

Voluminous Records

1. Policy Statement

The IPC seeks to provide all parties with fair and timely access to our services, and has the power and responsibility to manage the processing of appeals and complaints that come before it. This includes taking measures to ensure that appeals or complaints involving high volumes of records do not unreasonably interfere with the operations of the Tribunal by unduly consuming limited resources and negatively affecting the rights of other parties to have their cases proceed in a timely manner.

2. Purpose

The purpose of this policy is to:

- (a) establish an efficient and effective framework for dealing with an appeal or complaint that involves a high volume of records;
- (b) establish criteria and procedures that ensure consistent implementation of this policy;
- (c) set out the required communications between Tribunal staff and external parties regarding an appeal or complaint involving a high volume of records; and
- (d) ensure that an appeal or complaint with a high volume of records is addressed in accordance with this policy.

3. Scope

If at any time during the processing of a file, a Tribunal staff member encounters a high volume of records at issue in a particular appeal or complaint, then this policy shall apply.

4. Exceptions

None.



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5. Responsibilities

5.1 Employee Responsibility

IPC staff must determine, through the application of this policy, whether or not a high volume of records from a file should be subject to this policy.

If a staff member believes that a file should be subject to this policy, the staff member must consult with their Manager, provide any supporting materials, and recommend to their Manager that this policy should apply to the file. If their Manager agrees with the recommendation, the staff member shall apply this policy to the file in question. The Registrar and Adjudicators are also responsible for issuing orders as appropriate in accordance with this policy.

5.2 Manager/Director Responsibility

Managers/Directors are responsible for reviewing the information provided by staff in a timely manner and determining if the circumstances warrant applying this policy to a file, or if the file should be forwarded 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 considered and addressed. After reviewing the circumstances, the Assistant Commissioner shall determine whether a file should be subject to this policy. The Assistant Commissioner is also responsible for issuing orders as appropriate in accordance with this policy.

6. Voluminous Records

For the purposes of this policy, a file that involves more than 200 pages of records at issue will trigger consideration of the application of this policy and a determination that the file may contain “voluminous records.” The following factors should be considered in the overall context when determining if the methods for addressing voluminous records should be applied:

- the overall number of records at issue;
- any overlap or duplication regarding the content of the records;
- the number of exemptions being claimed;
- the nature of the exemptions being claimed;
- the nature of the records;
- whether the records contain the requester’s personal information;
- the number of severances at issue;

- the number of affected parties; and
- any public interest considerations.

7. Methods to Address Voluminous Records

7.1 Declining to Conduct an Inquiry or Review

7.1.1 Mediation

Where a Mediator forms the opinion during the course of mediation that:

- the number of records the requester has requested is unreasonable; and
- the requester unreasonably refuses to narrow or limit the scope of their request to a specific set of records relevant to their purpose,

then the Mediator may ask that the requester cooperate to limit the number and/or categories of records requested to a reasonable amount within a specific timeline.

If the requester refuses to cooperate within the given timeline, the Mediator may recommend to the Assistant Commissioner (or another delegate) that:

- the file not move to Adjudication and that the file be closed; or
- part of the file not move to Adjudication and the remainder of the file move to Adjudication.

Upon receipt of the Mediator's recommendation, the Assistant Commissioner (or another delegate) may issue a "no inquiry" decision on all or part of the file after giving the requester the opportunity to make submissions by a specific deadline.

7.1.2 Adjudication

Where an Adjudicator forms the opinion during the course of adjudication that:

- the number of records the requester has requested is unreasonable; and
- the requester unreasonably refuses to narrow or limit the scope of their request to a specific set of records relevant to their purpose,

then the Adjudicator may ask that the requester cooperate to limit the number and/or categories of records requested to a reasonable amount within a specific timeline.

If the requester refuses to cooperate within the given timeline, the Adjudicator may issue a "no inquiry" decision on all or part of the file after giving the requester the opportunity to make submissions by a specific deadline.

Sampling Approach – Adjudication

The sampling approach for voluminous records contemplates that the institution will provide a detailed index of records describing each record or portion of a record claimed to be exempt or excluded from the statute according to the type of record, its contents, the provision of the statute under which access is denied and the reason the provision applies. This approach further contemplates that the index will identify similar records (or records with similar contents) or categorize or group similar records together.

