to be important and desirable in the system, and an indicator of where and why change is needed. They are designed to engender a culture of service and continuous improvement within the system through self-assessment, measurement, dialogue and change management.

THE AJTC’S APPROACH TO REVIEW

13. The AJTC is a small organisation reviewing a huge system and must be selective to be effective. While it recognises the need for radical simplification of many administrative justice processes and the legislation and guidance that underpin those processes, its primary focus must be to identify problems within the system and to work with other stakeholders to resolve them. In his 2001 report, Sir Andrew Leggatt envisaged the then Council on Tribunals as the “hub of the wheel” of administrative justice¹². Working with all of the stakeholders in the system will enable the AJTC to identify the most important and tractable areas of concern on which to focus attention.

¹² Leggatt (2001): *Tribunals for Users: One System, One Service* at 7.49

14. For any given issue of concern, the AJTC co-ordinates its approach through a variety of means. It has excellent access to stakeholder networks across user groups in many jurisdictions in addition to government, the judiciary and panel members, ombudsmen and service administrators. It also has access to a wide range of statistical data. Discussions with stakeholders and analysis of indicators – time to decision or dispute resolution, appeal rates, attrition rates etc. – point to issues worthy of further investigation. For larger, more controversial or longer term issues, the AJTC encourages external research to enable stakeholders to gain a better understanding of problems and potential solutions.
15. It is not the role of the AJTC to performance manage organisations or seek to impose quantitative standards, key performance indicators etc. Many organisations already have such targets set for them, and there is a pre-existing machinery of audit and review. As indicated above, the British and Irish Ombudsman Association and the Parliamentary and Health Service Ombudsman have already set out clear principles to which original decision-makers should adhere in terms of good administration, complaint-handling and remedies and these are reflected in the Principles.
16. Where the AJTC uncovers a problem in the system, it seeks to analyse it in co-operation with other stakeholders and then seeks resolution as quickly as possible through dialogue. Sometimes problems arise that affect the administrative justice system more widely and may be beyond any individual organisation to address. Where necessary, the AJTC is able to make recommendations for broader systemic change to the Lord Chancellor and Scottish and Welsh ministers.
17. Given the current uncertainty about the future of the AJTC, it is important that individuals and organisations with a continuing role in administrative justice – both as front-line decision-makers, complaints handlers, managers, tribunal members, ombudsmen and also as regulators, auditors or policy makers – consider these Principles carefully and promote adherence to them as well as continuing to develop the thinking on which they are based. User representation in the justice system is both limited and fragile, and continued public support and fair access to justice will rely increasingly on the collective sensitivity to the needs of users of those working in the system.

Principles for Administrative Justice

GETTING DECISIONS RIGHT FOR USERS

- 1 A good administrative justice system should make users and their needs central, treating them with fairness and respect at all times.**
18. The administrative justice system exists primarily to help people to resolve disputes with, or complaints about, the providers of public services, to ensure redress is obtained where justified, and to ensure that public service decision-makers are accountable.
19. Professionals in the system will be aware of the stress on people using the system, often for the first and only time, and they must strive to make it a user-friendly environment. They must ensure that it is easily accessible, having appropriate regard to age, gender, ethnicity, disability, language and diversity in society in general. Much detailed guidance is available in this area already¹³.
20. It is vital that decision-makers and adjudicators listen carefully to people and show in their responses that they have understood people's concerns, even if they do not ultimately find in their favour. Particular regard should be paid to people who are acting on their own behalf or who face much better resourced opponents.
21. People should be treated sensitively and helpfully and they have a right to expect joined-up responses from different departments and organisations. Public service providers should be clear about their commitments to people and should ensure that they stick to them.
- 2 A good administrative justice system should enable people to challenge decisions and seek redress using procedures that are independent, open and appropriate for the matter involved.**
22. Procedural fairness is vital to administrative justice, starting with the processes supporting original decisions. Where a dispute arises, three rules underpin fairness. First, there must be an opportunity for people to get a fair hearing whether in person or in writing – an opportunity to present their case and say why they are entitled to the outcome they seek. Second, those who are dealing with the case must not be biased, or appear to be biased, towards any party. Third, reasons for decisions should always be given at least in summary form, with more detail available on request. The AJTC regards these rules as essential both to ensure fairness in specific cases and to enable the system to learn and improve over time.

