



# Advocates & the Legal System

## Systemic Advocacy

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This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

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## What is Systemic Advocacy?

There are many systems in our society, for example, the mental health system, the education system, the criminal justice system, and the social service system. Each system is made up of a wide range of individuals, groups, programs, services, and structures that relate to each other in some way.

As a rule, the larger a system is the more complicated and difficult it will be to make sure all of its parts work well for the benefit of its users.

Sometimes the way systems are developed and managed makes it hard for people to get what they really need, even though this is not the intention of those who develop the system's policies and regulations. Sometimes standards, policies, or ways of operating exclude members of certain groups, such as people living with mental illness or disabilities.

**Systemic advocacy** involves working on behalf of many people who want something to change. It may be directed at changing legislation, policies, practices, opportunities, or attitudes on a very large scale.

**Systemic advocacy** means working to change the "systems" that people have to deal with. It is also referred to as community advocacy or social action.

It almost always involves:

- raising public awareness and consciousness about an issue;
- bringing individuals together for mutual support and action; and
- forming partnerships within the community for the mutual sharing of information and action plans.

An example of systemic advocacy would be lobbying the provincial government to increase disability benefits.

Systemic advocates work to change systemic factors that disadvantage and discriminate against people. These factors include:

- laws, regulations, and policies;
- power imbalances;
- work and management practices of organizations;
- structures and processes to ensure transparency and accountability;
- access of information;
- quantity, distribution, and quality of services; and
- attitudes towards people.

### Principles of Fundamental Justice

In our Canadian democratic society, everyone has certain rights based on the following principles. Individuals have the right to:

- receive notice if their rights, property, or liberty will be affected by a decision;

- notice of a hearing, if one is to take place;
- know the issue being considered and to be given sufficient time to prepare a response;
- be heard - in writing, or in a hearing if one is held;
- call witnesses and to cross-examine witnesses, or give other evidence if there is a hearing;
- be informed of the facts on which a decision is based; and
- have decisions made without bias on the part of the person making the decision.

## About Power

Often systemic advocacy focuses on restoring the balance of power between those who make decisions and those who are affected by them. It is useful for advocates to have an understanding of what power is, who the power actors are, and what power structures exist.

Power is the ability of a person or a group to make significant change, usually in people's lives, through his/her actions or the actions of others.

**Power is always part of a relationship;** it cannot exist by itself. People, either as individuals, or as part of a group must allow it to exist. When someone fails to exercise the power they possess, someone else will exercise it instead. Advocacy is about helping people get their power back or helping them to use the power they do not know they already have.

### Types of Power

People have power for different reasons. In *Section Two*, those who have power will be referred to as 'leaders'; those who do not, will be referred to as 'followers'.

The following are some types of power and the basis of those powers:

**Coercive power** is based on real, or imagined force.

The followers fear being hurt, poorly treated, or dismissed by the leaders. This allows the leaders to rule over the followers.

**Legitimate or positional power** is based on the office or title of the leader.

For example, the president, director, dean, or chief executive officer can "call all the shots" in an organization and be assured that his/her orders will be followed; usually, the higher the status of the leader, the greater the expectation that his/her orders will be acted upon.

**Expert power** is based on the knowledge, talent, and skill of the leader.

These abilities must be coupled with followers' respect for that skill and the assumption that this expertise is valuable. Examples include medical doctors, professors, staff specialists, lawyers, or anyone else that has a specialized knowledge about a specific issue.

**Reward power** is based on the leader's ability to give recognition, promotions, money, or goods to followers.

**Referent power** is based on the leader's personal character.

Charm, charisma, sensitivity, and creativity are some examples of the personal characteristics of most leaders. These characteristics can help the leader gain respect and loyalty from followers.

**Information power** is based on the ability of the leader to get and give out information that is necessary for the organization to function well. Channelling and/or withholding information is a very effective way to control actions.

**Connection power** is based on “it's not what you know, but who you know”. The leader's ability to network and build connections and coalitions are helpful to his or her personal goals or the goals of the organization. Usually, the more connections a leader has the more power he/ she will hold. An example would be someone who has lived in a community a long time and who has many social connections.

Understanding the type of power someone has will help you determine how that person might help or hinder the case of the person you are advocating for.

It is not only individuals who have power; groups or organizations can act as a unit in exercising social power. Examples might include unions, church congregations, ethnic and racial organizations, civic clubs, and similar organizations. There are many different groups that have considerable power in our society.

Power is always part of a relationship which means that that power actors do not act independently. Power structures are created by the interaction of people or groups who have power in a community. Power structures are often “fluid,” meaning they will shift and change based upon the issue and circumstance.

### Identifying People with Power

As an advocate, you will need to be able to identify the people or groups with power, or “power actors”, in your community.

There are several ways to do this:

#### **Positional Method – who holds positions in an organization?**

In organizations that control resources and influence the community, power is centered in the important positions in the organization (e.g. the mayor and members of council, the president of a large business, president of the Chamber of Commerce etc.). You can identify the key organizations and the people within those organizations who have authority.

