

This quick reference guide provides some tips to help public sector employees understand the impact bias can have on decision making, and recognize and respond to issues of bias to ensure fairness when delivering public services.

What is bias?

Bias has been defined by the courts as “a leaning, inclination, bent or predisposition towards one side or another or a particular result”.¹ Fairness requires that decisions be based only on the information and evidence related to the decision, and not on other factors such as the decision maker’s personal belief systems, past knowledge or previous relationship with a party. This requires you as decision makers to be aware of any personal bias you may have in a matter and to take adequate steps to prevent it from improperly entering into your decision making.

Why should we be concerned about bias in the public service?

Bias on the part of the decision maker can impact decision making and lead to unfair outcomes for people receiving public services. Bias in administrative decision making can also harm public confidence in government generally. In

order for a decision to be procedurally fair, you as the decision maker must be unbiased and impartial about both the issue being decided and the people who are affected by your decision.

What does reasonable apprehension of bias mean?

People who do not agree with the outcome of a decision sometimes allege that the decision maker was biased. Although bias can be difficult to prove, it is important to remember that it is not necessary to demonstrate *actual* bias in order to bring the fairness of a decision into question. The fairness of a decision-making process can be undercut by the mere perception of bias, where that perception is deemed to be reasonable. If there is a reasonable apprehension of bias, it is possible that a decision was unfair.

The test for reasonable apprehension of bias was originally set out by former Supreme Court Justice de Grandpré:

“What would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude? Would he think that it is more likely than not that the [board member], whether consciously or unconsciously, would not decide fairly?”²

Courts across Canada have repeatedly endorsed this test, explaining that a reasonable apprehension of bias does not require a finding of actual bias. It merely requires that a reasonable person, informed of the circumstances, would perceive bias on the part of the decision maker.

¹Wewaykum Indian Band v. Canada, 2003 SCC 45.

²Committee for Justice and Liberty v. National Energy Board, [1978] 1 SCR 369 at para 394.

How do I recognize bias?

There are a number of different types of bias, although there are many relationships, events or conduct that can give rise to a reasonable apprehension of bias.

Some common types of bias include:³

RELATIONAL BIASES: These include both personal relationships with family, friends, colleagues or neighbours as well as non-personal relational bias that results in some business or financial gain. This can lead to conflict of interest on the part of the decision maker where a personal or competing interest adversely affects their ability to be impartial.

INFORMATIONAL BIAS: This includes prior knowledge of a matter, dispute, party or issue through, for example, a person's previous employment.

INSTITUTIONAL BIAS: This may arise in organizations where reviews and appeals of administrative decisions are adjudicated by the same person who was the initial decision maker on the same matter.

OPERATIONAL BIAS: This can arise from a decision maker's conduct - for example, refusing to hear a person's information, making derisive remarks or otherwise behaving in an aggressive or rude manner.

ATTITUDINAL BIAS: This can arise from past statements made by a person on an issue that is central to the current matter before them. When a person's opinion appears so strong and intractable that they appear closed to alternative perspectives, this can give rise to a concern about bias. However, the fact that a decision maker has previously expressed an opinion on a matter does not in itself necessarily establish a reasonable apprehension of bias if they can demonstrate they are open to changing their mind.

What do I do if I have a bias?

Acknowledge it. Having a bias isn't necessarily a bad thing, but if you believe you may be biased towards a person who will be impacted by your decision, recognize it and name it as such. You may also want to explore *why* you may have that bias and how you can change it, or at least limit it from having an impact on your decisions.

Be honest with yourself and others. Don't try to ignore or hide a bias that you may have – we all have biases. Share your thoughts with a colleague or supervisor, and engage in more collaborative decision making when you believe there is a potential for bias.

Step aside when needed and have another person make the decision that is required.

If you think you may be biased, or that a reasonable apprehension of bias could be determined, it is best for you to take yourself out of the decision-making process and have someone else make the decision to ensure fairness. This is also referred to as "recusing yourself".

³Robert D. Kligman, *Bias* (Toronto: Butterworths, 1998).

What about unconscious bias?

In addition to any bias that you may be consciously aware of, you must also be mindful of any *implicit* or *unconscious biases*. These are biases that we are not aware of. They are your tendencies to prefer a thing, a person, or point of view at an unconscious level, and they are likely affecting your everyday decisions and attitudes. We should also be aware of unconscious biases because they can significantly impact decisions and lead to unfairness in the delivery of public services.

Unconscious biases are mental shortcuts used by our brain to process the large volume of information we are exposed to every day in the world around us. They often conflict with our conscious and stated beliefs and perspectives, but can unconsciously affect our decision making. They are influenced by all of our life experiences, including our upbringing and stereotypes in the media we are exposed to throughout our lives. They are also created by what society is telling us is “acceptable” or “normal” (socially constructed bias).

