

Notes for Remarks
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The Ombudsman's Role in Providing Equity

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These are polarized times in which we live with great divides across economic class, race, ethnicity, gender, disability, religion and ideology. We face enormous challenges. That of keeping our powerful governments accountable to the people; the challenge of integrating diversity into our public institutions, and the challenge of ensuring that equity is offered in services provided by all public institutions. These are challenges which we must meet if we wish to protect and improve the quality of our democracy and the values which we cherish as Canadians.

Governments shape laws, set policies, provide services. It is one thing to advertise equity, to open the doors to diversity – and something quite different to create the space for equity to be acted out – to become meaningful. It is one thing to defend and advance one's own human rights, and another to create a culture in which everyone's rights are protected and advanced.

It is difficult work to engage in the understanding of competing interests, finding compromise, accommodating others and working together to resolve differences in the views and lived experiences of others.

Public service is most accessible to those who can navigate the established processes, who fill out the forms correctly. Public service favours those with education, those who can meet the bureaucracy on its own terms.

It should not surprise us that people who are members of equity-seeking groups, in fact, often have more contact with government agencies than others. It also should not surprise us that marginalized communities may have greater difficulty in gaining access and receiving equitable treatment. Many, however -- perhaps the majority -- see themselves as powerless to do anything in the face of change: hang in, don't rock the boat, it's not my problem, don't hassle me, you can't fight City Hall, you can't win!

As Ombudsman, I see the impact of government on real people. In particular, I can see where institutions, policies, practices, and attitudes which were commonplace in past decades impact on today's communities.

There may be unfortunate gaps where policies have not kept pace with shifts in family structure, income patterns, or demographic characteristics of the population.

Municipal government has a responsibility to provide services that are accessible, fair and equitable to all of its communities.

My role in that equation is to provide a 'check and balance' – to even the playing field between citizens and their government. The ombudsman concept involves the public, on the one hand – and the public service on the other hand. We are squarely in the middle – impartial – with no vested interest in the outcome of a complaint except that the public was treated fairly by the City's civil service.

My office pays particular attention to those who are vulnerable or marginalized to ensure the playing field is evened - and access to City services is equitable.

And that brings me to talk about our lens on fairness. Everyone has their own view of fairness. It can be based on a deeply felt conviction or an intuitive understanding of what is unfair. Who hasn't at some time said or heard "but that's not fair"?

Fairness depends on the circumstances and means different things to different people at different times. Fairness, in the context of public servants' duties and obligations, is much more than just a fair hearing or a provision of service. It is about providing information that is easily found, accessed and understood. It is about treating the public with dignity and respect and providing an open, accountable and timely service.

Last but not least, it is about providing well reasoned decisions about the actions taken by public servants. I look at three aspects of fairness: substantive, procedural and equitable. Substantive fairness concerns the fairness of the decision itself. Decision-making is a process that actually begins at the first point of contact with the public. From clarifying the issues to gathering data and assessing the facts, the person is building the information that will influence their decision.

- Was there legal authority to make the decision?
- Was the decision based on relevant information?
- Was the decision maker biased?

Procedural fairness concerns how the decision was made – the step to follow before, during and after a decision is made.

- Was the citizen given enough information?
- Was she given an opportunity to make her case?
- Did the decision maker give reasons why a particular decision was made?

Equitable fairness has to do with how we treat parties. It is about ensuring that people are treated fairly, not necessarily identically. Equitable fairness explicitly takes into account the person's social location. That means factors such as education, literacy level, ethnicity, creed, culture, language, geographic location, family status, gender, sexual orientation, socio-economic status and disability.

- Was the process inclusive?
- Were issues such as power or marginalization considered?
- Was the agency approachable?

Fairness is about common sense and it is about good business because it reduces disagreements, engenders public trust and creates confidence in those who have the

power to make decisions.

We cannot expect our institutions to change unless we are ourselves willing to commit to change. We must have the courage to challenge ourselves and ask the difficult questions. The more diverse we become, the more urgent it is that we each come to grips with discriminatory attitudes we encounter in our own midst. It will require a demonstration of willingness, creativity and space to shape solutions together.

Our challenge is to take risks, to make room for those who are not at the table... to speak truth to power.