¹³ For example, the Ombudsman's Principles and the Council on Tribunals (2002):
Framework of Standards for Tribunals

23. Where people complain about the way in which their case has been handled or where they challenge decisions, there must be a clear and independent route they can follow to seek redress. Those who investigate complaints or review cases internally should be sufficiently removed from the original decision-maker. Tribunal members and ombudsmen should be completely independent from both parties to a dispute.
24. The precise degree of independence will always be a matter for judgment. On the one hand, the AJTC would prefer the rapid resolution of a dispute through an internal review of the issue by the same department without the need for someone to pursue a formal dispute. On the other hand, it must be clear as a dispute develops that users have recourse to independent adjudication when they require it.

3 A good administrative justice system should keep people fully informed and empower them to resolve their problems as quickly and comprehensively as possible.

25. For most people recourse to the administrative justice system to settle a dispute with a decision-maker will be infrequent but when it occurs it is likely to be at best inconvenient and at worst traumatic. It is incumbent on all those involved in administrative justice to seek to resolve disputes as quickly as possible. Timely resolution is an important element of administrative justice.
26. People should expect public service bodies to help them to participate in administrative justice decision-making. They should be provided with clear, comprehensive and timely information to enable them to take part effectively in a transparent process. They should be able to access advice, guidance and support in proportion to their needs, whether from decision-making bodies themselves, from advice agencies or from legal services.
27. The right to appeal against a decision or to complain about how it was reached must be explained promptly and clearly. People should always know what complaint and appeal schemes exist, how they are designed to help, and that their impartiality is guaranteed. Appeals and complaints should be handled efficiently and effectively, leaving people with certainty about outcome and that their concerns have been taken seriously.
28. Clearly, individuals must also help themselves by providing information when asked. Equally, organisations must be allowed adequate time to respond to complaints before they are escalated or appealed, within clear time limits. They should be able to apply special arrangements to deal with the very small minority of complainants who behave unreasonably.

4 A good administrative justice system should lead to well-reasoned, lawful and timely outcomes.

29. Public trust in the administrative justice system depends ultimately on its compliance with the law and on its ability to deliver decisions that are perceived as just. Decision-makers must always act within their legal powers and they must do so rationally and proportionately and without bias or creating the perception of bias. Equally, they must act without unlawful discrimination and with regard for people's individual rights. These are well-developed and well-understood concepts of law.
30. In essence, the administrative justice system works at its best if original decision-makers decide first time that all and only those people who should get something from the system do so and those who should not get something do not. Getting the right decision first time is the best possible outcome.
31. People also need to be provided with timely information and guidance on the progress of their case or dispute at each step along the way. It should be possible to predict how long each step will take and how long it might take to reach a final resolution of the problem.
32. Decisions must be made openly so that users have access to the information they require to decide whether to accept the outcome or pursue a dispute further. All decision-makers should provide sufficient reasons for their decisions to demonstrate fairness and show that they have listened to people's concerns and evidence.
33. The integrity of decision-making also requires that decisions are made in such a way that they can, if appropriate, be publicly explained and justified, including scrutiny of the relationship between facts, rules and decisions, while protecting the privacy and confidentiality of individuals involved. Decision-makers must keep proper records for the legally required length of time and disclose them promptly when required to do so.
34. It is not acceptable for any organisation to acquiesce in poor quality decision-making simply because appeal and complaint mechanisms exist; such an approach is morally unjustifiable, adds unnecessary cost to the public and ignores the fact that many recipients of decisions they believe to be incorrect will simply not complain or appeal.

