

# AI for Administrative Justice?

*Nuffield Foundation Workshop Primer*

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## What is administrative justice?

There are various definitions of ‘administrative justice’. Traditionally conceived, there are two key institutional aspects to the administrative justice system:

- The frontline systems through which people seek to access their legal rights and entitlements—the focus has traditionally been on administrative decision-making, but it can extend to consideration of the wider aspects of service design and management; and
- The complaints and dispute resolution processes through which people can seek redress for their grievances about public officials. These include systems such as internal review, ombuds, tribunal appeals, and judicial review.

Both are often spoken of both separately and together as ‘the administrative justice system’. Some would argue that it is imperative to see these systems as an integrated whole, but not all do so—some even argue it would be mistaken to see them as integrated.

In practice, the system is enormous—with millions of important decisions made every day and many more interactions occurring around those processes. The system is also complex as processes, including decision-making processes and what rights of redress are available, often differ between (and sometimes within) different areas.

To (attempt to) simplify things a little, some analyse the system ‘vertically’ by reference to policy areas or service functions (e.g., tax, social security, immigration, education), and others look at it ‘horizontally’ by reference to common institutional mechanisms (e.g., first-tier administrative decision-making, tribunal appeals, judicial review). Researchers also often use a combination of the two and look at the functioning of different mechanisms in one policy/service area.

A key factor in the design and operation of the administrative justice system is that responsibility for its design and management is, generally speaking, diffuse. For instance, tribunals might be under the management of HM Courts and Tribunals Service, but the decision-makers being challenged in those tribunals will range from across a whole host of government bodies. Thus, questions of reform often engage multiple government bodies (and other parties) that often have differing interests and viewpoints.

Underlying these institutional components are questions about what requirements the idea of ‘administrative justice’ imposes on the design and operation of institutions. As with any such use of a concept, there is disagreement on what exactly it requires. However, the arguably dominant strand of administrative justice research focuses on trying to tease out the different ways processes might legitimately be organised, accepting that public service and justice system administration often involves ‘doing justice within the limits of the possible.’

## **What can AI do to enhance administrative justice?**

Thus far, the research on AI and administrative justice has generally focused on the use of AI and automation in decision-making systems. The issues generally considered in such research include the sort of errors that AI can make in administrative settings, how they can be challenged (including the problems with challenges), and whether the public perceives these sorts of AI applications in this context to be fair and legitimate. These are important issues and must be kept central, but there has been much less consideration of how AI might be used within the administrative justice system, particularly beyond decision-making within cases. However, there is much that AI has the potential to improve in the management of the administrative justice system, if deployed carefully.

For example, one area where this is true is the issue of feedback loops and organisational learning. The problem is simple and long-standing: all of the complaints, appeals and challenges to government decision-making are also a source of data from which first-tier decision-makers (and other officials) can learn to improve their decision-making. The goal should be to get decisions right the first time, but decision-making structures often make the same errors repeatedly, which then piles (expensive) work onto tribunals and other complaints systems. The main challenge is getting the processes in place to make sense of the mass of decisions and then communicating this to people with the authority to change decision-making practices. There is a clear opportunity for beneficial impact through AI here, as it could assist in the sort of analysis and communication that could enable better initial decision-making for people and lower costs overall.

AI has great potential to enhance administrative justice in the UK. While being cautious of its limitations and still not losing sight of the problems it might cause, we need to explore these sorts of applications more. A central question is: what research do we need to help advance current policy and practice in this field?

Key questions we would like to explore include:

- What characteristics will both AI models and/or regulatory/legal frameworks need to deliver fair processes and outcomes?
- What role can AI play in improving appeals and challenges to unfair administrative decisions?
- How can AI chatbots be fair and effectively deployed to enhance administrative justice?
- How can the justice system be made fit for purpose in challenging unfair uses of AI?
- What uses of AI in the administrative justice system might help or harm public perceptions of the legitimacy of the system?

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