

# GUIDE TO REQUESTING A REVIEW FROM THE IPC (FOIP)

*A Guide for Applicants*

This guide provides assistance to individuals who are dissatisfied with a government institution's response to their access to information request. This guide focuses on The Freedom of Information and Protection of Privacy Act (FOIP).

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Office of the  
Saskatchewan Information  
and Privacy Commissioner

# Guide to Requesting a Review from the IPC (FOIP)

## WHAT IS A REQUEST FOR REVIEW?

*The Freedom of Information and Protection of Privacy Act (FOIP)* grants citizens the right to request information from government institutions. It also contains rules regarding how government institutions must respond to these requests and what information they can withhold. Also, it outlines how individuals can request corrections to records containing personal information.

If a citizen is unhappy with a response of a government institution, they can request a review from the Saskatchewan Information and Privacy Commissioner (IPC). There may be different reasons to request a review - these are listed below. Only certain reasons may be applicable in each request.

## WHAT IS A GOVERNMENT INSTITUTION?

A government institution is a publically funded organization that is part of the government of Saskatchewan. Generally, Executive Council, crown corporations, ministries, boards, commissions, or any department, secretariat or agency of the executive government of Saskatchewan qualify as government institutions.

Independent officers of the Legislative Assembly and provincial court do not qualify as government institutions. FOIP only applies to the members of the Legislative Assembly and Minister's offices with respect to the protection of personal information (specifically sections 24 to 30 and 33 of FOIP).

### Local Authorities

If you wish to request a review regarding an access request to a municipal government (city, rural municipality, etc), Saskatchewan Health Authority, school board, library board, police service, college or university, *The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP)* applies. Please see this document [here](#).



## HOW DO I MAKE A REQUEST FOR REVIEW?

You can make a request for review in the following ways:

- Electronically: You can fill out an electronic fillable form found here: <http://www.qp.gov.sk.ca/documents/Forms/F22-01R1-B.pdf>
- Paper: You can print and complete a form (found here <http://www.qp.gov.sk.ca/documents/Forms/F22-01R1-B.pdf>) and e-mail, mail or fax it to the IPC. Our contact information can be found at the end of this document. Finally, you can also write a letter with all the necessary information (see below).

## WHEN CAN I MAKE A REQUEST FOR REVIEW?

You can make a request for review any time after you receive a response to your access to information request from the government institution or 30 calendar days after you made your access to information request if you have not received a response.

The applicant must request a review within 1 year of receiving a response from the government institution. If a government institution has not replied to the applicant's access to information request within 30 days of receiving the access request or a 30 day extension, the applicant has 1 year from the expiration of the time period to request a review.

## WHAT INFORMATION DOES THE IPC NEED?

### Name and Contact information of the Applicant

The applicant is the person or organization that has asked the government institution for information or has requested a correction and who is now asking the IPC for a review. The IPC will collect the applicant's name and contact information.

Sometimes, applicants are represented by lawyers or guardians. The IPC will need to collect this person's contact information as well as a letter or other documentation which states that this person is entitled to act on the applicant's behalf.

### Reason(s) for the Request

The IPC needs to know what in particular the applicant would like reviewed with respect to an access request. The reasons are listed below. If you are unsure, please contact the IPC. **Note:** A record is the information that has been requested.



