



## Freedom of Information Request Policy

This policy sets out how to make a Freedom of Information [FOI] request to the British Columbia Human Rights Tribunal [Tribunal].

The *Freedom of Information and Protection of Privacy Act* [FIPPA] gives the public a right to request records in the custody or control of the Tribunal, subject to various exceptions.

### **FIPPA does not apply to all Tribunal records**

FIPPA does not apply to:

- a personal note, communication or draft decision of a mediator or of a Tribunal member, registrar, or other officer who makes a decision,
- a mediator's notes or records,
- information the Tribunal receives in a hearing from which the public, a party or an intervener was excluded,
- a transcription or tape recording of a tribunal proceeding,
- a document submitted in a hearing for which public access is provided by the Tribunal,
- Tribunal decisions for which public access is provided.

See: *Administrative Tribunals Act*, s. 61 and *Human Rights Code*, s. 32

### **FIPPA restricts the Tribunal from disclosing certain information**

To the extent that FIPPA applies to the records held by the Tribunal, the Tribunal must comply with the sections of FIPPA that restrict the Tribunal from disclosing certain information under 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 releasing 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, whose records are not covered by FIPPA: 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. If you seek records on behalf of a party to the complaint, you must attach proof of authority to act on the party's behalf or the person's signed consent for disclosure to you.

## How to make a request

You must request records from the Tribunal in writing. Send your request by:

- email to [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca)
- hand or mail to 1270 - 605 Robson Street, Vancouver, British Columbia, V6B 5J3
- fax at 604-775-2020.

Be as specific and clear as possible about the records you are requesting.

Keep a copy of your request for your records.

## Fee for FOI requests

You must pay a processing fee of \$10.00 to make an FOI request, unless you limit your request to records containing your personal information.

The fee is non-refundable.

Once the Tribunal confirms that the request is not exclusively for the applicant's personal information, the Tribunal will request payment of the \$10.00 fee. You must pay the fee before the Tribunal will process your request.

Pay the fee by:

- cheque made payable to the "Minister of Finance" and delivered by hand or mail to: 1270 - 605 Robson Street, Vancouver, British Columbia, V6B 5J3; or
- cash if delivered by hand to this address, in which case a receipt will be provided.

There may be additional fees for processing an FOI request, if the request is not limited to the applicant's personal information. In such cases, the Tribunal will give you the total estimated fees in writing. You must pay a deposit of 50% of the estimated fees before the Tribunal further processes your request. The Tribunal will charge processing fees in accordance with the Fee Schedule set out in the [Freedom of Information and Protection of Privacy Regulation \(gov.bc.ca\)](https://www.bccsa.ca/fipa).

## Time for response

Under *FIPPA*, the Tribunal has 30 business days to respond to your request. The Tribunal may extend the time if, for example:

- a large number of records are requested,
- the applicant has not provided enough detail to enable the Tribunal to identify the requested records, or
- the Tribunal needs time to consult with a third party or another public body before determining whether the records may be released.

The time to respond is paused from the time that the Tribunal notifies the applicant of an applicable fee and resumes once the requested fee is received.

### **Options if you disagree with how the Tribunal responds**

If you receive a response but do not feel that the Tribunal has responded appropriately to your request, you have two options:

1. You may first raise your concern with the Tribunal directly and provide the reasons why you believe that the response was inadequate.
2. If the Tribunal does not resolve your matter, you may complain to the Office of the Information and Privacy Commissioner for BC [**OIPC BC**]: [How do I make a complaint? - Office of the Information and Privacy Commissioner for BC \(oipc.bc.ca\)](https://www.oipc.bc.ca/foi/how-to-complain).

If you disagree with how the Tribunal has severed or redacted the records provided to you, you may request a review by the OIPC BC.

If you disagree with a time extension and cannot resolve the matter with the Tribunal, you may direct your concerns to the OIPC BC.

### **Conduct**

The Tribunal is committed to providing exemplary service when processing FOI requests and, at the same time, addressing important human rights matters.

The Tribunal appreciates that many FOI applicants are facing difficult circumstances. The Tribunal's ability to respond to FOI requests in a timely manner depends, in part, on the reasonable conduct of individuals involved. The Tribunal requires that an FOI applicant refrain from including discriminatory, abusive, or argumentative language in their FOI request, imposing excessive and unnecessary demands on the time and resources of the Tribunal, for example, by making repetitious or systematic requests, and refusing to allow the BCHRT the time permitted by *FIPPA* to respond to the request.

The Tribunal may place restrictions on an FOI applicant if:

- responding to the applicant's requests would unreasonably interfere with the Tribunal's operations because the requests are excessively broad, repetitious, or systematic,
- the requests are frivolous, vexatious, and/or made in bad faith,
- the requested records have already been provided to the applicant or are accessible by the applicant from another source, or
- the applicant's conduct of the applicant adversely affects the safety and well-being of staff.

The Tribunal will place restrictions only to the extent necessary to prevent or mitigate the effects of the applicant's behavior. The Tribunal may seek the OIPC BC's support in imposing such

restrictions on an FOI applicant. In this regard, the Tribunal may rely on s. 43 of *FIPPA* and/or the [OIPC Policy, Procedure and Criteria for Discontinuing Investigations or Reviews](#).