

10 steps in good administrative decision making

This information sheet is general in nature and provided for information purposes only. It is not intended to be a substitute for legal advice. You should seek your own legal advice as required.

The following ten principles help to ensure that discretion is exercised properly. These principles are modified from the Ombudsman Western Australia Guidelines, Exercise of discretion in administrative decision making.

1

Determine that the decision maker has power

Check the relevant legislation, and agency policies and guidelines, to ensure that the person making the decision has the power to act or decide. This ensures the decision is lawful.

2

Follow statutory and administrative procedures

It is important that the person who is responsible for exercising discretion follows statutory and administrative procedures.

3

Gather information and establish the facts

Before making a decision, gather information and establish the facts. Some facts might be submitted with an application made to the decision maker. Others might be obtained through inquiries or investigation. This may involve using the power to request further information from the applicant.

4

Evaluate the evidence

Consider relevant evidence and not irrelevant matters to assist you to determine all the facts. Ensure that you give adequate weight to a matter of importance but do not give excessive weight to a matter that is of no great importance.

5

Consider the principles of administrative law to be applied

Internal reviews are administrative matters where the decision must be made reasonably, objectively, and in accordance with administrative law principles. The administrative law principles include lawfulness, procedural fairness, independence and impartiality, transparency, efficiency, and rationality.

6

Act reasonably, fairly and without bias

Ensure that the decision maker acts impartially and does not handle matters in which they have an actual or reasonably perceived conflict of interest.

7

Observe the rules of procedural fairness

Before making decisions, the decision maker may be required to provide procedural fairness to anyone who is likely to be adversely affected by the outcome.

8

Consider the merits of the case and make a judgement

Although policies, previous decisions and court and tribunal decisions may guide the decision maker, it is still important to consider the matter or application on its merits and to make a judgement about the matter under consideration.

9

Keep parties informed, advise of the outcome and provide reasons for the decision

The decision maker should keep relevant parties informed during the decision-making process; they should inform the relevant parties of the outcome; and provide reasons for the decision reached.

10

Create and maintain records

It is vital that records are created and maintained about the issues that were considered in the process, the weight given to the evidence and the reasons for the decisions made.