



## **CITIZEN'S GUIDE TO EFFECTIVE RESOLUTION OF DISPUTES ABOUT PERSONAL INFORMATION**

### **WHAT IS A DISPUTE ABOUT PERSONAL INFORMATION?**

The Office of the Information & Privacy Commissioner for British Columbia (“Commissioner’s office”) uses the term “dispute about personal information” to describe the two ways individuals can ask us to look into an organization’s personal information practices or actions under the *Personal Information Protection Act* of British Columbia (“PIPA”).

Under PIPA, such a dispute is officially either a request for review or a complaint. Our staff will determine which of these two it is based on the information you provide. They will also tell you about the procedures and timelines that go along with that type of dispute.

The first important difference between the two types of disputes is that there is a deadline for asking for our assistance when you are not satisfied with an organization’s decision not to allow you access to your personal information (request for review). For this type of dispute, it is important to contact us right away when you receive the organization’s response to your request and are not satisfied.

### **IF YOU HAVE A DISPUTE WITH AN ORGANIZATION ABOUT PERSONAL INFORMATION**

#### **OUR REFERRAL POLICY**

It is our policy to refer individuals who want our help with a dispute back to the organization to attempt to resolve the dispute, if the individual has not already done so.

Most businesses will be pleased to help solve your problems. Customer goodwill is very important to most organizations. A complaint doesn't have to be a negative experience. Handled correctly, the organization gains goodwill and the individual benefits.

There are some exceptions to our policy of referring individuals back to the organization. If you feel there is a good reason why you should not be referred back to the organization, tell our staff why. They will decide if we should get involved in your dispute without referring you to the organization first. Our staff may be able to give you information that will make it easier for you to deal with the organization and to be successful. The following section also provides such tips.

### **DEADLINES FOR ASKING FOR OUR HELP**

There are deadlines for asking us to assist with a dispute under PIPA.

If you asked an organization for access to your own personal information and are not satisfied with its response, you have only 30 business days to ask for our help after receiving the organization's written response.

If you want to complain about other ways the organization may not have followed PIPA, you have 6 months or, in some limited cases, more time to deliver a written request to us after becoming aware of the situation or the organization's practice.

If you are nearing a deadline, contact us by phone so staff can open a file and then write to us following their instructions. Staff may be able to grant you an extension in certain circumstances if you give us good reasons for being late in coming to us.

### **TIPS FOR INDIVIDUALS FOR EFFECTIVE RESOLUTION OF DISPUTES ABOUT PERSONAL INFORMATION WITH ORGANIZATIONS**

These tips will assist you in resolving a dispute about personal information with an organization, whether or not we have referred you back to the organization. (Please see the discussion of deadlines, above, to help you decide if you should contact us first or go back to the organization directly.)

### **DOES THE ORGANIZATION HAVE TO FOLLOW PIPA?**

There are several privacy laws that could apply to the organization with which you have a privacy dispute. If the organization is part of government or the public sector, or is federally regulated, the organization could be subject to other privacy legislation.

You may get guidance from our staff over the telephone regarding whether PIPA applies to a particular organization. They may be able to refer you to another privacy Commissioner or Ombudsman if PIPA does not apply.

For more information on whether the PIPA applies to the organization please go to: [http://www.mser.gov.bc.ca/foi\\_pop/Privacy/Tools/PIPA\\_Tool\\_2.htm](http://www.mser.gov.bc.ca/foi_pop/Privacy/Tools/PIPA_Tool_2.htm) – “How Do I Know if I'm Covered?”

### **DECIDE WHETHER PIPA ALLOWS THE ORGANIZATION TO DO WHAT IT DID**

We have a number of guides to PIPA on our website and links to other information. You can also find a copy of the *Personal Information Protection Act* there. Our staff are also able to assist if you call us at (250) 387-5629 or toll-free through Enquiry BC at 1-800-663-7867.

For more information on whether the organization is following PIPA, please go to: [http://www.mser.gov.bc.ca/foi\\_pop/Privacy/PIPCitGuideView.pdf](http://www.mser.gov.bc.ca/foi_pop/Privacy/PIPCitGuideView.pdf) – “Citizen’s Guide”.

