



Public & Media Access Policy

1. Introduction

This policy addresses how and when the Tribunal will provide the public, including the media, access to the Tribunal.

The Tribunal's hearings are open to the public, including the media. The Tribunal recognizes that the media has an important role in informing the general public about developments in human rights in BC and across Canada. In fact, news reports of the Tribunal's decisions are a primary source of information on human rights.

The Tribunal has other responsibilities under the *Freedom of Information and Protection of Privacy Act* [**FIPPA**], discussed below. In addition, it must ensure that public access does not interfere with the fairness or integrity of the complaint process.

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.

2. Access to Information

2.1 Public Access to Exhibits and Complaint File during the Hearing Period

From the time that a complaint appears on the Tribunal's hearing list, and during the hearing itself [**Hearing Period**], a non-party, including the media, may apply to the Tribunal using a Form B to request access to the complaint form, response to complaint form, amendment forms, notices of hearing, preliminary decisions, and/or the exhibits admitted into evidence. Such applications are at the discretion of the Tribunal, which will consider relevant factors that may include the interest of the applicant in obtaining access, the privacy rights and dignity of the individuals involved in the proceeding, and the fairness, integrity, and efficient management of the proceeding. The Tribunal may provide the Form B to the participants and any person whose privacy rights or dignity may be affected by the requested access.

During the Hearing Period this is the only method in which a non-party may request access to such records. During this time, the Tribunal will not process Freedom of Information [**FOI**] requests under *FIPPA* for such records: see s. 61(2)(e) of the *Administrative Tribunals Act*.

2.2 Access to Recordings and Transcripts

The Tribunal currently records its hearings and may record pre-hearing conferences. The Tribunal does not provide access to the audio recordings to the public.

A person may not make an FOI request for a transcript or recording: s. 61(2)(d) of the *Administrative Tribunals Act*.

2.3 FOI Requests

FOI requests under *FIPPA* must be made using a Form C following the process set out in the Tribunal's [FOI Request Policy](#).

As discussed in the FOI Request Policy, *FIPPA* does not apply to certain records held by the Tribunal, including:

- notes, communications, and draft decisions of Tribunal Members,
- documents submitted in a hearing for which public access is provided by the Tribunal, and
- recordings of proceedings.

See: s. 61(2) of the *Administrative Tribunals Act and Code*, s. 32

A person should not make an FOI request for these records.

Where *FIPPA* applies to the Tribunal's records, the Tribunal must comply with the sections of *FIPPA* which prohibit it from releasing certain information through an FOI request.

Under *FIPPA*, a person's right to access personal information is generally limited to information about themselves. This is because *FIPPA* restricts the Tribunal from disclosing personal information about a third party where the disclosure would be an unreasonable invasion of the third party's privacy. *FIPPA* presumes, for example, that disclosure of another person's personal information relating to a medical condition or employment would be an unreasonable invasion of a third party's personal privacy: see, for example, s. 22(3)(a) and (e) of *FIPPA*.

As a result, the Tribunal must take careful steps when responding to an FOI request. In this regard, the Tribunal is unlike the courts, because *FIPPA* does not apply to court records: see s. 3(3)(a) of *FIPPA*.

Due to the sensitive personal information contained in a complaint file, and to ensure compliance with *FIPPA*, the Tribunal generally will not be able to provide members of the public with access to the complaint file. For public access during the Hearing Period, see section 2.1 above.

2.4 Mediation and Settlement

The Tribunal conducts mediations to help the parties to resolve all or part of a complaint.

Under s. 40 of the *Code*, any information received by any person in the course of attempting to settle a complaint, including at a mediation, is confidential and may not be disclosed except with the consent of the person who gave the information. See also: s. 29 of the *Administrative Tribunals Act*.

FIPPA does not apply to notes or records kept by a person appointed by the Tribunal to conduct a facilitated settlement process in relation to a complaint: see s. 61(2)(b) of *the Administrative Tribunals Act*.

3. Tribunal Hearings

3.1 Hearing list

Generally, the Tribunal will publish on a hearing list 90 days before the scheduled hearing:

- the parties' names,
- case number,
- area(s) and ground(s) of discrimination, and
- place and date of hearing.

A party may request that the Tribunal delay adding a complaint to a hearing list in accordance with Rule 5(4).

3.2 Public Attendance at Hearings

Tribunal hearings, including online 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.

3.3 Communications Devices

3.3.1 Cameras

Filming or photographing a hearing room, online hearing, or mediation is prohibited, without the permission of the Tribunal. This prohibition includes filming:

- through open hearing room doors
- through windows in hearing room doors, and
- online hearings.

In the public areas of the Tribunal, 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.

3.3.2 Voice Recorders

Parties and 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 verifying their notes of the proceedings.

3.3.3 Computers

Parties and members of the public may use a laptop or other computer during a Tribunal hearing provided they do not disturb the proceedings and that they use the computer solely to access an online proceeding or for the purpose of note-taking. See items a and b above regarding cameras and voice recorders.

3.3.4 Cell Phones and other Hand-Held Devices

Parties and members of the public may take their cell phones with them into the hearing room or into a room in which the person is attending an online hearing, unless the Tribunal restricts cell phones in a specific case. See items a and b above regarding cameras and voice recorders.

3.3.5 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. Similarly, the Tribunal may only grant access to an online hearing at scheduled times, when the hearing begins or resumes after a break.

4. Media Interviews and Publication Bans

4.1 Interviews

The media may hold interviews in the public areas of the Tribunal's premises or other hearing location, 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, the Tribunal will post notice of that ban on the hearing door or will announce the ban in an online hearing. The Tribunal may require persons attending the hearing to acknowledge in writing that they understand the publication ban and will abide by it.