

QUICK TIPS

ON APOLOGIES

What are the elements of an effective apology?

When offering an apology, it is important to deliver it right. An apology that is not genuine or sincere will not assist in restoring trust after you or your public body has made a mistake. The most effective apologies tend to include the following five elements.

1

RECOGNITION: A description and recognition of the wrong and an acknowledgement of the harm caused.

“I did not ensure that you understood the steps required to make an application.”

2

RESPONSIBILITY: An acceptance of responsibility for the problem.

“I should have explained the process to you adequately and I did not.”

3

REASONS: An explanation of the cause of the problem, or a promise to investigate the cause.

“Upon review, I learned that we have not been consistent in explaining to applicants what they need to do in order to submit an application.”

4

REGRET: An expression of sincere regret.

“I am sorry that I did not provide you with adequate information about our application process.”

5

REMEDY: An explanation of what you and your organization are going to do to address the problem.

“I am fast-tracking your application and using your experience to remind our team of the importance of providing applicants with all the information they need to submit an application.”

5 Rs adapted from Kleefeld, J. C. (2007). *Thinking Like a Human: British Columbia’s Apology Act*. UBCL Rev., 40, 769 and New South Wales Ombudsman. (2009). *Apologies: A practical guide*.

What should I avoid?

- Offering an apology that questions whether the person was really harmed.
“Sorry if you were inconvenienced.”
- Offering an apology in the passive voice, which avoids responsibility.
“A mistake was made.”
- Offering an apology that does not identify the specific mistake or error that occurred.
“I’m sorry for what happened.”

Why do apologies matter?

In delivering public services, errors or mistakes can happen. When they do, they may have lasting consequences for clients and service users. Delivering a sincere apology at the right time is one of the most important steps a public body can take to restore trust and resolve conflict when a mistake or error has occurred.

In 2006, the B.C. Ombudsman wrote a report on the role of apologies in administrative fairness

and the need for public bodies to be able to apologize without fear of liability. In the report, the Ombudsman urged for new legislation that would prevent apologies from being used as evidence in court to prove liability. Later the same year, the B.C. Legislature passed the *Apology Act*. The Act encourages apologies by making them inadmissible in subsequent civil proceedings.

B.C.'s *Apology Act* defines apology broadly as:

“an expression of sympathy or regret, a statement that one is sorry or any other words or actions indicating contrition or commiseration, whether or not the words or actions admit or imply an admission of fault in connection with the matter to which the words or actions relate.”

Apology Act, SBC 2006, c 19

Are apologies an admission of liability in B.C.?

B.C.'s *Apology Act* states that an apology does not constitute an admission of liability and is not admissible in any court as evidence of fault. In introducing the Act, the then Attorney

General explained that it was part of an attempt to “promote the early and effective resolution of disputes by removing concerns about the legal impact of an apology.”

Are there any limits to the *Apology Act* ?

While the Act makes apologies inadmissible for the purposes of proving liability, giving an apology is not a means of avoiding liability altogether. Liability can still be proven by other means, based

on other available evidence. The Act also does not preclude a harmed person from litigating. If in doubt, public bodies should seek legal advice.

“I have witnessed, again and again, how one action can make a difference in a small but meaningful way. I have observed that a sincerely offered apology will often satisfy a person who has a complaint... I have heard repeatedly from individuals who needed to hear a public agency apologize so that they could stop being angry about what happened, forgive and move toward healing.”

Howard Kushner, former B.C. Ombudsman, in *The Power of Apology: Removing the Legal Barriers*.