Where similar records can be identified, categorized or grouped as described above, the Adjudicator will have the option of reviewing the records by examining a sample of the records within each similar category, rather than examining each record individually.

Where the Adjudicator is satisfied based on sampling the records that they are representative of the category of similar records (and subject to any adjustments that may emerge from sampling), the Adjudicator may rule on the application of an exemption or exclusion to the samples examined and apply that ruling to other records within the same category.

When drafting their decision, the Adjudicator should explain their sampling methodology and state the principles, tests, and general reasons for their findings with respect to each of the exemptions claimed in the decision. This should be followed by a list of the outcomes of their determinations with respect to each category of records in a “Findings” section or by way of the Index of Records which lists the outcomes along with a brief description for the applicable record numbers. In this way, reasons are given in a general way but do not need to address each of the many records at issue individually.

The Adjudicator may, in the order provisions, remain seized for a limited time to resolve any dispute between the parties about how the Adjudicator’s decision should be interpreted and applied to a limited number of remaining records.

7.2 Dividing the File - Adjudication

Where a file with voluminous records has proceeded to adjudication, and where records or portions of records can be identified, categorized, or grouped together by the institution in the index under specific exemptions from disclosure under the applicable Act, then with the approval of the Director of Adjudication the Adjudicator may divide the file into separate files based on the identified categories.

The Adjudicator may then conduct an inquiry on each file category separately and one at a time, placing files in the remaining categories on hold.

The Adjudicator will inform the requester in writing that the file has been divided by category, how the resulting file categories will be processed, and in what order they will be processed (noting the current status of each file category). The correspondence will also provide the requester with **two weeks** to notify the IPC if they prefer to proceed with a different order instead. If the requester does not respond within the above time, the Adjudicator will process the category files in the order identified.

The responding institution will be notified in writing regarding the application of this policy, and will be provided with information regarding how the appeals or complaints will be processed going forward and in which order.

8. Where the Institution's Index of Records is Insufficient to Enable Effective Mediation or Adjudication

8.1 Registrar Identifies a Deficiency in the Index

At the Intake stage where appeals are initially screened, the Registrar may send a written request to the institution for a detailed index or description of the voluminous records.

Where the Registrar is of the opinion that such index or description is missing or insufficient for the purposes of effective mediation or adjudication, and the institution refuses to provide a better index or description of the records, the Registrar may order the institution to do so by a specific deadline, without representations from the institution on this matter.

Once in receipt of a sufficient index or description of the voluminous records, the file may be streamed to Mediation or Adjudication.

8.2 Mediator Identifies a Deficiency in the Index

Where a Mediator is assigned to a file with voluminous records and the Mediator is of the opinion that:

- the index or description of records that the institution has shared is insufficient for the purposes of effective mediation; or
- the records are inconsistent with or are not organized in accordance with the index,

the Mediator may ask that the institution provide an improved index or description, or better organize the records in accordance with the Mediator's instructions within a specific timeline.

If the institution refuses to cooperate within the given timeline, the Mediator may recommend to the Registrar or Assistant Commissioner (or another delegate) that the institution be ordered to provide a better index or description of the records by a specific deadline.

Upon receipt of the Mediator's recommendation, the Registrar or Assistant Commissioner may make an order requiring the institution to provide a better index or description of the records by a specific deadline, without representations from the institution on this matter. Once in receipt of a sufficient index or description of the voluminous records, the file may be sent back to the Mediator to continue mediation.

8.3 Adjudicator Identifies a Deficiency in the Index

Where an Adjudicator is assigned to a file with voluminous records and the Adjudicator is of the opinion that:

- the index or description of records that the institution has shared is insufficient for the purposes of effective adjudication; or
- the records are inconsistent with or are not organized in accordance with the index,

the Adjudicator may ask that the institution provide an improved index or description, or better organize the records in accordance with the Adjudicator's instructions within a specific timeline.

If the institution refuses to cooperate within the given timeline, the Adjudicator may:

- address this as a preliminary issue and make an order requiring the institution to provide a better index or description of the records by a specific deadline, without representations from the institution on this matter; or
- refer the matter to the Registrar or Assistant Commissioner to make an order requiring the institution to provide a better index or description of the records by a specific deadline, without representations from the institution on this matter.

Once in receipt of a sufficient index or description of the voluminous records, the Adjudicator will consider next steps to be taken under this policy.