



*Protection from reprisal.
Your Right. Our Mission.*

Policy on Openness and Privacy

Public Servants Disclosure Protection Tribunal

This document outlines the policy of the Public Servants Disclosure Protection Tribunal with respect to openness and privacy.

Introduction

The Public Servants Disclosure Protection Tribunal (the “Tribunal”) is an independent quasi-judicial tribunal that operates very much like a court when it conducts proceedings under its enabling statute; the *Public Servants Disclosure Protection Act*, and in accordance with the *Public Servants Disclosure Protection Tribunal Rules of Procedures*. This document outlines the Tribunal’s policy on the openness of its processes and describes how it handles issues relating to privacy.

It is important to have open and transparent proceedings at the Tribunal since its decisions can impact the federal public administration and there is a public interest in maintaining and enhancing public confidence in the integrity of public servants and public institutions. It is also important to show that there is an effective framework for public servants who believe they may have suffered a reprisal due to the disclosure of wrongdoing.

Open Court Principle

The open court principle is significant in our legal system. In accordance with that principle, the Tribunal conducts its oral hearings in public, save for exceptional circumstances. Because of its public interest mandate in maintaining and enhancing public confidence in the integrity of public servants, the Tribunal maintains an open justice policy to foster transparency in its processes, as well as accountability and fairness in its proceedings.

The Tribunal’s website, and other publications advise parties and the public at large that its hearings are open to the public. Parties involved with the Tribunal should be aware that they are embarking on a process that presumes a public airing of matters under review, including the public availability of Tribunal decisions. Parties and their witnesses are subject to public scrutiny when giving evidence before the Tribunal, and it is considered that they are more likely to be truthful if their identities are known. With few exceptions, Tribunal decisions identify parties and their witnesses by name and may set out information about them that is relevant and necessary for the determination of matters to be decided.

At the same time, the Tribunal acknowledges that in some instances mentioning an individual's personal information during a hearing or in a written decision may affect that person's life. Privacy concerns arise most frequently when some identifying aspects of a person's life become public. These include information about an individual's home address, personal email address, personal phone number, date of birth, financial details, SIN, driver's license number, or credit card or passport details. The Tribunal endeavors to include such information only to the extent that is relevant and necessary for the determination of matters under its jurisdiction.

With advances in technology and the potential for the rapid and widespread distribution of information— including Tribunal decisions — the Tribunal recognizes that in some instances it may be appropriate to limit the concept of openness as it relates to the circumstances of individuals who are parties or witnesses in proceedings before it.

The Tribunal's policy is consistent with the [statement](#) of the Heads of Federal Administrative Tribunals Forum (endorsed by the Council of Canadian Administrative Tribunals) and the principles found in the [Protocol for the Use of Personal Information in Judgments](#) approved by the Canadian Judicial Council.

In Camera Hearings

In exceptional circumstances, the Tribunal can depart from the open court principle during a hearing. For example, a hearing may be held *in camera* (limiting access to the public or media), if the requesting party can demonstrate to the Tribunal that circumstances require it (see section 21.3 of the [Public Servants Disclosure Protection Act](#), SC 2005, c 46).

Orders of Confidentiality

All documents filed with the Tribunal that are part of the record (such as submissions and supporting affidavits) are a matter of public record unless a legislative provision or order prohibits public access.

Upon request of a party by way of a motion, the Tribunal may order that certain material, such as an exhibit, be sealed in order to protect the confidentiality of personal or sensitive corporate information.

In accordance with rule 15 of the [Public Servants Disclosure Protection Tribunal Rules of Procedure](#), SOR/2011-170, a motion may be made for an order of confidentiality regarding information in a filed document. Such a motion must be made in writing at the time the document is filed and identify the information at issue as well as the harm which would result from its public disclosure.

If the Tribunal orders that information contained in a document is to be kept confidential, the party must provide the registrar with a version of the document that is redacted to reflect the terms of the order and that is marked with the word “NON-CONFIDENTIAL” in bold-faced and capitalized letters.

If the Tribunal orders that information contained in a document, or that the entire document, is to be kept confidential, the registrar will mark the filed copy of that document with the word “CONFIDENTIAL” in bold-faced and capitalized letters.

Access to case files by the public

The Tribunal considers that the *Access to Information Act* and the *Privacy Act* do not apply to its case files. However, the Tribunal provides public access to case files in accordance with the open court principle.

Tribunal case files contain every document filed by parties, including correspondence between parties. These files are available to the public for consultation at the Tribunal's premises with appropriate notice. However, information such as an individual's home address, personal email address, personal phone number, date of birth, financial details, SIN, driver's license number, or credit card or passport details is not available for consultation. Further, information protected by solicitor-client privilege is not available for consultation.

Exhibits filed at a hearing are also available to the public for consultation at the Tribunal's premises with appropriate notice, once the decision on the merits of the case has been rendered or the Tribunal has otherwise closed its case file. However, exhibits or any other documents that have been ordered sealed are not available for consultation.

Access to decisions by the public

The Tribunal provides public access to its decisions on its website in accordance with the open court principle.