### **ENSURING THAT PIPA IS THE BEST WAY TO DEAL WITH YOUR DISPUTE**

There will sometimes be an underlying dispute between an organization and an individual that leads the individual to look at the PIPA process as a way of obtaining information or challenging the actions of the organization. If this is the case, there may be more direct and effective ways to achieve the outcome you really want. For example, Small Claims Court or the Better Business Bureau may be better able to deal with a consumer dispute about defective merchandise or a refund. If the dispute is really an employment dispute about pay or employment termination, a union grievance procedure or *Employment Standards Act* dispute processes may be more appropriate. While our staff cannot provide legal advice, they are aware of such alternative processes and may be able to provide contacts for you to find out more about whether they could be effective for you.

### **ENSURE THAT YOU ARE DEALING WITH THE RIGHT PERSON IN THE ORGANIZATION**

You need to deal with someone who is knowledgeable about PIPA’s requirements and has the authority to change procedures or to do what should be done to resolve the dispute. In most cases, that will be the organization’s Privacy Officer, the owner or a manager. PIPA requires organizations to designate one or more individuals to be responsible for ensuring that the organization complies with the legislation. You can find out who this is by calling the head office, visiting websites and looking for a Privacy Policy or similar information, or by writing to the organization to the attention of its “Privacy Officer”, even if you do not have a name.

If the organization does not have a privacy officer and does not seem to have anyone who understands PIPA, you may want to direct the organization to the BC government site that contains a number of PIPA implementation tools for organizations, at [http://www.mser.gov.bc.ca/foi\\_pop/Privacy/Tools/Tools\\_toc.htm](http://www.mser.gov.bc.ca/foi_pop/Privacy/Tools/Tools_toc.htm).

If you are not satisfied with the organization's response, you may contact the organization's industry association, ombudsman or complaint office, if there is one. We may be able to help you find an industry or sector association to deal with your privacy dispute.

### **GIVE THE ORGANIZATION A CHANCE TO SOLVE YOUR PROBLEM**

Be clear about what you want the organization to do and make sure that PIPA authorizes or requires it. Provide the organization with the information it needs to act on your request and be fair in your dealings with the organization.

For instance, your original request might have been to ask for “all your personal information the organization has on file” and you were not satisfied with what the organization produced. You could make a more specific request for your account records, giving them the account number and the particular period of time that concerns you.

If you have asked for something that logically will take time, be understanding, but ask the organization to commit in writing to what it will do and by when. Then check back periodically so the organization knows that you have not lost interest.

### **ENSURE THAT THE ORGANIZATION CAN CONTACT YOU**

Give the organization more than one way to contact you, including a way to reach you by phone during normal business hours. Although you should ask the organization to follow up in writing about its promises to you, the telephone is often a more effective way than letters or emails for getting to the heart of the matter and gaining an understanding of what each side wants and can do.

### **SET THE TONE**

If you are polite, the organization is more likely to take you seriously and treat you with respect. If you are angry about the way you have been treated, try to calm down before contacting the organization.

### **TIPS FOR PROVIDING AN EFFECTIVE WRITTEN COMPLAINT TO AN ORGANIZATION**

- **Keep a Journal.** Write down details such as what happened, when it happened and who you had contact with.
- **Be brief.** Although you may have another dispute with the organization, if you are trying to resolve a dispute about personal information, keep your communications limited to that topic.

- Be specific. Give the organization dates of contact, names of employees you dealt with, and a description of the practice or type of transaction you were involved in. Explain why you think what the organization did was unreasonable or not allowed by PIPA.
- Be factual. Although you may believe that the organization did or did not do something for certain reasons, describing only what was done or not done (sticking to the facts) can be more effective in gaining the organization's cooperation. Supply copies of any documents that support your request, if you have them. Provide the organization's file number or your customer number, if applicable.
- Keep a copy of what you sent to the organization.