Do not overlook those who are not in formal positions of authority but are “behind the scenes.” People like administrative assistants or intake workers have a great deal of power over what people and information you can access.

Another way of thinking about who has power is to look at authority and control of resources.

**Authority** -- A person has power because his/her position or job allows him/her to be in charge of making decisions.

**Control of Resources** -- A person who has control of the resources that are needed for making or carrying out decisions.

### **Reputational Method – who has a reputation for having power?**

Those who have and exercise power acquire a reputation for having power. People who are knowledgeable about the workings of a community know who the power actors are. Find out who the knowledgeable people in the community are and ask them who they would list as the power actors. If several people name the same person, then most likely he/she is a power actor. Be careful because sometimes social status may be mistaken for social power and newer actors may not yet have gained a reputation as a power actor.

### **Decisional Method – who makes the decisions?**

The real indicator of power is actual participation in decision-making. Look at several key community decisions and determine who was involved in the decision-making process and what role they played in the decision-making process.

### **Social Participation Method – who is involved in voluntary organizations?**

Power is acquired through participation in voluntary organizations. Make a list of community voluntary organizations and the people who have formal positions. Power actors would be those who hold the highest positions in the most organizations and/or the most prestigious positions.

## Additional Considerations on Power

- Those who have positions of power may have a hard time considering that others, particularly others who are different (e.g., sex, age, racial, or mental differences), can share that power in any meaningful way.
- More people need to become involved in the decision-making process and to react to decisions that are made. They should be given help to increase their skills in using power and providing leadership in the community.
- Understanding the power structure can help citizens more effectively work to bring about change.

*Adapted from Moore, E. (1990). Understanding Community Power Structures. Michigan State University Extension. Available online at <http://web1.msue.msu.edu/msue/imp/modii/ii719205.html>*

## **About Bureaucracies**

Most people think of government and red tape when they hear the word “**bureaucracy.**” It is often a negative impression; however, bureaucracies are so common in our world today that it is hard to imagine organizations being organized and managed in any other way.

The bureaucratic structure is generally used in large businesses or organizations such as governments, hospitals, courts, large non-governmental organizations, corporations, sports leagues, ministries, and academic institutions.

Smaller businesses, organizations, and self-managing co-operatives (a business organization owned and operated by a group of individuals for their benefit) are examples of other ways to organize work.

**The key features of a bureaucracy are:**

A **hierarchy** of people who work in the organization, with the boss(es) at the top, and workers at the bottom (i.e. a pyramid of authority). There is a clear chain of command and each level of worker has an associated level of authority. Some people are officially in positions of power over others; people from “above” give orders to those “below”.

A defined **division of labour**. Each unit or division is responsible for one aspect of the organization’s business. This means that different people do different parts of the work. This also means that there is a high degree of specialization so that people within each unit are highly trained in the tasks that they perform.

**Other features of a bureaucracy include:**

a clear system of rules and regulations that describe the duties and responsibilities of the workers and the organization as a whole;  
rewarding workers for following rules and punishing workers for breaking the rules;  
emphasis placed on keeping records; and  
relationships among workers, which are generally impersonal and formal.

Certain aspects of bureaucracies are considered to be good because the principles are meant to create a certain degree of fairness; everyone is supposed to be treated the same way. Bureaucracies also have processes in place to make sure work gets done and hiring is based upon credentials and merit.

**Some of the problems with bureaucracies include:**

- The red tape that results from all the rules and the required “sign offs”. It may take a long time to try to get something changed or approved because there are often so many levels within the chain of command.
- The division of labour results in what people call “silos”, where one group of people or unit are not aware of what is going on in other areas of the organization. This leads to a lack of coordination within an organization.
- Workers are rewarded for following the rules, often reluctant to break or bend them, and rarely have the authority to do so.
- Workers may become bored or disinterested in their work because it is so specialized.
- Workers may have no idea how their work contributes to the organization as a whole. It is easy to lose sight of the reason they are doing their work.

*Adapted from Martin, B., et al. (1997). Challenging Bureaucratic Elites. Schweik Action Wollongong. University of Wollongong. Australia.*

## **Influencing Change**

If you are helping an individual through personal advocacy, often your work will end when the person you are helping gets what he/she needs.

Sometimes the issue is a result of things that are wrong in the system. Many others may also face the same problems. This may require working towards change in the system. This is what systemic advocacy is all about.

If you decide to go ahead with systemic advocacy, there are a few ways you can try to bring about change or shift decision-making. These include influencing:  
politicians;  
the bureaucracy; and/or  
public opinion.

### Influencing Politicians

You can write letters.