Reason	Explanation	During an IPC Review...
<p><b>I have been refused access to all or part of the record (subsection 49(a) of FOIP).</b></p>	<p>FOIP lists certain specific reasons why a government institution can withhold records. They are called exemptions. A government institution should specifically list the exemptions that they are relying upon in its response to you.</p>	<p>The IPC will ask the government institution to show that the exemptions would apply to the record. The IPC uses certain established tests to make a determination. These can be found in the IPC Guide to Exemptions.</p>
<p><b>I have been notified that the record does not exist / cannot be found (subsection 49(a) of FOIP).</b></p>	<p>This means that the government institution says it does not have records that you are looking for. Please note that a government institution does not have to create new records to answer your request.</p>	<p>The IPC would ask the government institution for a very detailed explanation of its search for records. The IPC would measure the search against best practices.</p>
<p><b>I have been notified that the existence of the record shall neither be confirmed nor denied (subsection 49(a) of FOIP).</b></p>	<p>This means that the government institution will not tell you if the records you are looking for exists. It may only do so if the following exemptions would apply to a record if it exists or existed: sections 15, 16, 21 or 22 or subsection 29(1) of FOIP.</p>	<p>The IPC would consider the exemption and then if it warrants neither be confirmed nor denied.</p>
<p><b>I have not received a reply to my application, which I submitted ___ days ago (subsection 49(b) of FOIP).</b></p>	<p>A government institution has 30 days to reply to your request once they have received it. Generally, this reply would either give access to records, inform that records do not exist or that access is denied because an exemption has been applied.</p>	<p>The IPC will contact the government institution and work to get you a response within 7 calendar days.</p>
<p><b>My correction to a personal information record was not accepted as correct/verifiable (subsection 49(c) of FOIP).</b></p>	<p>FOIP also allows individuals to request that their personal information be corrected (eg. an employee file, account information). If a government institution denies a request, the individual may request a review.</p>	<p>The IPC will attempt to gather facts and submissions from the individual and the government institution and then make a determination if the correction should be made or only a notation be placed in the file.</p>
<p><b>I am a third party, and I wish to request a review of a decision to give access to a record that affects my interests (subsection 49(a) of FOIP).</b></p>	<p>Sometimes a government institution would like to release records concerning a third party (usually a business). If that third party does not want the records released, it can request a review.</p>	<p>The IPC will receive submissions from the third party, the applicant and the government institution. The third party could only claim exemptions in section 19 of FOIP if it objects to release of the record.</p>



Reason	Explanation	During an IPC Review...
<b>I disagree with the fee estimate (subsection 49(a.1) of FOIP).</b>	Government institutions are allowed to charge the applicant fees for searching, preparing and reproducing records. The guide for fees is found in <a href="#">the FOIP Regulations</a> . The government institution will provide a fee estimate to the applicant.	The IPC will ask the government institution for a detailed breakdown of the fee estimate including how the estimate was determined. It will be measured against established formulas. See <i>Fee Estimate – Quick Calculation Guide</i> .
<b>My request for a fee waiver was refused (subsection 49(a.2) of FOIP).</b>	If an applicant cannot afford a fee, it may ask the government institution to waive the fees. If a government institution denies the request, the applicant can request a review from the IPC.	The IPC will collect personal information from the applicant and use established tests to see if the applicant merits a fee waiver. The IPC will also consider if release of the record is in the public interest.
<b>I disagree with the transfer of application (subsection 49(a.3) of FOIP).</b>	If a government institution receives a request for information, it may transfer the request to another government institution if it believes that the records requested are in the possession of that other government institution. If an applicant disagrees, it can request a review.	The IPC would ask for submissions from the government institution and possibly for search efforts to make a determination if the transfer was reasonable.
<b>I disagree with the manner of providing access (subsection 49(a) of FOIP).</b>	A government institution can grant access to records in several ways such as giving the applicant copies, inviting the applicant to come on premise to examine a record or providing a transcript. An applicant can request a review if he/she disagrees with the way in which access is given.	The IPC will assess on a case-by-case basis.
<b>I disagree with the need to extend the 30-day response period (subsection 49(a) of FOIP).</b>	A government institution has 30 calendar days to reply to your request once they have received it. Within this period a government institution can inform the applicant they will extend this deadline by another 30 calendar days.	The IPC will ask the government institution to explain the reason for delay and make a determination if it was warranted under the circumstances.



## Details of the Request

To proceed with the review, the IPC requires a copy of your original access request (if you did not keep one please contact our office) and a copy of the response from the government institution if one has been received. You can also list any other details you think are relevant. Please do not send any extra information. Any information we do not need will be returned to you.

## WHAT IF MY CONCERN DEALS WITH A PRIVACY MATTER?

The review process deals with access to information requests. The IPC deals with breach of privacy complaints in a similar but different manner.

If you have a privacy complaint with a government institution, we encourage you to first raise your concerns with the government institution. The IPC can assist you in reaching the privacy officer for the government institution.

If you are unable to reach a resolution directly with the government institution, submit your complaint in writing. Please provide details of your communications with the government institution on this matter.

