Evaluating Remedial Performance

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“Taking Remedies Seriously”

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?
- 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 accountability, but do some forms of accountability undermine independence?
- What does remedial accountability mean in the context of an independent adjudicator?

Criteria for Evaluation

- Fulfillment of statutory purpose
- Quality of reasoning, fact-finding, etc
- Reputation/satisfaction among users, advocates, stakeholders, the public, etc
- Impact of remedial decisions on intended parties (e.g. HPARB decisions on health colleges)
- Efficient and effective use of resources (e.g. staffing, technology, member resources)
- Value for money, cost effectiveness (e.g. Provincial audits)

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)
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

Playing with Numbers: Cases & Cautionary Tales

► Human Rights Reform in Ontario – a problem in search of a solution or a solution in search of a problem?
► 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

Health Boards Impact Study

► Health Boards Impact CIHR Project - Adjudicative tribunals (HPARB & HSARB) play an important role in the health sector, yet their actual influence as part of the health system remains largely unknown
► Looking ahead to what an empirical study of Board remedies might include