Newcastle Fairness Commission

Principles of Fairness

15 December 2011

Context

The Newcastle Fairness Commission was set up by the City Council in summer 2011. Knowing that they would face budget cuts and diminished resources overall, but concerned about inequalities in Newcastle society, the Council asked how they could take fair decisions about planning and resource allocation in times of austerity.

The Fairness Commission consists of about 20 people drawn from a range of sectors of civil society, such as charities, foundations, health, education, faith groups, minorities and community activists. The remit of the Fairness Commission is:

- To set out a strong set of principles about how the concept of fairness can be given practical effect in Newcastle, securing broad endorsement from across the city.
- Critically to assess evidence of the degree of fairness, cohesion and equality within Newcastle; informing, and making use of, the proposed Newcastle Future Needs Assessment.
- To identify the critical policies and social contract that would need to be put in place to create and secure a fairer city, and to challenge us all to implement them.

To meet the first goal, the Fairness Commission set up a Working Group on Principles. Those principles were further discussed by the Commission at its meeting on 15th December. The following note reflects these discussions.

Background

There is no doubt that fairness is a contested concept, as indeed are related concepts such as justice, equality or tolerance. The Fairness Commission accepts that, and does not expect to come up with an uncontested set of principles. We believe that the very contestation of the concept of fairness should be seen as part of the collective attempt to implement it.

We also do not expect to come up with any comprehensive set of principles, and we are comfortable with the thought that there is always more that can be said about the topic of fairness. Our aim has been to produce a short document with a reasonable number of principles that are formulated in plain English and easy to understand.
Newcastle City Council has made a commitment that the concept of fairness will be
integral to all their policy, planning and decision-making processes. The principles of
fairness are intended to be used in aid of this commitment.

**Principles of Fairness**

1. **Fairness is a fundamental concept in its own right, related to but not the
   same as notions of equality, social justice, democracy, tolerance, good
citizenship and social cohesion.**

   At the outset we realised that, the moment you say “fairness”, people tend to couple
   that with some related notions. Many people, for example, would equate fairness
   with equality. There is currently an active discussion on the relationship between
   equality and societal wellbeing, arising in part from a book called *The Spirit Level*
   by Richard Wilkinson and Kate Pickett. These authors have shown very convincingly
   that social problems are worse in less equal societies, even for those who are more
   affluent. This is a hugely valuable contribution because it gives empirical
   confirmation of an argument many of us have long made, namely that there is a
   sound business case for equality. Yet from the point of view of the Working Group,
   we quickly concluded that we cannot simply equate fairness with equality. The City
   Council has acknowledged that Newcastle remains an unequal society, but still hope
to take fair decisions. Fair decision-making is desirable, and should be possible,
even when – in fact, particularly when – there are remaining inequalities in society.

   In like manner we came to the conclusion that fairness is not the same as social
   justice, democracy, and similar notions. Again, in each case there are valuable
   connections to be made. One of the most influential books on justice of the 20th
   century, by John Rawls, posited that justice is essentially a matter of fairness. In the
   end, we came to the conclusion that fairness is a primary concept, and regarded as
   intrinsically good in its own right. It is not reducible to other concepts such as justice,
equality, democracy and the like, nor is it derivative from them. Normally, to say
something is unfair is enough to condemn it; we do not need to explain what is bad
about unfairness by reference to some further value. We could say that fairness will
flourish best where conditions of equality, social justice, democracy, tolerance, good
citizenship and social cohesion obtain, and that all of these remain, and should
remain, common goals of civil society. However, that still leaves us with the task of
explicating fairness itself. We do so by pointing out some things which we consider
to be fair, and some we do not.

2. **It is fair to allocate resources between competing priorities, provided those
   priorities enjoy a democratic mandate and infringe no rights or freedoms.**

   If fair decisions about allocating scarce resources are to be taken in a context where
not everybody can get what they want, or perhaps even what they deserve, we need
first to address the question of the legitimacy of such decision-making, and indeed of
the decision-makers. It is essential that the decision-makers must have a democratic
mandate, which they use to work towards strategic goals for which they have secured support through the democratic process. This is no small matter, because if you have strategic goals then you will allocate your resources in such a manner as to advance those particular goals, and not others. A democratic mandate is necessary to make that fair.

But democratic systems can also be exploited to deliver unfair outcomes. Equal votes and majority rule could still issue in decisions that treat minorities and individuals unfairly, an outcome often called the tyranny of the majority. Therefore there should be safeguards of some kind, and these are commonly framed in terms of guaranteed rights and freedoms. There may also be a conflict of values between legitimate local and national democratic interests, and examples where local politicians are constrained in implementing locally fair decisions because of national or international laws and regulations.

3. **It is fair to balance current need against future benefit, including to future generations.**

Fair decisions will balance the interests of current and future beneficiaries, including people not yet born. Investment in the future benefit of all may decrease the resources available to meet the needs of the present. The attempt to create fair opportunities for all would be a case in point. We may, for example, decide to invest more in developing the skills of young people, even when that decreases the budget for adult education. Such a decision needs to be taken with due consideration, but it should not be considered as unfair just because there is no immediate apparent benefit, even when there is immediately apparent need. Actions to secure environmental justice, particularly in response to climate change, are examples of where the interests of current and future generations are debated.

As a related concept, where decisions are made on the basis of a balance between current and future needs, it is important to ensure that commitments to the future are not then reneged upon. People who have traded off current for future benefit, will understandably regard it as unfair if those commitments to future benefit are not subsequently delivered, or are changed on a unilateral basis without their influence.

