



Citizens' Representative Message

As we look toward the end of the more stringent and limiting aspects of the pandemic, my provincial and territorial Ombudsman colleagues across Canada have recently drawn attention to the issue of vaccine certification documents. While the need for these types of documents will certainly exist as Canadians begin to once again cross international frontiers, as a group we asked ourselves back in April what sort of proof our provincial and territorial governments will require for citizens to receive in-person public services. As Ombudsman, our collective job is to ensure administrative fairness and prevent circumstances that would give rise to complaints wherever possible. We decided to strike a working group of representatives from our respective offices to consider the matter and generate a document that we could release together. The document would help inform government decision makers about the administrative fairness aspects of vaccine certification documents. The committee did excellent work, and the Canadian Council of Parliamentary Ombudsman was pleased to release *Fairness Principles for Public Service Providers Regarding the Use of COVID-19 Vaccine Certification* on May 26, 2021. The document advances a number of concerns for governments to consider, including:

- ◆ The need for clear direction for the use of vaccination certification, which must be delivered by legislation or publicly available policy.

- ◆ Any vaccine certification program must be evidence-informed and all decisions must be subject to review and appeal processes.
- ◆ Accommodations must be made for those who have not received the vaccine, including alternative service delivery options.
- ◆ Decisions about restricting access to a service based on a person's vaccination status must be done in a transparent, procedurally fair manner and be clearly communicated to the affected person in an accessible way. And,
- ◆ Independent oversight of the program should be mandatory.

Simultaneous to this exercise, the federal, provincial and territorial privacy commissioners were doing similar work. It made sense then, that we would partner with the NL Office of the Information and Privacy Commissioner to provide the government of Newfoundland and Labrador with our joint perspectives. Thank you to Commissioner Harvey and his staff for taking the lead on communications surrounding this issue. You can view the Ombudsman guidance document at:

https://ombudsman.novascotia.ca/sites/default/files/documents/CCPO-Fairness-Principles_Vaccine-Passport-EN.pdf

As more and more Newfoundlanders and Labradorians get vaccinated, please continue to follow public health directives. With everyone doing their part, I hope that we can all have a more enjoyable summer than last year.

Bradley J. Moss

Fairness Triangle

Every one of us will have the occasion to apply for a provincial government program or service at some point in our lives, whether it is an application for a birth certificate, driver's license, home supports, crown land, etc. If you have ever been on the receiving end of a decision or if you've been part of the decision-making process and considering whether a decision may be fair, the fairness triangle may be useful in your consideration. The Office of the Citizens' Representative (OCR) relies on its foundation principles in relation to a decision, the process followed to get to a decision and the service provided during the interaction in determining whether a citizen has been treated fairly in relation to their access to public services.

Decision: A fair decision is made following rules, policy and procedures that are not discriminatory or unreasonable. The decision must also consider individual circumstances to achieve a fair outcome for the person affected.



Process: A reasonable process gives validity to a fair decision. The decision-maker should be impartial and the citizen must have an opportunity to be heard. The decision ought to be made in a timely manner with clear and meaningful reasons provided. Information ought to be provided in relation to any review or appeal processes available.

Service: Fair service can be an assessment of the interactions with a public body when accessing programs and services. A service is considered fair if respectful treatment has been afforded. Clear, forthright and accessible information ought to be provided to a citizen to contribute to the perception of a respectful interaction.

This is a worthwhile tool to use whether you are a decision-maker interacting with the general public, or whether you may be assessing your experience dealing with the public service directly. Being mindful of these basic principles will assist in any assessment of fairness.

¹ BC Ombudsperson. (n.d.). *The Fairness triangle*. <https://bcombudsperson.ca/assets/media/Fairness-Triangle.pdf>

Seeking Fairness



A citizen submitted a complaint stating NL Hydro unfairly denied a claim for damage to a household appliance. It was alleged the damage occurred following a “reclose” (a normal system operation that enables power to be quickly restored when the temporary fault that caused the interruption is cleared). A review of NL Hydro’s Damage Claim Policy and like policies from other jurisdictions determined that damage claims are typically denied unless there is negligence on the part of the hydro electricity company.

Through inquiry, the OCR was satisfied that NL Hydro completed a thorough investigation of the cause of the power interruption that caused damage to the citizen’s appliance. NL Hydro verified a reclose did occur on the date indicated. The OCR verified this to be an industry standard operation to which there was no crew response. Normally, recloses are not responded to unless they occur multiple times within a very short timeframe. NL Hydro also verified the power interruption would have affected all customers of the community. A search of the NL Hydro’s Customer Service database did not show any other complaints from other customers of the community resulting from the reclose. While not conclusive, we found this fact to be supportive of NL Hydro’s position that there was no evidence of negligence by NL Hydro that would have caused the citizen’s damages.

Finding Solutions

A citizen contacted the OCR as a member of the Public Service Pension Plan. The citizen had questions about re-entry to the Group Insurance Plan, having opted out of the plan several years previous, and wasn’t confident in navigating this process.

While the OCR does not have jurisdiction over the Treasury Board Secretariat, it has established a network of contacts within most areas of government, as a means of supporting the work of our Office. In this instance, the OCR was able to rely on our contact to inquire whether the desire of the citizen to re-enter the Group Insurance Plan was possible, and if so, to outline the relevant process.

Following consultation with the Treasury Board Secretariat, the citizen was advised of the process of re-entry to the Group Insurance Plan and was provided with contact information to engage the process to determine future eligibility.

We Deliver!

We have numerous presentations available for public servants and the general public on our full range of services, including the provincial whistleblower program, and tips on how to navigate difficult complaints for frontline workers. Presentations are available by calling (709) 729-7647 or via email at citrep@gov.nl.ca

Questions? Comments?

Is your department, agency or community group interested in learning more about the OCR, its services and processes? Do you have a suggestion or question to be addressed in a future edition of *Insights*? Call us at 1-800-559-0079 or (709) 729-7647, or e-mail citrep@gov.nl.ca.

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