

FAIRNESS FACTS

THE REASON FOR REASONS

Offering a clear and accessible explanation of how a decision was made is a key part of administrative fairness.

Why providing reasons matters

- **Supports well-reasoned and transparent decisions.** When decision-makers explain how a decision was made it supports a more well-thought-out and transparent decision.
- **Ensures rules are followed.** Providing reasons allows the decision-maker to show how they followed the decision-making rules.
- **Builds public trust and confidence.** Good communication about decisions can build trust with the person receiving the decision and public confidence in the decisions made by an organization.
- **Helps determine next steps.** Being able to review reasons and understand how a decision was made supports the impacted person to decide what to do next – accept the decision or seek an appeal.

What to include in reasons:

- The **issue** decided
- The **information and evidence** considered by the decision-maker and any findings of fact the decision-maker made
- An understandable explanation of the **decision-making rules** used to make the decision such as legislation, regulation, policy
- An explanation of the **analysis or reasoning** used to make the decision. This means explaining how the decision-making rules were applied to the information and evidence gathered to make the decision
- **The decision made** should be clearly stated
- Information about any **review or appeal options**, along with relevant timelines

When are reasons needed?

It is good practice to explain the reasons for a decision when it directly impacts the rights, privileges or interests of a person or organization. Depending on the circumstances, relevant legislation or the common-law duty of fairness may require that reasons be provided.

In the court case *Baker v Canada*, the Supreme Court of Canada said:

“...in certain circumstances, the duty of procedural fairness will require the provision of a written explanation for a decision. The strong arguments demonstrating the advantages of written reasons suggest that, in cases... where the decision has important significance for the individual, when there is a statutory right of appeal, or in other circumstances, some form of reasons should be required”.¹

¹ Baker v Canada (Minister of Citizenship and Immigration), [1999] 2 S.C.R. 817 at para 43.

Verbal or written reasons?

Some decisions need written reasons while for others verbal reasons may be appropriate.

Consider what format will allow the person to understand the decision and why it was made. A key factor to consider is how the decision impacts the person receiving it. The greater the impact and the greater the importance of a decision to the person then the more likely written reasons are needed.

Verbal reasons

- Less important decision
- Lower impact decision
- Decision easily understood
- No legislative or policy requirement for written reasons
- Individual circumstances justify verbal reasons

Written reasons

- Decision of greater importance
- Decision has significant impact
- Complex or complicated decision
- Legislative or policy requirement for written reasons
- Individual circumstances warrant written reasons

Good reasons will....

- **Be understandable.** Reasons should make sense to the person receiving them and be written with the person who will receive them in mind.
- **Be transparent.** The decision should transparently explain what was considered when making the decision and why it was made.
- **Connect the dots.** Reasons should connect the dots and show the analysis and steps followed to make the decision. They should allow the person receiving them to understand how and why the decision was made.



FREE. INDEPENDENT. CONFIDENTIAL. FAIR.

Contact us at consult@bcombudsperson.ca | 1-800-567-3247

bcombudsperson.ca |   