

# Society of Ontario Adjudicators and Regulators

## Administrative Justice System Agencies

### 28 Questions

1. What justifies - requires? - the creation of an AJS agency? What principles should govern that choice?
2. Why is it necessary for us to recognize that AJS agencies, variously structured and operating in dramatically different contexts, are nevertheless components of a "system" of agencies?
3. How do "regulatory" activities relate to "adjudicative" activities? Are there "regulators" who are not also "adjudicators"?
4. What aptitudes, skills and knowledge should we be looking for in AJS agency chairs and members? Do we want professional adjudicators or publicspirited citizens?
5. What should be the selection process? Criteria? What weight should be given to the Chair's opinion?
6. Are these good career opportunities for the candidates we seek? Is career prospects an appropriate criterion for these positions? Are "career" adjudicators wanted?
7. Are we in danger of creating a new "pinkcollar ghetto"?
8. What training of chairs or members is necessary? What training needs are generic? How should training delivery be structured?
9. Should we evaluate adjudicator performance? How? Against what criteria? For what purpose?
10. What structures are necessary for "disciplining" adjudicators?
11. What is an appropriate termofappointment policy?
12. Why do we appoint chairs and members by OIC? Some adjudicators are agency employees. Might that be more generally appropriate?

13. What considerations should govern a Legislature's decision to specify parttime adjudicators for a particular agency?

14. Should the staff of AJS agencies be members of the Ontario Public Service? If so, who should have the deputyminister powers respecting their employment?

15. What should be the relationships between AJS agency chairs and: ministers, deputy ministers, other ministry officials, the Legislature, other interests?

16. What is a chair's recourse duty? when funding or administrative support falls short of allowing the agency to meet its statutory responsibilities?

17. What is, typically, a desirable management structure? Should the chair be the Chief Executive Officer? In agencies where the chair does not effectively control the selection or the reappointment of members, can outside control of those decisions be reconciled with good agency management?

18. What is meant by "quasiindependent" AJS agency chairs and members? May "quasi independent be" all that is wanted?

19. Assuming agreement on the quality of independence, what structural arrangements would ensure that quality? How is the push for "accountability" to be squared with the need for independence?

20. Are single-focus agencies too vulnerable?

21. Is the practice of leaving the conception, design, and administrative support of AJS agencies, and the supervision of their chairs, entirely to the discretion of individual ministries congruent with principles of independence? Is it compatible with the system concept?

22. Why are the conflicts of interest that often exist between host ministries and their agencies seemingly invisible? conflicts that in other contexts would not be acceptable. What are the systemic implications?

23. Why does the system have no centre?

24. Is the need felt by all governments of the day to have strategic AJS agencies share that government's strategic "attitudes" legitimate? What agencies would not be strategic in that sense? What would be the criteria?

25. Should governments be empowered to issue binding directives to AJS agencies on generic policy issues?

26. Are the so called pure adjudicative agencies free of strategic significance? Is it a fair suggestion that even "adjudicative" agencies have an institutional "attitude" or bias?

27. If a government must be free to change an AJS agency's "attitude" or bias through the appointment of a new chair or new members, how is that prerogative to be reconciled with the independence of decisionmaking?

28. Who ensures that such questions get asked and answered?

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