A HIGH-PERFORMING SYSTEM THAT LEARNS AND GETS BETTER

5 A good administrative justice system should be coherent and consistent.

35. People need to know how their disputes will be resolved. A coherent system is one where similar cases will follow similar processes and a consistent one leads to similar outcomes for similar cases. This does not imply a rigid system – there is no contradiction in creating a system that is both flexible and responsive to people’s needs and consistent in its decisions.
36. It is an ongoing cause for concern that some elements of the administrative justice system have reached a level of complexity and overlap where not just lay people but also decision-makers themselves appear to have difficulty in applying the rules coherently and consistently. Justice can only be seen to be done if the rules can be readily explained.
37. There will always be a need for discretion in the administrative justice system. Human circumstances are on occasion too complex to reduce to a set of rules. However, discretion should be constrained in two ways. First, it should relate only to circumstances that are not accounted for within the structure of existing rules and authority. Second, it must be exercised in relation to those rules. Discretion must not become a sticking plaster for rules that are too complex to deploy.
38. Significant progress has been made in recent years in rationalising the tribunals system. The introduction of the Tribunals Service and the First-tier and Upper Tribunal judicial structure has brought, and will continue to bring, far greater consistency of approach for users of the appellant part of administrative justice. However, this is the start and not the end of a process in one part of the overall system.
39. The AJTC (or any successor organisation) will continue to “review the relationships between the various components of the system (in particular ombudsmen, tribunals and the courts)”¹⁴. People still face a wide range of options in pursuing their concerns – internal review and complaints systems, alternative dispute resolution, ombudsmen, tribunals, courts etc. – and there is a need for far greater certainty from a user perspective as to how best to proceed in any given circumstance.
40. Where people find themselves pursuing different paths to resolving their disputes (e.g. ombudsman vs. tribunal) then the AJTC is concerned to see that there is sound guidance in place to advise people on the pros and cons of which route to pursue (or of pursuing both) and rules that make it possible for people to change to a more appropriate path later on if it proves necessary.

¹⁴ Department for Constitutional Affairs (2004): *Transforming Public Services: Complaints, Redress and Tribunals*, White Paper

6 A good administrative justice system should work proportionately and efficiently.

41. It is in the public interest to seek to resolve disputes as quickly as fairness and due process allow. From a government and judicial perspective, administrative justice becomes more expensive as disputes progress. Public resources should not be wasted. Equally, unnecessary expense and stress to citizens must be avoided.
42. The administrative justice system should be set up to enable most people to manage their disputes for themselves, but it must also signpost when people may be best advised to seek further help from government departments, outside welfare agencies or legal advisers.
43. Recent government and judicial policy has encouraged the use of alternatives to the courts, and more recently to tribunals, in resolving disputes. The concept of Proportionate Dispute Resolution (PDR) as described in the 2004 White Paper¹⁵ encompasses a wide range of different methodologies and settings.
44. The AJTC does not promote the use of one form of dispute resolution over another. Different circumstances require different solutions. However, the AJTC believes it is vital that there is a coherent national PDR strategy in place to enable people to pursue approaches to resolving their disputes that meet their particular circumstances and needs.
45. People are entitled to know about alternative routes to dispute resolution. In the right circumstances, arbitration, conciliation or mediation might lead to more satisfactory outcomes for people by taking their disputes outside the formal administrative justice system. The choice to pursue an alternative route, however, must always lie with the disputants and not be imposed by the system itself.

7 A good administrative justice system should adopt the highest standards of behaviour, seek to learn from experience and continuously improve.

46. The quality of the administrative justice system will depend upon the behaviours and attitudes of those who work within it. Good governance requires that they pursue high standards of organisational integrity such as those set out by the Committee on Standards in Public Life¹⁶. Public services organisations must be accountable to the public and to their customers. They must seek to serve both the people who fund the system as taxpayers and the people who rely upon it as users.
47. The administrative justice system is dynamic. It must not only meet the highest standards today, but must also be designed to learn from experience and improve over time. The challenge is to create a culture where feedback is welcomed and acted upon and where intelligence across the system is used to create a virtuous circle of learning and improvement.

¹⁵ Op cit.

