



# British Columbia Human Rights Tribunal

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## **PUBLIC ACCESS & MEDIA POLICY**

July 31, 2006

(amended January 13, 2020)

### 1. Introduction

The Tribunal is accountable to the public and, by extension, to the media. It must help the public, including the media, access Tribunal proceedings. Tribunal proceedings are public.

The media has an important role in informing the general public about developments in human rights in BC and across Canada. In fact, a primary source of information on human rights for Canadians is through news reports.

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

The Tribunal has other responsibilities under the *Freedom of Information and Protection of Privacy Act*, discussed below. It must also ensure that public access does not interfere with the fairness or integrity of the complaint process. As such, there must be guidelines on how and when the public, including the media, will have access to the Tribunal.

The BC *Human Rights Code* [**Code**] governs the Tribunal. The Tribunal's Rules of Practice and Procedure [**Rules**] set out the Tribunal's rules about public access to Tribunal proceedings and information that parties give in the complaint process. The relevant sections of the Rules are attached to this policy as Appendix A.

### 2. Access to Information

#### 2.1 Access to Tribunal Records

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

Generally, access to Tribunal records on a complaint file is only allowed when a complaint is posted on the Tribunal's hearing list. During this time, the following

documents are available: complaint form, response to complaint form, amendment forms, notices of hearing, and preliminary decisions (Rule 5(10)). The Tribunal does not disclose contact information at any time.

Usually, a complaint is posted on the Tribunal's hearing list three months before the complaint is set for hearing. Parties actively engaged in settlement discussions may request that the Tribunal delay adding the complaint to the hearing list (Rule 5(4)).

A participant can also apply for an order limiting public disclosure of their personal information. They must explain why their privacy interests outweigh the public interest in access to the Tribunal's proceedings (Rule 5(6)).

## 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* [**FOIPPA**] must be made in writing to the Registrar. *FOIPPA* does not apply to some information, such as documents put into evidence at a public hearing. (*Administrative Tribunals Act*, s. 61. See item 2.2 above.)

If *FOIPPA* applies to information, it allows for public access, with exceptions. For example, the Tribunal must refuse to disclose information that would be an unreasonable invasion of personal privacy: s. 22(1). *FOIPPA* lists information that is presumed to be an unreasonable invasion of personal privacy, including information related to a medical, psychiatric or psychological history, diagnosis, condition, treatment, or evaluation: s. 22(3).

## 2.5 Alternative Dispute Resolution and Settlement

The Tribunal conducts settlement meetings to help the parties to resolve 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 settle 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 Public Attendance at Hearings

Tribunal hearings are open to the public unless the Tribunal makes an order excluding the public from all or part of the hearing (Rule 5(1)-(2)).

The Tribunal may require members of the public and media to present identification to attend a hearing, where the Tribunal considers this necessary to maintain order in the hearing.

Seating space available to the public is limited by the size of the hearing room. Public seating is available on a first-come first-served basis.

The Tribunal has 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. (*Administrative Tribunals Act, s. 48 and Rule 32(12)*)

In making such orders, the Tribunal will consider factors such as public safety, the vulnerability of a particular participant, sensitivity of the evidence, and whether a person's attendance is otherwise disruptive to the proceedings.

#### 3.2 Communications Devices

##### a. Cameras

Filming or photographing a hearing room is prohibited, without the permission of the Tribunal. This prohibition includes 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 settlement meetings at any time due to the confidentiality of this process.

Cameras are generally permitted in the public areas of the Tribunal. However, filming or photographing a person is prohibited, without permission from that person. Television camera operators or still photographers must check in upon arrival at the Tribunal to ask 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 prohibit cameras in public areas.

##### b. Voice Recorders

Members of the public may not record Tribunal proceedings. However, media who are accredited under the BC Courts Media Accreditation Process and who are wearing court-issued photo ID card 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.

d. Cell Phones and other Hand-Held Devices

The public may take their cell phones with them into the hearing room, unless the Tribunal restricts cell phones in a specific case. See items a and b above regarding cameras and voice recorders.

3.3 Going in and out of the Hearing Room

Members of the public should 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 impose publication bans to protect the fairness and integrity of the hearing, or the privacy or safety of a participant. Where a hearing is subject to a publication ban, notice of that ban will be posted on the hearing door, and the Tribunal may require persons attending the hearing to acknowledge in writing that they understand the publication ban and will abide by it.

## **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.

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#### **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.

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##### **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.

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#### **Rule 32 – Hearings**

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##### **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.

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##### **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.