

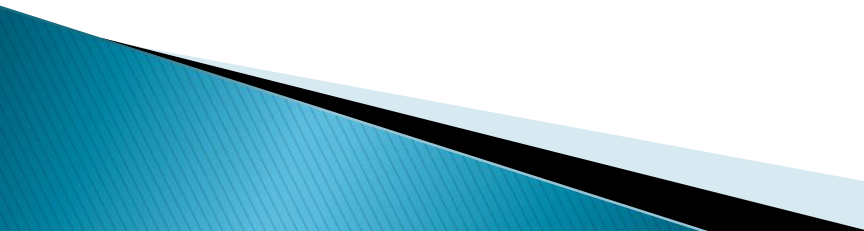
Evaluating Remedial Performance

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COBA November 4, 2010
“Remedies Panel”

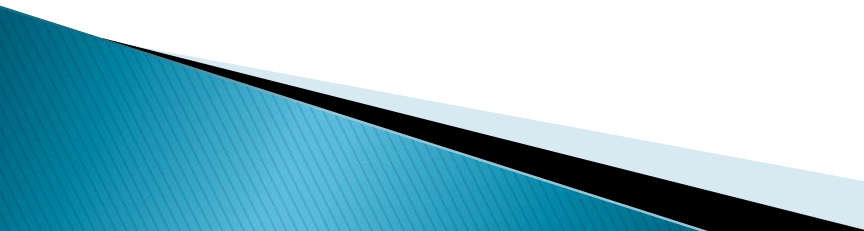
Why Evaluate Public Bodies?

- ▶ Tribunals, agencies, boards and commissions are public bodies which spend public dollars in order to fulfill a public mandate set out in legislation. To whom are they accountable for the effectiveness of their remedies? Do those remedies fulfill the statutory mandates of the tribunals?
- ▶ The independence of the adjudicative tribunals, and their role in advancing public policy objectives, have been confirmed by the Supreme Court (*Matsqui* (1995) and *Ocean Port* (2001)) Remedies lie at the heart of independence; but does accountability undermine independence?

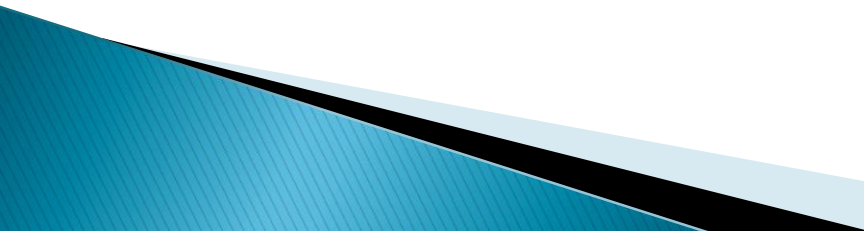
Criteria for Evaluation

- ▶ Fulfillment of statutory purpose
 - ▶ Quality of reasoning, fact-finding, etc
 - ▶ Consistency and coherence in decision-making (guidelines, transparency, public legal education)
 - ▶ Reputation/satisfaction among users, advocates, stakeholders, the public, etc
 - ▶ Impact of remedial decisions on intended parties (e.g. HPARB decisions on health colleges)
 - ▶ Value for money, cost effectiveness (e.g. Provincial audits)
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Forms of Evaluation

- ▶ Annual Report; Parliamentary Oversight
 - ▶ Independent Oversight (e.g. Auditor General, Integrity Commissioner, Ombudsman)
 - ▶ Judicial Review
 - ▶ Ministerial Accountability
 - ▶ Internal Review, Supervision by Chair
 - ▶ External Review (consultants, academic studies, etc)
 - ▶ Media (investigative journalism, etc)
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Methodologies for Evaluation

- ▶ Tracking decisions, collecting data & monitoring impact
 - ▶ Exit surveys & questionnaires
 - ▶ Qualitative studies (interviews and observation)
 - ▶ Quantitative studies (randomized control studies, etc)
 - ▶ Comparative studies
 - ▶ Historical studies
 - ▶ Normative studies
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Playing with Numbers: Cases & Cautionary Tales

- ▶ Financial Services Commission/Tribunal Study for Expert Commission on Pensions
- ▶ Alberta *Public Agencies Governance Act* S.A. 2009 c.A-31.5 (“mandates and roles” document) (s. 12(a) “Every public agencies shall make all reasonable efforts to fulfill its mandate...”)
- ▶ Social Benefits Tribunal – Provincial Auditor’s ODSP Value-for-Money Audit in 2004–2006
- ▶ IRB – media reports of regional and member inconsistency in rejection/acceptance rates
- ▶ Fairness Committee Report on Securities Adjudication (2005)