¹⁶ Available at: <<http://www.archive.official-documents.co.uk/document/parliament/nolan/nolan.htm>>

48. It is likely that some disputes will be dealt with later in the system and more expensively in both financial and human terms than they might have been. The AJTC believes it is the responsibility of all those in the system to seek and learn from feedback on such cases. Those operating redress systems have a responsibility to feed back lessons to the original decision-makers. Original decision-making bodies have a responsibility to be proactive in actively seeking, assessing and acting upon such feedback and upon feedback from their customers and clients.
49. Continuous improvement will also lead to innovations, such as the alternative routes to dispute resolution described above. Innovation is essential in a system that strives to improve its service to users. However, innovations should always be piloted and evaluated before widespread adoption. The AJTC pays particular attention to those aspects of innovations that impact on the system as a whole. In the short-term, innovations will often lead to fragmentation. It is therefore essential that the system is adapted to accommodate positive changes within a coherent whole.
50. A greater understanding of end-to-end processes by all and a concerted effort to improve people's experience of the system is essential. Ultimately this may even require the drafting of clearer primary or secondary legislation on which decisions are based.

Annex 1:

Principles for Administrative Justice

What is administrative justice?

Decisions taken by public bodies can have a big effect on people personally and financially. We rely on the Government, its agencies and local councils to make correct decisions affecting us, quickly and fairly. If they don't, we can challenge them by complaining to an ombudsman, appealing to a tribunal or in some other way. Both public bodies that make decisions and organisations we can turn to for help are part of the administrative justice system.

What are the Principles?

The Administrative Justice and Tribunals Council has a legal duty to check whether the system works well for people affected by decisions. Our job is not to regulate how different parts of the system work in detail but to identify problems and encourage organisations to do better.

The Principles below provide a guide to the service you can expect to receive.

A good administrative justice system should:

- make users and their needs central, treating them with fairness and respect at all times (*Principle 1*);
 - enable people to challenge decisions and seek redress, using procedures that are independent, open and appropriate for the matter involved (*Principle 2*);
 - keep people fully informed and empower them to resolve problems as quickly and comprehensively as possible (*Principle 3*);
 - lead to well-reasoned, lawful and timely outcomes (*Principle 4*);
 - be coherent and consistent (*Principle 5*);
 - work proportionately and efficiently (*Principle 6*);
 - adopt the highest standards of behaviour, seek to learn from experience and continuously improve (*Principle 7*).
-

What does this mean for you?

Principle 1: The administrative justice system should work well for you and, where necessary, help to resolve disputes that arise. You are entitled to courtesy and respect at all times.

Principle 2: Decisions should be right first time. When poor decisions are made, it should be easy for you to seek another answer or redress. You should be able to complain or appeal to someone in the organisation other than the original decision-maker. If the organisation does not put things right, you should be able to ask for independent reconsideration, for example by a tribunal or an ombudsman.

Principle 3: You should be told how to challenge a decision you disagree with. No obstacles should be put in your way if you want to do so. Organisations should aim to resolve matters as quickly as possible. You should be given information and help to support you in presenting your case.

Principle 4: Decisions must be taken quickly. They must conform with the law and be made without bias or discrimination. The reasons for all decisions should be fully explained to you.

Principle 5: The process for dealing with your case should be straightforward and explained to you clearly. Decisions made in your case should be consistent with others made in similar situations. You should be given the reasons for decisions in plain language.

Principle 6: Organisations should behave in a competent and professional manner. Systems should be as simple to use as possible. The approach of decision-makers should be balanced and fair.

Principle 7: Organisations should adhere to high standards of administration. They should take account of user views when designing procedures. They should learn from mistakes and take steps to avoid problems arising in the future.

Contact us

If you want to find out more about the Council and its work or to comment on the Principles and whether they work in practice, please contact us at:

Administrative Justice and Tribunals Council
81 Chancery Lane
London
WC2A 1BQ

Enquiries: 020 7855 5200
Fax: 020 7855 5201
Email: enquiries@ajtc.gsi.gov.uk
Website: www.ajtc.gov.uk

Annex 2:

Principles for Administrative Justice Self Assessment Toolkit

INTRODUCTION

Welcome to the Self Assessment Toolkit. The toolkit is designed to help you assess your organisation against the criteria set out in the *Principles for Administrative Justice*. This is important because fair and proportionate decision-making and complaint settlement can enhance your organisation's reputation, provide opportunities for service improvement and help you to reduce costs.

