



CIVIC AFFAIRS

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TERMS OF REFERENCE FOR APPOINTED MEMBERS OF LOCAL BOARDS AND COMMISSIONS

An Ontario city, preparing terms of reference for appointees to local boards, has asked this organization for advice.

The request arrives at an opportune moment. At this time of year municipalities, including those in Metropolitan Toronto, have to make appointments to a number of local bodies that administer branches of municipal affairs in a manner separating them from the normal jurisdiction of their local councils. These appointed separated bodies are variously styled "boards", "commissions", "authorities", etc.

A distinction must be drawn here. The members of certain local bodies, notably school boards and almost all public utility commissions, are directly elected by the taxpayers, the Toronto Electric Commissioners being the outstanding exception. In some people's minds, such bodies raise the issue of supremacy in local political affairs, but at least they cannot be said to be sheltered from control by the public.

Boards whose members are appointed, with no reference to the electorate, raise an entirely different set of issues. The factors that enter into the creation of such bodies and into appointments to them are, we believe, of interest to the general public.

The establishment of an appointed separate body is a step that a municipality should take only with reluctance. Reasons advanced for such moves--e.g., necessity to lighten the Council's burden, complexity of particular operations, advantages of freedom from red tape--are all open to some question. In the view of the Bureau of Municipal Research, one argument frequently resorted to--the desirability of keeping certain functions "out of politics"--is untenable. Keeping a service "out of politics" means keeping it out of public control. As Jeremy Bentham, the English social philosopher, said long ago, "A board is a screen."

Two Basic Principles

Toronto and its neighbours have considered it necessary to create a number of appointed boards and commissions. It is only common sense, therefore, to study and discuss means of safeguarding the public interest in the services directed by such agencies.

Two principles should govern the constitution of all appointed bodies:

- (i) financial accountability and ultimate, clearly stated policy responsibility for all public concerns should rest with the elected representatives of the people; elected representatives, after all, are the only persons the people can effectively control;
- (ii) the appointed members of boards and commissions are in effect representatives of the public at one remove; they should therefore give to the operations of their agencies the type of direction given by councillors to the operations of municipal departments.

Five Precepts for Local Boards

From these principles flow a number of precepts that should but unfortunately do not always apply to separated bodies and their appointed members.

1. Regular Reporting - Since boards and commissions are delegated by council to perform certain functions of the council, subject sometimes to stipulations in provincial statutes, they should be required to report regularly to council on their operations. Without adequate information, councils tend to exercise only remote supervision of the policies of appointed bodies.

It sometimes happens with services performed under the direction of local boards that elected authorities find themselves obliged to act in a remedial way, to repair damage of which they had not been fully aware. Even in the happily more common case where affairs are competently managed, reporting to council should be full and frequent enough to assure harmony among the policies of all public services.

2. Full Information for Councils - The presentation to council of an audited annual financial statement is not nearly enough. Most separated bodies have in their charge fields of responsibility sufficiently large and important to warrant reports to council on a quarterly basis, or even more often. Furthermore, councils should reserve the power to ask at any time for ad hoc reports on special problems or on matters of peculiar urgency.

3. Complete Explanations - When the substance of a report is relatively difficult to understand, a representative of the reporting body should be prepared to assist personally in its interpretation to the council.

4. Policy Direction Only - Members of local boards and commissions should devote themselves to the formulation of policies that advance the general public interest. Subject to any existing statutory direction, they should not involve themselves in the administration of the operations they direct, any more than councillors should interfere in departmental administration.

5. The Place of the 'Expert' - There is no special reason to appoint to a board a person who is an expert in the board's field. On balance, such an appointment may do more harm than good. An expert on the board could restrain himself from interference in administration only by the exercise of considerable self-denial.

The members of a board ought to be people of known intelligence, integrity and ability, who have a good sense of what the public wants and who will be able to interpret the operation of their service to the public. The proper place for the expert is among the salaried executives employed by the board.

Elected Representatives on Separated Boards

Some local boards include among their members one or more elected representatives, sometimes ex officio, sometimes chosen by and from the council. In Toronto, for example, the Mayor or his delegate is a member of the Public Library Board, the Toronto Electric Commissioners, and the City of Toronto Planning Board; and the City Council has other representation on the Housing Authority of Toronto. Among the separated bodies coming under the authority of the Municipality of Metropolitan Toronto, publicly elected representatives fill places on the Board of Commissioners of Police, the Metropolitan Toronto Planning Board, and the Toronto and Region Conservation Authority. The Chairman of the Metro Council sits on the Police and Licensing Commissions.

To a degree, membership of councillors on boards and commissions helps bear out the principles and precepts listed above. Council members presumably act as direct representatives of the people on such boards. Councils are enabled to keep well abreast of developments. Councils' interpretations of the public interest can readily be brought to bear in the policy determinations of boards.

How effective the device of council representation on boards actually is, however, it is difficult to say. Possibly no generalization would be valid. It may well be that the elected representatives, who shift positions relatively rapidly due to local conventions, seniority rules and the fortunes of politics, are at a disadvantage vis-a-vis their appointed colleagues. Furthermore, elected representatives are almost bound to have relatively poor attendance records at board meetings, due to conflicting commitments upon their time, and consequently are almost bound to have relatively less influence in the boards' proceedings. Suffering from these limitations, council representation on appointed boards is apt to be more shadow than substance. Like most compromises, the idea of a local board with some political representation can be given only lukewarm approval.

The problems generated by the creation of separated boards and commissions disturb observers of all levels of government. The Report of the Committee on the Organization of Government in Ontario, issued to the public this month, contains many observations on this subject. This Committee concerned itself solely with the provincial government, but the principles of responsible democracy to which it refers apply with equal force in all jurisdictions.

To summarize, the Bureau reaffirms its preference for direct departmental control of all civic operations. Where a separation exists, the essential point to be realized is that appointed members of local boards are acting for the elected representatives. The elected representatives must be kept informed of operations and must remain ultimately responsible for policy.

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