

# Abandoned Files

## 1. Policy Statement

The IPC is committed to ensuring that there is a clear and understandable policy in place to address files where the party is no longer responsive, is lost to contact, or appears to have lost interest in pursuing their matter. This enables the Tribunal to allocate its limited resources in an appropriate manner, to more effectively serve the needs of Ontarians who request its services.

## 2. Purpose

The purpose of this policy is to:

- (a) establish efficient and effective procedures that simplify how to address files that have been deemed to be abandoned and when they will be closed;
- (b) establish criteria and procedures that ensure consistent implementation of this policy;
- (c) set out the parameters for communications between Tribunal staff and external parties regarding files that may be abandoned; and
- (d) ensure that abandoned files are closed in accordance with this policy.

## 3. Scope

If at any time during the processing of a file, a Tribunal staff member encounters difficulty reaching the appellant/complainant, a third-party appellant, or the original requester in third-party appeals, then this policy shall apply with the exceptions noted below.

## 4. Exceptions

This policy does not address situations where the institution is the party who is unresponsive to IPC contact. Where an institution routinely fails to respond to the IPC, the staff member must discuss how to address the institution's non-response with their manager. For example, in the Adjudication stage, this may involve proceeding to write the decision without the institution's representations.

This policy also does not address situations where an affected party is the party who fails to respond. In those cases, the applicable legislation should be consulted to determine if/how an appeal or complaint

may proceed without hearing from an affected party. Nothing in this policy negatively impacts the rights or interests of such an affected party as provided for in the applicable legislation.

## 5. Responsibilities

### 5.1 Employee Responsibility

Staff must establish, through the application of this policy, whether or not a file should be determined as an abandoned file.

If there is a dispute between a staff member and a party about the application of this policy, the employee may consult with their manager, provide any supporting materials, and advise the manager of the steps that have been taken to communicate with the applicable party.

### 5.2 Manager/Director Responsibility

In the case of disputed files, Managers/Directors are responsible for reviewing the information provided by staff in a timely manner and determining if the circumstances warrant deeming a file to be abandoned in accordance with this policy, or if the file should be escalated to the Assistant Commissioner for determination.

### 5.3 Assistant Commissioner Responsibility

The Assistant Commissioner is responsible for reviewing the information provided by the Manager/Director in a timely manner and ensuring that any extenuating or special circumstances have been addressed or considered. After reviewing the circumstances, the Assistant Commissioner shall determine whether a file should be deemed abandoned under this policy.

## 6. No Current Contact Information

Once a file is opened, it is incumbent on a party to provide any updated contact information to the IPC. If there is no longer a current phone number (e.g., “out of service”), address (e.g., letters returned to the IPC marked as “moved”), or email (e.g., bounced back as undeliverable) for the party, the file should be placed “on hold” in CRIS and dealt with as follows depending on where the file is in the Tribunal process.

### 6.1 Early Resolution

The Analyst should indicate in the intake brief that the file is on hold due to a lack of current contact information for the party.

The file will remain on hold until the party contacts the IPC or **four weeks** has passed without any further contact – whichever occurs first. Once the four weeks have passed without any further contact from the party, the Analyst may deem the file to be an abandoned file and proceed to close the file. The Analyst will send a closing letter to the institution only, noting that the file is closed.

## 6.2 Mediation

The Mediator should indicate in the mediation brief that the file is on hold due to a lack of current contact information for the party. The file will remain on hold until the party contacts the IPC or **four weeks** have passed without any further contact – whichever occurs first.

Once the four weeks have passed without any further contact from the **appellant, complainant, or original requester**, the Mediator may deem the file to be an abandoned file and close the file. The Mediator will send a closing letter to the institution only, noting that the file is closed.

In the case of a **third-party appeal**, once the four weeks have passed without any further contact from the third-party appellant and that third-party appellant's issues are the only matters to be addressed, no further mediation will be possible. The Mediator may deem the file to be abandoned and close that file. The Mediator will send a closing letter to the institution only, noting that the file is closed.

The Mediator will also advise the institution that the records can be disclosed in accordance with the institution's original decision **except where there are other overlapping third-party appeals in respect of the same records**.

## 6.3 Adjudication

The Adjudicator should indicate in the adjudication brief that the file is on hold due to a lack of current contact information for the party. The file will remain on hold until the party contacts the IPC or **four weeks** have passed without any further contact – whichever occurs first.

Once the four weeks have passed without any further contact from the **appellant, complainant, or original requester**, the Adjudicator may deem the file to be an abandoned file and close the file. The Adjudicator will send a closing letter to the institution only, noting that the file is closed.

In the case of a **third-party appeal**, once the four weeks have passed without any further contact from the third-party appellant and that third-party appellant's issues are the only matters to be addressed, there is no longer any active appeal. The Adjudicator may deem the file to be abandoned and close that file. The Adjudicator will send a closing letter to the institution only, noting that the file is closed.

The Adjudicator will also advise the institution that the records can be disclosed in accordance with the institution's original decision **except where there are other overlapping third-party appeals in respect of the same records**.