All organisations which make administrative or judicial decisions should be able to demonstrate:

- Fairness, consistency, transparency and efficiency in making decisions and dealing with appeals;
- Understanding of the need to respond appropriately to complaints and appeals and to learn from them.

These are key values that go to the heart of effective and responsive front line service delivery. Administrative justice is not simply a matter for ombudsmen, tribunals or courts. It begins in your organisation when you gather information and evidence, exercise discretion and apply legislation and rules to reach decisions which affect people or other organisations.

The Principles should encourage you and senior managers to ask:

- Which of our activities are covered by the Principles?
- Is the way we take decisions and deal with appeals fair to users?
- Do we know what users would say about our adherence to the Principles?
- How can we check whether we are getting things right?

We hope that this toolkit will help you to answer these questions, and give you confidence in the way that your organisation delivers administrative justice.

SELF ASSESSMENT

This toolkit is not prescriptive in the way it must be used and should be seen as a flexible improvement tool, which can be integrated into your own wider self-assessment and staff development processes and/or used in conjunction with other self-assessment.

The knowledge and experience of your customer facing staff and their managers will be important in assessing how well you do things now and what if anything needs to be done to bring about change. Self assessment could start with a small cross section of people from your organisation completing the matrix below. The next step could be to bring together representatives of front line staff and middle managers with a member of the senior management team in a workshop environment to discuss the organisation's strengths, weaknesses and any opportunities for improving your responses to the challenges posed by the Principles; hopefully with the aim of producing an action plan.

An important question to ask is "Do we have enough information from users to say how well we are doing and what things might be changed for the better?". If not, it is important to think about how you can go about obtaining feedback of this kind. Many organisations find it helpful to use customer surveys, exit and follow-up questionnaires, focus groups and mystery customer exercises.

Whilst front line staff may know a lot about users of the service, this does not mean that they know how users are affected by the way decisions are taken. Understanding and trying to meet users' needs does not mean that less time will be available for processing decisions and appeals. On the contrary, simple and proportionate ways of doing things usually save time, staff resource and money. They also pay dividends in fairness and effectiveness. In this way, the cost of errors and unnecessary appeals can be reduced.

It can be helpful to conduct self-assessment at the point in the year when you are developing your strategic plan – when data is a useful indication of internal capability. Ideally, self-assessment should be at least an annual event, looking at what has happened in the previous period and what can be done by way of improvement in the next.

Why Use Self Assessment?

- To find out if your organisation really values fair decision making
- To encourage learning and improvement
- To make a difference on the ground
- As an input to strategic planning and performance monitoring
- To build reputation with customers / save money

Benefits of this approach

- A quick and easy way to check
- A team approach and a consensus for change
- An action plan with priorities identified
- Can be used internally and with partners
- Builds relationships / reduces the cost of serial error / unnecessary appeals

BEFORE YOU BEGIN, MAKE A LIST

First consider and list where in your organisation the *Principles for Administrative Justice* should apply. Whilst this will certainly include cases where there is a right of appeal to some kind of tribunal or appeal body, it may go further than that. It should, for example, apply to:

- the way you process claimed entitlements such as welfare benefits;
- applications for permission to do something;
- enforcement of steps required to be taken by individuals or bodies;
- the granting of licenses; and
- other actions or omissions by your organisation which generate internal reviews or appeals.

It may relate to the allocation of scarce resources where there are competing claims, such as places in schools. It may involve impacts on third parties not party to an application or request by another. It may be as a result of a complaint by an individual, possibly leading to referral to a complaint handler or ombudsman. Many of these decisions will be made within an existing statutory framework but that does not mean that the *Principles* are excluded or overruled.

If your organisation is complex, involving many different departments and service areas, it may not be immediately apparent to you that all these activities share common features which demand common approaches. However, it is important to understand that users dealing with more than one part of your organisation will know if you apply different standards.

USING THIS TOOLKIT

The sections below follow the same structure as the *Principles for Administrative Justice*.

