



*Administrative Fairness for Local Governments:
Reducing Wear and Tear on Communities*

**A Presentation to the Clerks and Corporate Officers Forum,
Local Government Management Association**

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“Fairness is what justice really is”

Potter Stewart

Role of the Office

‘ ... generally oversee the administrative actions of government authorities with a view to upholding the democratic principles of openness, transparency and accountability.’

(Report of the Special Committee to Appoint an Ombudsman, Legislative Assembly of British Columbia, Second Session, Thirty-Eighth Parliament, April 26, 2006, page 1)

Role of the Office

Section 10 (1) *Ombudsman Act*;

The Ombudsman, with respect to a matter of administration, on complaint or on the Ombudsman's own initiative, may investigate

- a) a decision or recommendation made
- b) an act done or omitted, or
- c) a procedure used

by an authority that aggrieves or may aggrieve a person

Role of the Office

Jurisdiction

- Provincial:
 - Ministries
 - Boards and Commissions (i.e. WorkSafeBC)
 - Crown Corporations (i.e. BC Hydro)
- Municipalities, Regional Districts, Islands Trust, etc.
- Schools, School Boards, Colleges, Universities
- Hospitals and Regional Health Authorities
- Various Pension Boards of Trustees incl. Municipal
- Professional Associations and other

Enquiries and Complaints

- 19% increase in intakes in 2008/09 fiscal year
- 5,250 files opened in 2008/09
- Local governments:
 - 421 complaint files opened
 - 209 assigned to investigators

Administrative Fairness

Person affected by the decision:

- given advanced notice?
- made aware of information to be considered?
- allowed to present his/her case?
- given an opportunity to appeal / review?

Administrative Fairness

Decision-maker:

- was impartial? (unbiased and without personal interest)
- considered all relevant information?
- considered exceptional circumstances?
- gave meaningful reasons that could be understood?

Administrative Fairness

Decision:

- was made by someone with the authority to make it
- does not lead to something unauthorized / illegal
- is reasonable and understandable
- does not create unnecessary obstacles
- is consistent with decisions made under similar circumstances

What We Look For

- Authority is aware of concern (If not, may refer back)
- Legislative authority to make the decision
- Appropriate discretion used
- Provided opportunity to be heard
- Considered relevant information available
- Informed of right of reconsideration or appeal
- Decision is reasonable based on information
- Reasons provided for the decision

What We Look For

Reasons provided for the decision:

- Address the concerns directly and completely
- Are easily understood
- Demonstrate decision consistent with other similar situations
- State the rule and lead logically to decision reached
- Cite appropriate evidence considered
- Support statements of law with statutory or judicial authority
- Written, whenever possible

How Handled

- Referral
- Early Resolution
 - Section 14 Notice to Authority
 - Consultation/Resolution Within 5 days
- Investigation
 - Assessment – Is there a matter of administration?
 - Section 14 Notice to Authority
 - Consultation/Resolution
- Section 15 access to information
- Section 17 preliminary findings/recommendations
- Section 23 findings and recommendations
- Section 25 and Section 31 public reporting

Particular Challenges Facing Local Governments

- Overlapping Roles
 - How to maintain potential for future independent review of decisions
- Distance from Complaint
- Administrative / Legislative Overlap
- Level of Experience
- Size of Organization

Themes

- Bylaw Enforcement (or lack thereof)
- Consultation Process
- Transparency of Decision-making Process
- Communications
- Not Providing Expected Service
- Charges for Services

Case Summaries – Local Government

A road by any other name...

- A man who was ill was unable to get his car onto the street because of a heavy snowfall
- His district had told him that it did not plough lanes and that his driveway opened onto a lane.
- He was puzzled because his lane had been ploughed in previous years, and he thought it was a road.
- We contacted the district, and it responded by clearing out the snow and producing a four-page policy on winter operations.
- (Annual Report 2008/09, p47)

Case Summaries – Local Government

Voting Matters

- While we were investigating several complaints related to a referendum, we learned that the Ministry of Community Development planned to develop a best practices guide on how to hold one.
- We believed that such a guide could both help local governments and citizens.
- We asked, and the ministry agreed, for the guide to include coverage of the issues most commonly complained about.
- The guide is expected to be on the ministry's website this year.
- (Annual Report 2008/09, p46)

Case Summaries – Local Government

District offers apology and meeting

- A man contacted our office to complain that his neighbour had harmed his property in the process of removing 35 dump truck loads of soil from his property (the neighbour's property).
- The man had met with the district's CAO in 2006, but had not heard back since then.
- We contacted the district. The new CAO acknowledged that the district had not responded to the man's complaint adequately and apologized to him. The CAO also offered to meet the man on his own property in order to observe and see what could be done to address the issues. The district agreed to provide him with copies of arborist and geotechnical reports it had recently obtained.
- (Annual Report 2008/09, p49)

Why People Complain

- Unhappy with:
 - decision
 - level of service
 - behaviour of staff
 - communications / information
 - process used
- Seeking justice or fair play
- Seeking vindication
- Disputing authority to make decision

Effective Complaint Resolution

- Responds to the problem
- Responds to the needs of the complainant
- Is respectful
- Helps resolve dissatisfaction
- Assists in identifying problems and improving procedures

Effective Complaint Resolution

- Has a defined process for complainants
- Has a clear policy for how complaints will be handled
- Is accessible – Who to contact? How?
- Ensures relevant information is gathered & considered
- Supports timely decision-making
- Is transparent
- Includes providing reasons for decisions made

Preventing Complaints

- Respond to inquiries in a timely manner
- Provide
 - policies / procedures
 - bylaws
 - dispute resolution process
- Review policies regularly and rewrite as needed
- Be consistent in applying policies
- Be open to re-evaluating a situation
- Accept complaints as a valuable learning opportunity

Questions?

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