## 7. No Response

It is incumbent on a party to remain fully engaged and respond to requests from the IPC during the appeal or complaint process. Where a party is non-responsive to the IPC, the file should be dealt with as follows depending on where the file is in the Tribunal process.

In cases where a third-party appeal and an appeal are proceeding together, staff should use the steps in this policy with any modifications as appropriate. For example, the third-party appeal may close while the appeal stays open.

## 7.1 Intake Stage

If a file is incomplete when submitted to the IPC, the Registrar will have a Program Assistant contact the party by email or mail to request any additional outstanding documentation, or payment of the required fee.

The party will be given **two weeks** to respond to the request, with a deadline date noted in the correspondence. In the correspondence, the party will be advised that if the requested items are not received by the deadline date, the file may be considered abandoned and will not be opened. No further correspondence will be provided to the party.

If the documents or payment requested are not received by the deadline date provided, then a file will not be opened.

## 7.2 Early Resolution Stage

### 7.2.1 First Letter

An Analyst will attempt to contact the party, by telephone and/or email, depending on the available information in the file and/or the previous method of communication.

If the party does not respond within **two weeks**, the Analyst will send an email and/or letter (the “**first letter**”) to the party notifying them:

- that the Analyst has been attempting to reach them by phone and/or email;
- of any updates or other specific information that the Analyst may wish to relay;
- that the Analyst is unable to proceed with the file until they communicate with the party; and
- that the party should contact the Analyst no later than **two weeks** from the date of this email and/or letter.

### 7.2.2 Second Letter

For all files, if the party does not respond by the deadline outlined in the first letter, the Analyst will send a second email and/or letter (the “**second letter**”) to the party notifying them that:

- they are writing further to the first letter;
- to date they have not received a response;
- the party must contact the Analyst no later than **two weeks** from the date of this email and/or letter;
- if the party does not respond by this deadline, the file will be deemed to be an abandoned file and will be closed without further notice pursuant to this policy.

### 7.2.3 Closing the File

If the party does not respond to the second letter, the Analyst will deem the file to be an abandoned file and will immediately close the file, and a note will be placed in the File Comments field in CRIS.

Upon closing the file, the Analyst will send a letter to the institution noting that the file has been abandoned by the party and has therefore been closed pursuant to this policy.

## 7.3 Mediation Stage

### 7.3.1 First Letter

A Mediator will attempt to contact the party, by telephone and/or e-mail, depending on the available information in the file and/or previous method of communication.

If the party does not respond within **two weeks**, the Mediator will send an email and/or letter (the “**first letter**”) to the party notifying them:

- that the Mediator has been attempting to reach them by phone and/or email of any updates or other specific information that the Mediator may wish to relay;
- that the Mediator is unable to proceed with the file until they communicate with the party; and
- that the party should contact the Mediator no later than **two weeks** from the date of this email and/or letter.

### 7.3.2 Second Letter

If the party does not respond by the deadline outlined in the first letter, the Mediator will send a second email and/or letter (the “**second letter**”) to the party, notifying them that:

- they are writing further to the first letter;
- to date they have not received a response;
- they must contact the Mediator no later than **two weeks** from the date of this email and/or letter; and
- in the case of **an appellant or complainant**, if they do not respond by this deadline, the file will be deemed to be an abandoned file and will be closed without further notice pursuant to this policy; **OR**
- in the case of **an original requester in a third-party appeal**, if they do not respond by this deadline, the file will be deemed to be an abandoned file, the records at issue will not be

disclosed by the institution, and their appeal will be closed without further notice pursuant to this policy; **OR**

- in the case of a **third-party appellant in a third-party appeal**, if they do not respond by this deadline, no further mediation is possible, and their third-party appeal will be closed without further notice pursuant to this policy.
- **ALSO, if there are no other overlapping third-party appeals in respect of the same records**, the second letter to the third-party appellant will note that the institution will be informed that it may disclose the records at issue in this third-party appeal in accordance with its decision.

### 7.3.3 Closing the File

If the party does not respond to the second letter, the Mediator will proceed to close the file as outlined below.

#### 7.3.3.1 All Files Excluding Third-Party Appeals

The Mediator will immediately close the file, and a comment will be placed in CRIS noting it was closed as abandoned. A letter will be sent to the institution, together with any affected person who previously received notice, setting out that:

- the non-responding party was asked to contact the Mediator no later than a given date if they still wished to proceed with this appeal; and
- as of the date of this letter, the Mediator has not heard from the non-responding party and, as a result, the appeal or complaint file has been deemed to be abandoned and is now closed pursuant to this policy.

#### 7.3.3.2 Third-Party Appeals

If the **original requester** does not respond by the deadline in the second letter, the Mediator will immediately close the file and a note will be placed in CRIS. A letter will be sent to all parties (excluding the original requester) and the institution outlining the result of mediation to date, including that:

- the original requester was asked to contact the Mediator no later than a given date if they still wished to pursue the records at issue in this third-party appeal;
- as of the date of this letter, the Mediator has not heard from the original requester and therefore their request is deemed to be abandoned;
- as a result, the records at issue in this third-party appeal do not need to be disclosed to the requester by the institution; and
- accordingly, this third-party appeal file is now closed pursuant to this policy.