We all have unconscious biases.

Unconscious biases are difficult to recognize because they are so deeply rooted in our thinking process and we act on them without being aware we are doing so. These unconscious biases can include both positive and negative assessments of people based on their personal characteristics.

There are many types of unconscious biases that might affect our decision making. Here are a few examples:

CONFIRMATION BIAS: When you look for evidence that backs up your opinions, instead of looking at the whole picture, and then favour or ascribe more weight to the information that supports or confirms your prior beliefs.

AFFINITY BIAS: When you unconsciously prefer people who are similar to you, your likes, your ideas, your own characteristics.

AVAILABILITY BIAS: When you prefer information or evidence that is more readily available in your mind due to recency of experience, even though information from a more historical event may be more relevant – for example, “This is exactly like the case I heard last week”.

GENDER BIAS: When you have a preference for one gender over the other, or believe certain qualities exist in a person based on their gender identity. These are often informed by society’s ideas on gender roles and stereotypes.

Unconscious biases that focus on someone’s characteristics, such as gender, race, ability, age, or size, are especially dangerous. Why?

Because of these unconscious biases, people can end up attributing certain qualities or characteristics to all members of a particular group, otherwise known as stereotyping. Stereotyping is dangerous due to the ‘single story’ that is then created for a specific group based on

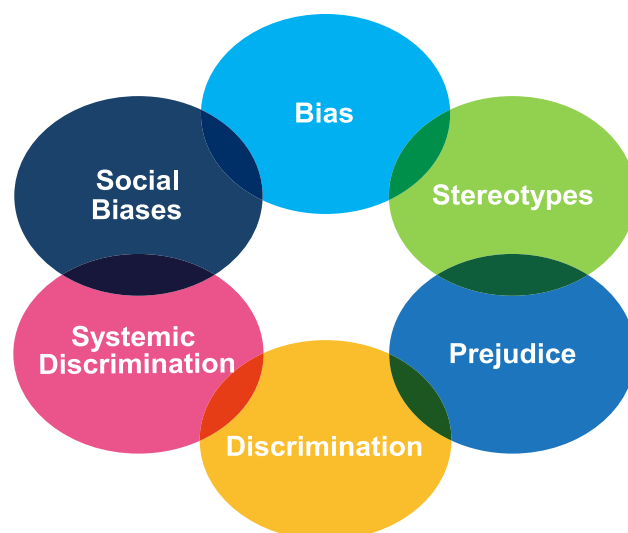
their personal characteristics, resulting in a level of dehumanization – a particular group of people become one thing and no more.

Those stereotypes can affect our judgment and eventually our actions towards specific people, and these actions can reinforce a larger system

that supports and acts upon discrimination against certain groups of people. These then reinforce societal biases, affecting our own personal unconscious biases. It is a chain that needs to be interrupted.

Interrupting these biases is necessary to break the chain that reinforces systems of discrimination, such as racism, sexism, ableism, and heterosexism.

So, how do we do that? **You can start with addressing your own unconscious biases.**



How can I address my unconscious biases?

While there is no simple answer or solution to address unconscious bias, there are some steps you can take. These include:

1. ACKNOWLEDGEMENT AND MINDFULNESS. Research has shown that if a person believes they are unbiased, they are actually *more* likely to discriminate. It is important to acknowledge your biases and monitor your thinking to see where implicit or unconscious bias may be at play. Being more deliberate in our thinking can help guard against implicit bias.

Reflect and think of the acronym **WAIT** (“What Am I Thinking?”) before making your decision. During this reflection, be open to naming and challenging your own assumptions.

2. TAKE TIME. Because implicit bias is a result of unconscious mental shortcuts, it is more likely to affect us when we are tired, in a hurry or distracted. It is helpful to slow down and reflect before taking an action or making a decision.

3. PERSPECTIVE TAKING. While you’re being mindful and slowing down, think about the thoughts and feelings of others. Take a moment to think about what it would be like to be in

another person’s situation, and try to take their perspective for a moment before making your decision.

4. THINK OF COUNTER EXAMPLES.

Research has shown that thinking of a different example from our automatic thinking process is one of the most powerful ways to counter implicit bias. Replacing the automatic or stereotypical example with a different image can help challenge those unconscious biases that can creep into our decision making.

5. EXPAND. Form more diverse friendships and relationships. Read books and take in media created by people that are different than you.

And lastly...

6. LEARN. Take time to focus on learning about diverse cultures, people, groups, perspectives, and histories that are different from your own. This will help in challenging any assumptions or “single stories” that you might have about people based on their personal characteristics. It will help you with understanding different perspectives and shifting those automatic preferences in the form of unconscious biases.

More information and additional resources are available on our website: bcombudsperson.ca.

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