



## WHAT IS ADMINISTRATIVE LAW?

Decisions that affect your daily life are made by different bodies and agencies. Sometimes you are able to participate, by making submissions at a hearing, but sometimes the decisions take place behind closed doors.

Administrative law deals with legal limits on the actions of these decision makers and the ways you can hold officials accountable if you are affected by a violation of these limits, for example if a decision is made that is wrong or unfair.

### Types of decision makers

Some statutes (laws) allow an official to make a decision on the basis of available information through government departments or by considering a written application. One example of this is the Registrar of Motor Vehicles, who makes decisions about drivers' licences.

Other laws create tribunals or boards that can hear disputes and rule on them. These are sometimes called **quasi-judicial decision makers**, because they have rules and procedures that are similar to what you would expect in court. People have a right to attend, present evidence and make submissions. One example of this is the Yukon Residential Tenancies Office.

### Why do we have Administrative Law?

The main purposes of administrative law are making sure that:

- activities of decision makers are allowed in law...this is called **jurisdiction**;
- laws are implemented in a fair and reasonable way...this is called a **duty of fairness**; and
- citizens have effective solutions when government does not follow the law...these are called **remedies**.

### Jurisdiction

In administrative law, **jurisdiction** means that a decision maker must act within the legal boundaries set out in the law that created it.

*What are the legal boundaries of a decision maker, or how do I know what a decision maker is allowed to do or how they can do things?*

You must look at the law that created the decision maker to find out what its legal boundaries are. This is called its **home statute**. The decision maker's **home statute** will describe **what** the decision maker can or cannot do, **when** they can or cannot do something, **what** they have to consider, and much more.

#### Who is a decision maker?

In general, a decision maker is appointed by government and is not a court judge. In this guide, when we say decision makers, we mean government decision makers, including boards, commissions, tribunals and agencies that were created in a law that regulates a particular area. There are lots of examples in the Yukon that decide issues of importance to individuals, businesses and other organizations.

For example, in the Yukon, if you want to know what kinds of complaints the Human Rights Commission can listen to, you would look at the *Human Rights Act*. If you want to know what kinds of decisions the Employment Standards Board can make, you would look at the *Employment Standards Act*. If you want to know who can make decisions about education, you would look at the *Education Act*. Some decisions are made by the federal government, so you might have to look for a law that comes from outside the Yukon. For example, if you want to know who can make decisions about airports, telecommunications or immigration, you would have to look for a federal law.

### **Duty of Fairness**

Decision makers owe a **duty of fairness** to citizens when they make a decision that affects your interests. This duty is also called **procedural fairness**, because it focuses on the process used to reach that decision. It does not relate to the subject matter or whether a decision is right or wrong. For example, a decision maker must consider all of the evidence, but they do not have to reach a particular conclusion based on it.

The **duty of fairness** that is owed changes in different situations. This means that actions taken in one decision making process that meet the **duty of fairness** may not necessarily meet the **duty of fairness** in another. Generally, more procedural protection is needed when the decision has more serious potential consequences. Whether the **duty of fairness** was met in any given situation is decided based on the specific context of each case.

In the context of a quasi-judicial decision maker, the affected person is usually entitled to:

- Adequate notice of the hearing
- An opportunity to be heard
- An unbiased decision maker
- An impartial, open process

### **Remedies**

If you decide to challenge a decision that you disagree with, the **remedy** is the solution to that challenge. Not all decisions can be appealed in the same way – just like finding out what powers a decision maker has, you should look at the law that gave it its powers to see what **remedy** you might have.

Two common **remedies** are:

- a right to **appeal** a decision, either to the same decision maker or to a different one; and
- a right to ask a judge to review an action or a decision. This is called **judicial review**, and you can usually *only* do it if you have used all other available processes to appeal the decision.

### **Judicial Review in Yukon Supreme Court**

If you have the right to ask a judge to review an action or a decision, you should read Rules 10 and 54 and Form 2 of the [Yukon Supreme Court Rules and Forms](#).

### **Judicial Review in Federal Court**

If the decision maker is a federal body and you have the right to ask a judge to review an action or decision, you should consult the [Federal Court Rules and Forms](#).

Written with assistance from Mara Pollock.

Community  
Development  
Fund

Fonds de  
développement  
communautaire