Please read the relevant section of the *Principles* before you use the toolkit. Working through the sections, consider each of the questions in turn. Use your knowledge and judgement to rate your organisation in one or more areas of decision making by marking the box that best describes where you think your organisation/ area is currently.

For your organisation as a whole or any given area of decision making, the options are:

We do this really well, making a major contribution to our success	***	<i>Mark this box if you have approaches which are innovative, successful, well established and from which others can learn.</i>
We have some solid approaches in place but there is more to do	**	<i>Mark this box if you have a well developed successful approach that is deployed in at least half of the organisation.</i>
We have some things in place but they are patchy and incomplete	*	<i>If you have something in place but it is new, or you know it could be improved, or it is only implemented in a few areas, mark this box.</i>
We are just starting to look at this	!	<i>If you recognise the need for action but little has been implemented, mark this box</i>
Don't know or not applicable	?	

Having scored one of the principles, think about how you formed your opinion and use this to identify strengths and opportunities for improvement, noting these in the relevant boxes. Repeat for each principle until you have completed the workbook.

1 MAKE USERS AND THEIR NEEDS CENTRAL, TREATING THEM WITH FAIRNESS AND RESPECT AT ALL TIMES

Self-assessment questions	***	**	*	!	?
1. Have you identified the people or groups of people who use your services and designed services to meet their needs?					
2. Does your organisation have a service charter setting out for users what they can expect in relation to decision making, outcomes, complaints and appeals?					
3. Do you involve users in the design and review of systems, regarding access and operational procedures? For example, do you routinely ask users about their experience of your services and take account of their views; and/or consult with user and stakeholder groups?					
4. If you hold hearings, do users have rights to be assisted, accompanied and/or represented? Is there access to or provision of interpreters?					
5. Are your hearing/meeting centres local and easily accessible by public transport? Do they meet user needs in terms of signage, security, comfort, and access to private meeting facilities? Do they accommodate a wide range of physical needs and levels of understanding?					

Strengths / Weaknesses	Opportunities for improvement

2 ENABLE PEOPLE TO CHALLENGE DECISIONS AND SEEK REDRESS USING PROCEDURES THAT ARE INDEPENDENT, OPEN AND APPROPRIATE FOR THE MATTER INVOLVED

Self-assessment questions	***	**	*	!	?
1. Does your decision making process comply with natural justice and human rights legislation in providing a fair and unbiased opportunity for users to make representations and/or attend a hearing?					
2. Do decision makers work to clear and published policies and guidelines so that users can understand the criteria against which decisions are made?					
3. Do you provide opportunities for alternative means of dispute resolution both at an early stage and as a case progresses, and ensure that users know about this?					
4. Does your organisation offer inquisitorial as well as adversarial processes when conducting hearings and ensure that users are properly helped to make their case, understand the issues and challenge decisions?					
5. Do your arrangements routinely include a right of appeal/complaint to an independent person/body? Do you signpost this service to users?					

Strengths / Weaknesses	Opportunities for improvement

3 KEEP PEOPLE FULLY INFORMED AND EMPOWER THEM TO RESOLVE THEIR PROBLEMS AS QUICKLY AND COMPREHENSIVELY AS POSSIBLE

Self-assessment questions	***	**	*	!	?
1. Do you provide step-by-step information in plain language to users about your decision making and appeal processes in ways that accommodate diversity and cultural differences?					
2. Do you identify the names and titles of caseworkers, or contact points to enable users to ask questions, seek help and give feedback?					
3. If some stages may take longer than expected, do you stay in regular contact with users to reassure them that their case is being handled as quickly as possible, or do they have to chase progress?					
4. Do you make sure that users are fully informed about the requirements and tests they will need to satisfy in order to reverse or change a decision that has been taken?					
5. Where fees are charged are they objectively justifiable having regard to the circumstances of the appeal and an individual's ability to pay?					

