

Participating in a Written FIPPA or MFIPPA Inquiry

PRACTICE DIRECTION #2

INTRODUCTION

1. The adjudication of Appeals at the IPC is accomplished by means of an Inquiry. The Inquiry is a formal adjudicative process.¹ Where an Institution claims that a record or part is exempt, it has the burden of proving that the exemption applies.²
2. Generally speaking, in a written Inquiry, the IPC staff member will not speak directly to any Party in the absence of the other Parties.³ Rather, the IPC will receive written Representations. Representations are arguments or evidence presented to the IPC staff member to persuade him or her to resolve the Appeal in a particular way.
3. This Practice Direction sets out requirements and guidelines for Representations, including the number of pages and types of attachments that may be submitted. It also offers practical guidelines to help improve the effectiveness of Representations.

1 See FIPPA sections 52-54 and MFIPPA sections 41-43.

2 See FIPPA section 53; MFIPPA section 42. In some instances, Affected Parties or Third Party Appellants resisting the disclosure of information about them may also have the burden of proof.

3 Verbal contacts with parties are handled by the Adjudication Review Officer or Case Lead.



REPRESENTATIONS

4. When inviting a Party to provide Representations, the IPC sends a Notice of Inquiry outlining the facts and issues in the Appeal. Representations should be relevant and factual and refer to the connections between exemptions claimed and the records in question, or alternatively, explain why an exemption should not apply.
5. Parties should carefully review the Notice of Inquiry and any accompanying materials and address each of the issues raised in the Notice of Inquiry. Parties are also strongly encouraged to review any relevant existing Orders, other case law or statutory materials and [IPC Interpretation Bulletins](#). Parties should include references to such material in their Representations. Copies of this material should also be provided to assist the IPC.
6. Parties are limited to submitting one set of Representations in response to each request to do so. Unsolicited supplementary or additional representations will only be considered by the IPC in exceptional instances.
7. Representations should be relevant and concise. Initial Representations submitted by any party should be:
 - (a) if typewritten, no longer than 20 pages in point size 12 or larger, double-spaced, on paper not larger than 8 1/2 x 11 inches; or
 - (b) 20 handwritten pages of the same size.
8. Reply and sur-reply Representations should be:
 - (a) if typewritten, no longer than 10 pages in point size 12 or larger, double-spaced, on paper not larger than 8 1/2 x 11 inches; or
 - (b) 10 handwritten pages of the same size.
9. Representations that are unduly lengthy, repetitive, or disrespectful of any other Party or the IPC may be rejected or disregarded by the IPC staff member.
10. Attachments may also be provided, but their relevance must be explained in the Representations. Attachments the relevance of which is not satisfactorily explained, or self-evident, may not be considered by the IPC staff member.

SHARING OF REPRESENTATIONS

11. Representations may be shared with the other Party or Parties to the Appeal unless there is an overriding confidentiality concern. Please see [Practice Direction Number 7](#) for more detailed information about sharing of Representations.
12. Parties must explain which portions of their Representations, if any, they would like withheld from other Parties to the Appeal. Parties must also identify the Parties from whom they wish this information to be withheld. It is important that Parties provide detailed reasons for their request to have the IPC withhold their Representations, in whole or in part.

TIME FOR SUBMITTING REPRESENTATIONS

13. Representations must be submitted within the time period indicated in the cover letter to the Notice of Inquiry provided to each Party. If a Party requires additional time to provide Representations, a request for an extension must be made in writing to the applicable IPC staff member. The request must state the additional time requested and must include an explanation of why such additional time is required. The decision to grant such extension is at the discretion of the IPC.
14. Depending on the circumstances of the case, late Representations may not be considered by the IPC staff member.