- It is more effective to write to a specific person, rather than a general letter to all Members of the Legislative Assembly or the House of Commons. Use the correct title when addressing politicians and send it to the correct addresses.
- Keep copies of all letters, documents, and other communications.
- Ask others to write letters at the same time. Call the person you are sending the letters to so that he/she knows they are coming.
- Ask for a reply to the letter and give a deadline for a response. If you don't receive a reply within three weeks, telephone or write back.
- Point out that you have gone through all the appropriate channels already.
- Keep the letter short and simple; one or two pages are best.
- Focus on the issue and avoid discussing multiple issues in one letter. It is better to have two letters than one long one.
- Send the letter to others as appropriate.
- Ask for a meeting so that you can discuss your concerns.

You can ask for a personal meeting.

- Meet with your MLA or MP as a group, or one-on-one.
- If possible, someone who knows either the elected representative, or his/her staff person, should set up the appointment for you.
- When a date is set, follow up immediately with a letter confirming the date and stating the general purpose for your visit.
- Prepare a list of questions you want to ask or topics to discuss. Also take relevant correspondence, reports, and articles.
- Explain how the situation is impacting you and others.
- Do not get angry with the politician and do not make accusations that are unfounded.
- If you know exactly what action you want from the politician, ask for it.
- If you do not know what you want, but you know you need support, ask how the politician thinks he/she can help you.
- Try not to go over the appointment time.
- After the meeting, follow up with a thank you and a statement of your understanding of what was discussed.

You can participate in public hearings.

- Prepare a presentation for the meeting/hearing.
- Be sure to include all relevant information and facts about the issue and provide strong support for the change you are asking for.
- Give clear recommendations.



- You can prepare, circulate, and send a petition.
- Include on the petition a statement about the issue and a request for a specific change.
- Circulate it in all possible areas where those affected by the issue will see it.
- Use media to get public support.
- Deliver the petition in person to the appropriate official.

You can plan for and hold a demonstration or rally.

- Plan and organize your rally very carefully.
- Ask for advice from groups who have experience in organizing demonstrations.
- Be sure to invite media.
- Be conscious of potential opposition and any local requirements for demonstrations or protests.

You can monitor or review legislative activities

- Watch the media and legislative proceedings to keep track of the issues as they go through the political system. This is sometimes difficult to do, so if necessary, encourage others to assist you.

## Influencing the Bureaucracy

### **Things to keep in mind when advocating for change within a bureaucracy:**

- ⇒ Write to, or meet with, members of other political parties to inform them of the issues that you are advocating for. This may increase the amount of pressure placed on government to make the changes you are looking for.
- ⇒ Work hard to maintain on-going communication. Set up regular meetings with deputy ministers, directors, and staff persons. Send them frequent updates on your activities by letter or fax. Invite them to meetings, workshops, public forums, etc. where issues of common interest are discussed.
- ⇒ Government departments are increasingly more likely to consult with communities. When invited to participate in a consultation, make sure you are fully prepared and knowledgeable about the issue. If you need it, ask for help in making your preparations.
- ⇒ Although you need to get to the person who has the power and authority to make the decisions or changes that you are seeking, you should still go through the proper channels and chain of command.
- ⇒ Anticipate the most common reasons bureaucrats give for why they cannot do anything about your case; this will prepare you to respond when they do. Some of these reasons are:
  - It is not my responsibility; you will have to see Mr. or Ms. X.
  - I/we do not have the authority to do this; see Mr. or Ms. X.
  - There is no funding available or allocated (given) for this issue.
  - It is not possible at this time.
  - We will study this, set up a committee, get back to you later.
  - We do not see a problem with the way things are.
  - The existing policy already takes care of this problem.
  - Unspoken reason ... the “it is not invented here” attitude, which means your idea is not accepted because it did not originate in this department or agency.

- This has been tried before and it didn't work.

Remember that decisions are based not only on the regulations and policies related to the bureaucrat's job, but also on his/her other personal and professional values.

### Influencing Public Opinion

The media (e.g., radio, television, printed publications, and Internet) are excellent resources for getting a message out to a large number of people.

Advocating on a systemic level can include raising public awareness through forums and community meetings, educating through workshops and materials, and working with other organizations.

*From McNiven, J. (1994). Action Through Advocacy: A Guidebook on Advocacy for Senior's Organizations. Canadian Pensioners Concerned, Nova Scotia.*

## **Additional Tips for Effective Systemic Advocacy**

- Get to know how the political system works. Learn who makes policy decisions and who carries them out.
- Identify the persons who have the power to make decisions or changes that you are asking for; target your activities and words to them. Remember that this may not always be the elected officials. Bureaucrats have a lot of control and authority within government systems.
- Develop contacts inside the bureaucracy and political system. This will help you identify the right person to contact.
- Be practical and realistic. Have alternative solutions or suggestions ready.
- Criticize policies and programs, not people. Do not antagonize (i.e. try to provoke or upset) the people you are trying to influence.
- Timing is important; it is best to advocate for an issue before it becomes a crisis. Be aware of political timetables. Right after an election or right after a budget is passed is a difficult time to effect change. A good time to try to influence change is the time leading up to an election, but be prepared to advocate for a well-planned policy or program change.
- Know both sides of an issue. This will help you prepare for the resistance you will face in advocating for change.
- Always act ethically and professionally.

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