If the **third-party appellant** does not respond by the deadline in the second letter, the Mediator will immediately close the file and a note will be placed in CRIS. A letter will be sent to all parties (excluding the third-party appellant) and the institution outlining the result of mediation to date, including that:

- the third-party appellant was asked to contact the Mediator no later than a given date if they still wished to pursue their third-party appeal;
- as of the date of this letter, the Mediator has not heard from the third-party appellant and therefore their third-party appeal is deemed to be abandoned; and
- accordingly, this third-party appeal is now closed.
- **ALSO, if there are no other overlapping third-party appeals in respect of the same records**, the Mediator will advise the institution that since there is no active appeal before the IPC relating to access to the records at issue, the records can be disclosed in accordance with the institution's original decision.

## 7.4 Adjudication Stage

Once the Inquiry process has started (i.e., the representations stage of the adjudication process), the following steps shall be taken in the event of non-responsiveness of one of the parties.

### 7.4.1 First Letter

Following the missed deadline for receipt of representations from a party, the Adjudicator will draft a letter to be sent by the ARO via email and/or courier and/or regular mail (the "**first letter**") to the applicable party notifying them:

- that the party's representations have not been received;
- that without the party's participation/representations, the Adjudicator may be unable to proceed or may deem that the party does not wish to proceed, and the file may be closed; and
- that the party should send in their representations so that these are received by the ARO no later than **two weeks** from the date of this letter.

### 7.4.2 Second Letter

If the party does not respond by the deadline outlined in the first letter, the Adjudicator will draft a further letter to be sent by the ARO via email and/or courier and/or regular mail (the "**second letter**") to the party notifying them that:

- the ARO is writing further to the first letter;
- to date the ARO has not received a response;
- the party must contact the ARO by **two weeks** from the date of the letter; and

- in the case of **an appellant or complainant**, if they do not respond by this deadline, the file will be deemed to be an abandoned file, it will be closed without further notice pursuant to this policy; **OR**
- in the case of **an original requester in a third-party appeal**, if they do not respond by this deadline, the file will be deemed to be an abandoned file, the file will be closed without further notice pursuant to this policy; **OR**
- in the case of **a third-party appellant in a third-party appeal**, if they do not respond by this deadline, their third-party appeal will be closed without further notice pursuant to this policy.
- **ALSO, if there are no other overlapping third-party appeals in respect of the same records**, the second letter to the third-party appellant will note that the institution will be informed that it may disclose the records at issue in this third-party appeal in accordance with its decision.

### 7.4.3 Closing the File

If the party does not respond to the second letter, the Adjudicator will proceed to close the file as outlined below.

#### 7.4.3.1 All Files Excluding Third-Party Appeals

The Adjudicator will immediately close the file and a note will be placed in CRIS. A letter will be sent to the institution, together with any affected person who previously received notice, setting out that:

- the non-responding party was asked to contact the Adjudicator no later than a given date if they still wished to proceed with this appeal; and
- as of the date of this letter, the Adjudicator has not heard from the non-responding party and, as a result, the appeal or complaint file has been deemed to be abandoned and is now closed pursuant to this policy.

#### 7.4.3.2 Third-Party Appeals

If the original requester does not respond to the deadline in the second letter, the Adjudicator will immediately close the file and a note will be placed in CRIS. A letter will be sent to all parties (excluding the original requester) and the institution setting out the following:

- the original requester was asked to contact the Adjudicator no later than a given date if they still wished to pursue the records at issue in this third-party appeal;
- as of the date of this letter, the Adjudicator has not heard from the original requester and therefore their request is deemed to be abandoned;



- as a result, the records at issue in this third-party appeal do not need to be disclosed to the requester by the institution; and
- accordingly, this third-party appeal file is now closed pursuant to this policy.

If the **third-party appellant** does not respond to the deadline in the second letter, and that third-party appellant's issues are the only matters to be addressed, there is no longer any active appeal. The Adjudicator will deem the file to be abandoned and immediately close that file, and a note will be placed in CRIS. A letter will be sent to the parties (excluding the third-party appellant) and the institution outlining the following:

- the third-party appellant was asked to contact the Adjudicator no later than a given date if they still wished to pursue their third-party appeal;
- as of the date of this letter, the Adjudicator has not heard from the third-party appellant and therefore their third-party appeal has been deemed abandoned; and
- accordingly, this third-party appeal is now closed pursuant to this policy.
- **ALSO, if there are no other overlapping third-party appeals in respect of the same records**, the Adjudicator will advise the institution that since there is no active appeal before the IPC relating to access to the records at issue, the records can be disclosed in accordance with the institution's original decision.

In exceptional cases, the Assistant Commissioner may determine that the file should remain open and a decision should be rendered in the public interest even in the absence of the response by a party and any template letter should be modified accordingly. If the Adjudicator is contemplating that a case may be of such exceptional nature, they should consult with their Manager and Director to assess whether it warrants being brought to the attention of the Assistant Commissioner for determination.