Strengths / Weaknesses	Opportunities for improvement

4 LEAD TO WELL-REASONED, LAWFUL AND TIMELY OUTCOMES

Self-assessment questions	***	**	*	!	?
1. Are reasons for decisions always provided and given in plain language? Do you confirm decisions in writing and include information about any further right of appeal or complaint and methods of resolution?					
2. Within applicable law, do you exercise appropriate discretion in decision making? For example, do you give warnings or opportunities to correct rather than moving straight to enforcement or penalties?					
3. Does the decision making / appeal handling process comply with current law and regulations including any non-statutory procedural rules for case handling?					
4. Do you set time limits for decision making and reviews with the needs of users in mind?					
5. Do your decision making, review and appeal systems adequately take into account the rights and interests of affected third parties to have a say?					

Strengths / Weaknesses	Opportunities for improvement

5 BE COHERENT AND CONSISTENT

Self-assessment questions	***	**	*	!	?
1. Are your decision making / dispute resolution arrangements adequately resourced to provide good quality decisions without backlogs? Are your staff adequately trained to analyse evidence and decide issues to consistently high standards?					
2. Is your organisation co-ordinated internally and with other agencies to ensure that there are no gaps in the administrative processes leading up to decision making that will cause delay or confusion for the user?					
3. Is the evidence gathering process used in decision making comprehensive and robust?					
4. Can you resolve problems easily and quickly with minimum form-filling or bureaucracy for users or do you regularly have to rely on independent complaints or appeals processes to settle disputes?					
5. Is there a guidance manual available to all interested parties to ensure that disputed decisions are handled in a consistent way?					

Strengths / Weaknesses	Opportunities for improvement

6 WORK PROPORTIONATELY AND EFFICIENTLY

Self-assessment questions	***	**	*	!	?
1. Is the end to end journey from information gathering, through internal decision making and appeal or review understandable and straightforward for users?					
2. Are effective and regular monitoring arrangements in place to ensure that decisions are taken in compliance with the quality and timeliness standards adopted by your organisation? Do you regularly review the costs associated with handling?					
3. Is it an objective of your organisation to seek to settle disputes as straightforwardly and as simply as possible without the cost and stress for users associated with having to appeal / progress to a formal appeal?					
4. Have you considered the range of dispute handling tools which might reduce the necessity for a stressful / costly appeal to a formal tribunal/court? Specifically: <ul style="list-style-type: none"> a. Reference to a neutral case handler to provide information to a disputant b. Reference to an internal complaints system or review by a more senior person not involved in the original decision c. Use of an independent complaints handler / private ombudsman d. Invitation to mediate / conciliate / neutrally evaluate 					
5. Do you use external evaluation, peer review or challenge in seeking continuous improvement in efficiency?					

Strengths / Weaknesses	Opportunities for improvement

7 ADOPT THE HIGHEST STANDARDS OF BEHAVIOUR, SEEK TO LEARN FROM EXPERIENCE AND CONTINUOUSLY IMPROVE

Self-assessment questions	***	**	*	!	?
1. Do you publish clear customer service and operational standards and matching performance data by which you expect your organisation to be judged?					
2. Do you have an accessible and published means by which people can complain about the way they have been treated?					
3. Is the effectiveness of your decision making and appeals handling performance monitored in an integrated way with your organisation's other performance management processes, to alert you to opportunities to address underperformance, improve accuracy, fairness, consistency and customer service?					
4. Is there scope to consider such information at front line, management and leadership levels, at appropriate intervals?					
5. Can your organisation demonstrate that governance arrangements relating to decision making and complaints and appeals handling are consistent with the Nolan principles?					

Strengths / Weaknesses	Opportunities for improvement

ORDER AND PRIORITISE YOUR OPPORTUNITIES FOR IMPROVEMENT INTO AN ACTION PLAN.

After you have finished:

Consider within your management team whether your attitude to fair decision making has changed. In particular:

- To what extent the *Principles* have permeated across all the decision making activities of your organisation?
- How best to ensure that they are adopted and reinforced as values your organisation endorses, for example by incorporation in corporate statements, or celebration of good practice?
- How and when you should check and monitor adherence to the *Principles* and make improvements in the way you take decisions?

Thank you for taking the time to consider the self assessment toolkit.