4. **It is fair that those who need more should get more, provided their need arises from circumstances beyond their control, not from their own actions or inactions.**

In an unequal society some have more and some have less, and consequently some can satisfy their own needs and some can not. We posit that those who are most disadvantaged should receive greater benefit, and that more effort should go towards creating opportunities for them. This is an example of how an unequal allocation of resources can be regarded as fair, and how, conversely, a simple arithmetically equal distribution could be regarded as unfair.
There are two important caveats to the principle that those who need more should get more. The first is that the need must be genuine. There is a distinction here between genuine needs and superficial desires, such as those inculcated by a consumerist society. Needs can be distinguished from desires because needs are objective while desires are subjective, and because needs are generally more urgent than desires. Genuine needs would be those related to what someone would need to lead a minimally decent human life in 21st century Britain, such as food, clothes, housing, education and healthcare. This is sometimes called a social minimum.

We may distinguish between general needs, common to all, and special needs, specific to some individuals or communities. Many of the needs for which the Council caters are general to the population, such as maintaining a clean environment, safeguarding community health, or providing and maintaining a transport system. Because these needs are general, we would think that fairness requires them to be provided in roughly equal measure to all. There are many cases, however, of special needs: the sick, the disabled, or those disadvantaged by circumstances beyond their control. In such cases fairness demands an unequal distribution.

5. It is fair to expect civic responsibility from all, and a contribution to society commensurate with ability and resources.

Some may wish to add to the fourth principle a further caveat, namely that those who need more are deserving of more only once it is clear that they have genuinely tried to avoid need and to make a contribution commensurate with their abilities or resources. Such a condition is sometimes called Beveridgeite, after William Beveridge, whose 1942 report became the foundation of the British welfare state. This can sometimes be portrayed as a distinction between the “deserving” and “undeserving” poor.

We reject this distinction as too simplistic, on the grounds that it too readily defines individuals as undeserving, without recognising the underlying reasons why people do not, or cannot, avoid placing themselves in a position where they are in need. Individuals are a product of wider social, economic and community influences, and these can interact to limit personal responsibility. In other words, the fact that someone’s own actions have created additional needs does not absolve society from the requirement to help. Nevertheless, we recognise that the concept of what people “deserve” underpins many people’s understanding of fairness, and will have an impact on the perceptions of what constitutes a fair allocation of resources.

We would instead propose a more positive approach. Instead of giving society a mandate to deny resources to those whose needs are self-inflicted, we would reinforce that everybody has a responsibility to contribute to civil society. This would include the responsibility of not wilfully making yourself a burden or a cost to others. We invoke this principle, for example, when we expect people to lead a more healthy lifestyle, and not to inflict a burden of public health problems on society through (e.g.) smoking, substance abuse or lack of exercise. What we do not believe is that it is then fair to deny support to people who ignore this expectation.
6. It is fair that benefit for all should be contributed to by all, even if not in equal measure.

7. It is fair that hardship caused by none should be shared by all, even if not in equal measure.

Whereas the 5th principle only made the point that responsibility may be expected from all, these next two principles spell out two particular ways in which such expectations crystallise through a relationship of reciprocity between the individual and the collective. Namely, we should all help to build a better society, and we should all contribute to facing hardship. Again, these principles could, if we wish, be made considerably more specific. We could, for example, say that everybody should contribute to public goods available to all, even if not everybody chooses to use them, such as sport fields or libraries. Likewise, we may wish to strengthen the 7th principle by saying explicitly that hardship caused by none should be shared by all, even when that hardship does not affect everybody. For example, if the river floods, leaving some people homeless but others unaffected, it would still seem fair that the homeless receive emergency help at public expense. Both these principles are qualified by the idea that, just as a fair distribution may be an unequal one (as in the 4th principle), fair contributions from individuals to the collective may also be unequal, depending as it does on ability and resources. In order for all to benefit it is fair that all should contribute what, and insofar as, they can.

8. Fair process and fair opportunities are as important as fair outcomes.

Whereas fair outcomes relate to the notion of just deserts (“fair share”), fair process relates to the notion of even-handedness (“fair play”) and fair opportunities relate to the idea of a level playing field (“fair go”) and an effective voice in decision-making (“fair shout”). The principle here is just that these notions of fairness deserve our attention in equal measure. We apply the test of fairness not only to the outcome of decisions but also to the process of decision-making and the opportunity to participate in the process. People are more likely to accept unequal outcomes if they feel they have been fairly treated, and conversely unequal treatment could sour the taste even of a fair outcome. This has to do with dignity as much as with justice. Fair opportunity, in turn, can be seen as an essential part of the search for justice and equality, and a strategic investment in the future.

9. Privilege should not buy priority, but need might deserve it.

This is the substantive principle relating to the notion of fair process. As a rule we want everybody to be treated the same. We explicitly do not want the privileged to have any inherent entitlement or influence to priority in services or facilities common to all. We accept that in an open market money can buy better quality or better service, as for example going first class on the train. If, however, there is a train crash, we would not want the ambulance automatically to head for the first-class carriage. It should attend first to those whose injuries are the worst.
A more general version of this principle is that fairness is often a matter of applying the right and relevant criteria to decisions or resource allocations. In the train crash example, the right criterion is medical need, not wealth or social status. In appointing someone to a job the right criteria are ability and suitability, not (for example) race or gender or family connections. When it comes to social housing there are likely to be a variety of criteria that are relevant and the fairness with which it is allocated will depend on the right criteria being identified and then stuck to.

10. Ability should be able to access opportunity regardless of circumstance.

This is the substantive principle relating to the notion of fair opportunity. For opportunity to be fair it must be more than just available, it must be accessible. It is not enough to say that the door of opportunity is open if some are hampered from walking through it because of circumstances beyond their control. It is fair to take special measures to overcome circumstances which may hamper access to opportunity, because not only the individual but also society stands to benefit from it.