If you use the form provided at the end of this document or use the organization's complaint form (if it has one), you should give the organization all the information it needs to be able to start to work with you to resolve your complaint. For a form you can use to attempt to resolve your privacy dispute please go to: [http://www.oipc.bc.ca/private/“Privacy Dispute Resolution Form”](http://www.oipc.bc.ca/private/Privacy%20Dispute%20Resolution%20Form).

### **KEEP A RECORD OF PHONE CALLS AND COPIES OF LETTERS AND E-MAILS**

If you don't succeed in resolving your written complaint with the right person in the organization, you will need evidence if you want to come back to us for assistance about your efforts to resolve your dispute with the organization.

You should be able to give us details about whom you dealt with, on what dates, and what was said or done. You should also be able to produce copies of written communications you sent to the organization as well as copies of what you received. (See Keep a Journal, above).

### **ASKING FOR OUR ASSISTANCE**

After you have tried to resolve your dispute with the organization, you may ask us formally for assistance.

You have to ask for our assistance in writing. If the dispute is about the organization's response to your request for access to your personal information, include the date you made the request to the organization and the date the organization responded. The date the organization responded to you is very important. You have only 30 business days after the organization's decision to write to us to ask us to review the organization's decision.

A complaint form that you can use to make such a formal request for assistance can be found at <http://www.oipc.bc.ca/private/> - “*Complaint Form*”. You may also get this form by calling us. You can just write a letter to us instead of using the Complaint Form, but the

letter should cover the same issues or information as the form. The letter should be addressed to “Intake Officer” at the Commissioner’s office.

If you want assistance in completing the form, call us and ask to speak to an Intake Officer.

It is generally our practice to share your written request for assistance with the organization involved. Your request for assistance should be worded with this in mind. If this causes you concern, let the staff know and they may be able to hold back some or all of the information, depending on the type of request. You will ordinarily have the opportunity to later speak confidentially to one of our staff.

The OIPC does not accept written requests for assistance with a dispute about personal information by e-mail, but will respond to requests for information made by e-mail.

### **WHAT TO EXPECT AFTER YOU FORMALLY ASK US FOR ASSISTANCE**

We will review the information you provide in your written request and may contact you and the organization for more information before going any further. One of the first things our staff will do is ensure that the PIPA applies to the organization and your dispute. We will tell you in writing whether your case is going forward and what you need to do.

If PIPA does apply and we decide to handle your complaint, you will most likely become involved in an informal fact-finding and mediation process, during which our staff will try to determine what happened and why. They will form some ideas about whether PIPA has been followed and try to formulate a resolution acceptable to both parties. Our staff will act as an impartial go-between, dealing with you and the organization. Staff members are knowledgeable and interested in ensuring that PIPA is followed. You should not need a lawyer and our process is free.

If mediation is not successful, and we determine that the matter may proceed further, a more formal inquiry process may happen. Inquiries are usually conducted with written submissions. In an inquiry, you would be dealing with different staff from our office. After an inquiry ends, the Commissioner or other staff member who conducted the inquiry will issue a written decision to the parties and may make an order. If the order says that the organization has to do or stop doing something, the organization must follow that order. The organization may seek a judicial review of the order in the British Columbia Supreme Court.

For more information on our procedures, go to: <http://www.oipc.bc.ca/private/> “OIPC Process Guide”.

## **HOW TO CONTACT THE OFFICE OF THE INFORMATION & PRIVACY COMMISSIONER**

The OIPC can be contacted by mail, telephone or fax at:

Office of the Information and Privacy Commissioner  
PO Box 9038, Stn Prov Govt  
Victoria, British Columbia  
V8W 9A4

Telephone: (250) 387-5629  
Facsimile: (250) 387-1696

For toll-free access, call Enquiry BC at one of the numbers listed below and request a transfer to (250) 387-5629:

Vancouver: (604) 660-2421  
Elsewhere in BC: 1-800-663-7867

**(NOTE:** The OIPC does not accept written requests for assistance with a dispute about personal information by e-mail, but will respond to requests for information.)