



British Columbia Human Rights Tribunal

PUBLIC ACCESS & MEDIA POLICY

July 31, 2006

(amended July 15, 2014)

1. Introduction

The Tribunal is accountable to the public and, by extension, to the media. It has a responsibility to assist the public, including the media, in obtaining the access to Tribunal proceedings to which it is entitled.

The media plays a crucial role in informing the general public about developments in the area of human rights in BC and across Canada. In fact, the primary source of information on human rights for Canadians is through the words and images conveyed in news reports.

Both the Tribunal and the public are well-served when media coverage of hearings and decisions is accurate and complete.

This being said, the Tribunal also has a responsibility to the parties to a human rights dispute and to the human rights process to ensure that public access does not interfere with or compromise procedural fairness. As such, there must be guidelines on how and when the public, including the media, will have access to the Tribunal.

Tribunal proceedings are public. The *B.C. Human Rights Code* (the *Code*) and the Tribunal's Rules of Practice and Procedure (the *Rules*) set out the parameters for Tribunal proceedings and disclosure of information. The relevant sections of the *Rules* are attached to this policy as Appendix A.

2. Access to Information

2.1 Access to Tribunal Documents

The public, including the media, has only limited access to Tribunal documentation on a complaint file in the Tribunal Registry. Rule 5(9) restricts the circumstances in which a complaint file, including personal information, may be disclosed to members of the public.

Generally, access is limited to the three month period before a complaint is set for hearing when a complaint is posted on the Tribunal's hearing list. During this time the following documents are available (except contact information): complaint form, response to complaint form, amendment forms, notices of hearing, and preliminary decisions. (Rule 5(10))

Participants actively engaged in settlement discussions may request that the Tribunal delay adding a complaint to the hearing list. (Rule 5(4))

A participant can also make a preliminary application for an order limiting public disclosure of their personal information setting out the reasons why their privacy interests outweigh the public interest in access to the Tribunal's proceedings. (Rule 5(6))

It should be noted that even if public disclosure is limited, the hearing itself is held in public unless the Tribunal makes an order excluding the public from all or part of the hearing. (Rule 5(1)-(2))

2.2 Access to Exhibits

Exhibits are a part of the public record of a hearing. Requests for access to exhibits during a hearing are at the discretion of the Tribunal member hearing the case. All other requests by members of the public must be made in writing to the Registrar.

2.3 Access to Recordings and Transcripts

The Tribunal currently records its proceedings. Recordings are seldom transcribed. Recordings and transcripts are generally not available to the public.

2.4 Access to Information Requests

Requests under the *Freedom of Information and Protection of Privacy Act* must be made in writing to the Registrar.

2.5 Alternative Dispute Resolution and Settlement

The Tribunal offers settlement meetings in the form of mediations and other types of alternative dispute resolution for the purpose of assisting the parties to achieve resolution of all or part of a complaint.

Under s. 40 of the *Code* and Rule 14(5), any information received by any person in the course of attempting to reach a settlement of a complaint, including at a settlement meeting, is confidential and may not be disclosed except with the consent of the person who gave the information.

3. Tribunal Hearings

3.1 Attendance at Hearings

The general rule is that Tribunal hearings are open to the public. (Rule 5(1)) Seating space available to the public is limited by the size of the hearing room. Public seating cannot be reserved, and is available on a first-come first-served basis.

While public access is the presumption, under Rule 5(2) the Tribunal member hearing the case can order all or part of a hearing closed.

In addition, section 48 of the *Administrative Tribunals Act* grants the Tribunal the authority to make orders or give the directions it considers necessary for the maintenance of order at a hearing. This includes orders restricting the continued participation or attendance of any person at a hearing. This is reflected in Rule 32(12).

The Tribunal will consider factors such as public safety, the vulnerability of a particular participant, and sensitivity of the evidence in making such orders.

3.2 Communications Devices

a. Cameras

Filming or photographing a hearing room is not permitted from inside or outside the hearing room without the permission of the Tribunal. Specifically included in this restriction is filming through open hearing room doors or through windows in hearing room doors. Cameras - including television cameras - are not allowed in any hearing rooms during the conduct of a hearing without the express permission of the designated Tribunal member. Cameras are not permitted in mediations at any time due to the confidentiality of this process.

Cameras are generally permitted in the public areas of the Tribunal. Television camera operators or still photographers must check in upon arrival at the Tribunal to enquire where they may locate. To ensure public safety and unimpeded access to and exit from hearing rooms, Tribunal staff may direct where camera operators may locate in the public areas of the Tribunal.