For more information please contact the IPC or see *How do I resolve a privacy complaint?*

## WHAT CAN I EXPECT DURING A REVIEW?

Below is an outline of our process:

1. A fillable form completed on-line or a request is received by mail at the office of the Information and Privacy Commissioner (IPC) from an applicant.
2. An Early Resolution Officer (ERO) will ensure all necessary information has been received from the applicant and will attempt informal resolution between the parties.
3. If no informal resolution is achieved, the ERO will send out notification letters to all parties advising that our office will conduct a review. The letter will include a request for all submissions and materials from all parties in 14 calendar days, preferably in electronic format. The file is then assigned to an Analyst.
4. The Analyst will ensure all submissions and materials requested arrive in 14 calendar days (this can be negotiable):
  - a. Analyst will share Index of Records with applicant, if applicable. Analyst may attempt to narrow scope of the review.
  - b. If materials are not received in 14 calendar days – the escalation guideline for the Analyst is as follows:



- i. Follow up and attempt to receive materials.
  - ii. Analyst will escalate to Director of Compliance (DOC) – DOC will attempt to get materials within a 7 calendar days before escalating it to the Commissioner, if necessary;
  - iii. If escalated to the Commissioner – the Commissioner may contact the ‘head’.
5. The Analyst will review materials received – do some initial analysis and meet with the Commissioner and DOC to discuss direction of review.
6. Following the meeting, the Analyst will prepare a draft report and send it to the government institution via email requesting a response in 7 calendar days. This has the potential to change a finding or recommendation. Once a final outcome is reached, the Analyst will complete the Report and provide it to the Commissioner for approval.
7. The Analyst will then email the final Report to the applicant and the government institution in PDF format via email. The Report is now issued.
8. Reports will be posted to the IPC website within 3-5 calendar days of issuance. The report may be posted sooner if there is inquiries from media.
9. The government institution will provide a response to our office and the applicant in 30 calendar days. Regarding whether or not it will comply with the Commissioner’s recommendations.

## WHAT IS A SUBMISSION? DO I NEED TO PREPARE ONE? HOW DO I PREPARE ONE?

When the IPC undertakes a review, all parties have an opportunity to provide a submission to the Commissioner. The parties include the government institution, the applicant and sometimes third parties.

A submission outlines the reasons why that particular party thinks the Commissioner should make certain findings. For example, if a government institution has applied exemptions to withhold the record, the government institution’s submission would discuss why the exemptions apply and an applicant’s submission might provide reasons why the exemption does not apply.

The government institution must provide a submission, and when records are withheld, a copy of the record and an Index of Records. Section 61 of FOIP indicates that it is up to the government institution to show the exemption does apply, therefore, it must provide its reasons why the exemptions do apply.



An applicant is not required to provide a submission. Some applicants provide some thoughts or facts when the review is requested and feel nothing more is required. Some provide no submission at all.

If an Applicant is interested in providing a submission, the IPC has several resources to assist:

- The [IPC Guide to Exemptions](#) provides test and factors that the Commissioner uses when considering different issues.
- These blogs, directed mainly to government institutions, also provide tips on preparing a submission: [Tips for a Good Submission](#) and [What Makes a Good Submission?](#)

## WHAT IF I AM DISSATISFIED WITH THE FINAL DECISION OF THE IPC?

### WHAT IF THE GOVERNMENT INSTITUTION REFUSES TO COMPLY WITH THE RECOMMENDATIONS OF THE IPC?

The Commissioner will make recommendations at the end of a review. This comes in a formal report at the end of the process. The IPC cannot force a government institution to accept recommendations.

If you are dissatisfied at the end of a review, you can appeal to the Court of Queen's Bench. Expenses would be entirely your responsibility and the IPC would play no role.

### I DIDN'T INITIATE A REVIEW WITH THE IPC. WHY HAVE I RECEIVED NOTIFICATION?

There are two reasons the IPC might contact you if you have made an access to information request to a government institution and have not yet received their response:

- **Third party information:** If the records you are seeking involve third party business information or personal information of another individual, and the government institution intends to provide you with access to these documents, the third party has an opportunity to ask the Commissioner to review whether exemptions apply. In this case, the third party has requested the review and you have been given the opportunity to make a submission for the Commissioner to consider. You also have the right to appeal the decision of the Commissioner or government institution.
- **The government institution wishes to disregard your access request:** In very specific circumstances, a government institution can apply to the Commissioner to disregard your access to information request or request for a correction to personal information. If the Commissioner grants the disregard, the government institution will not have to





reply to your request. Also, you will not have the opportunity to appeal the Commissioner's decision to the Court of Queen's Bench. For more information, see the IPC resource [Application to Disregard an Access to Information Request or Request for Correction](#).

## CONTACT INFORMATION

If you have any questions or concerns during any stage of the review process, please contact us:

306-787-8350 | toll free 1-877-748-2298

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