Where space is limited or the presence of cameras in public areas is disruptive to a hearing, the designated Tribunal member or Registrar may disallow the presence of cameras in public areas.

b. Voice Recorders

Generally, members of the public may not record Tribunal proceedings. The media, however, may record Tribunal proceedings for the limited purpose of verification of their notes of the proceedings, but not for broadcast.

c. Computers

Laptop computers are generally permitted in Tribunal hearings provided there is no disturbance to the proceedings and the computers are used solely for the purpose of note-taking.

c. Cell Phones and other Hand Held Devices

The public may take their cell phones with them into the hearing room; however, the receiving and transmitting functions must be turned off and never used in the hearing room. Devices with camera features may not be used for the purpose of taking pictures.

3.3 Going in and Out of the Hearing Room

Members of the public are requested to limit going in and out of the hearing room while the hearing is in session. Given the size and layout of hearing rooms, such disturbances can be distracting or disruptive to the proceedings.

The Tribunal may direct that members of the public will not be permitted to enter and leave hearing rooms while the hearing is in session.

4. Media Interviews and Publication Bans

4.1 Interviews

The media may hold interviews in the public areas subject to direction by Tribunal staff to ensure that public traffic is not impeded. The media should check in advance with respect to an appropriate location for interviews.

4.2 Bans on Publication

While the media is, in general terms, constitutionally entitled to publish information about hearings, there are exceptions to this right. The Tribunal may (and sometimes, must) impose publication bans to protect the fairness and integrity of the hearing, or the privacy or safety of a participant.

APPENDIX A

Tribunal's Rules of Practice and Procedure

Rule 5 – Public Access to Complaint File and Proceedings

Hearings

- (1) A hearing of a complaint is open to the public.
- (2) The tribunal may order that the public is excluded from all or part of the hearing if doing so would outweigh the public interest in access to the hearing.

Hearing list

- (3) Hearings scheduled within 90 days are published on a hearing list, which includes the parties' names, case number, area(s) and ground(s) of discrimination, and place and date of hearing.
- (4) A participant involved in settlement discussions may request that the tribunal delay adding a complaint to the hearing list by notifying the tribunal.

Decisions

- (5) Tribunal decisions are available to the public, and may be published, including on the tribunal's website.

Limiting publication of personal information

- (6) An application for an order limiting public disclosure of personal information must state why privacy interests outweigh the public interest in access to the tribunal's proceedings.

Complaints about minors

- (7) In an application to limit public disclosure of information that would identify a minor, the tribunal will presume that the minor's privacy interests outweigh the public interest in access to the tribunal's proceedings.

Public access to complaint file restricted

- (8) For the purpose of this rule, "complaint file" means the record of communications maintained by the tribunal regarding a complaint, including all communications filed or delivered by the tribunal to the participants.
- (9) A complaint file is not available to the public unless:
 - (a) a person makes a successful request under the *Freedom of Information and Protection of Privacy Act*; or
 - (b) the tribunal permits access under rule 5(10).
- (10) If a complaint is listed on the hearing list, the following parts of the complaint file, except participants' addresses, phone numbers and fax numbers, will be available to the public:
 - (a) the complaint form;
 - (b) the response to complaint form;
 - (c) any amendment forms;
 - (d) tribunal notices regarding the hearing of the complaint; and
 - (e) preliminary decisions regarding the complaint.

- (11) A complaint file is not available to the public under rule 5(10) if a complaint is settled, withdrawn, or otherwise removed from the hearing list.

...

Rule 14 – Settlement Meetings

Settlement meetings

- (1) The tribunal offers settlement meetings for the purpose of assisting the parties to achieve resolution of all or part of the complaint.

...

Confidentiality of settlement discussions

- (5) Any information received by any person in the course of attempting to settle a complaint, including at a settlement meeting, is confidential and may not be disclosed or admitted in evidence, unless the person who gave the information consents.

...

Rule 32 – Hearings

...

Hearings are recorded

- (2) A hearing of a complaint is recorded by the tribunal.
- (3) A participant must apply to request a copy of the audio recording, as an accommodation or for other reasons.
- (4) Any unofficial transcript made from an audio recording does not form part of the tribunal's record of the proceedings.

Transcript of hearing

- (5) A participant who wants a certified transcript of all or part of a hearing must notify the tribunal to request directions.
- (6) A participant bears the cost of obtaining a certified transcript of all or part of a hearing.
- (7) A certified transcript forms part of the tribunal's record of the proceedings.

...

Member presides

- (12) A member hearing the complaint will determine how the hearing is conducted and may:
- (a) ask questions of the participants and witnesses;
 - (b) give any directions or make any orders the member considers necessary for the just and timely resolution of the complaint; and
 - (c) give any directions or make any orders the member considers necessary for the maintenance of order at the hearing.