

GUIDE TO

REQUESTING A REVIEW FROM THE IPC

(LA FOIP)

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



Office of the
Saskatchewan Information
and Privacy Commissioner

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WHAT IS A REQUEST FOR REVIEW?

The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP) gives citizens the right to request information from local authorities. It also contains rules regarding how local authorities must respond to these requests and what information they can withhold. It outlines how individuals can request corrections to records containing their personal information.

If a citizen is not satisfied with a response of a local authority, 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.

WHAT IS A LOCAL AUTHORITY?

A local authority includes municipal governments (city, rural municipality, etc.), the Saskatchewan Health Authority, school boards, library boards, police services, colleges and universities.

Government Institutions

If you wish to request a review regarding an access request to Executive Council, a crown corporation, a ministry, a board, a commission, or any department, secretariat or agency of the executive government of Saskatchewan, *The Freedom of Information and Protection of Privacy Act (FOIP)* applies.

HOW DO I MAKE A REQUEST FOR REVIEW?

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

Complete [Form B: Request for Review](#) and email, mail or fax it to the IPC. Our contact information can be found at the end of this document. Alternatively, 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 local authority or 30 calendar days after you have made your access to information request if you have not received a response.

You must request a review within one year of receiving a response from the local authority. If a local authority has not replied to your access to information request within 30 days of receiving the access request or a 30 day extension, you have one 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 local authority for information or has requested a correction of personal information 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 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 and can be found in subsection 38(1) of LA FOIP. If you are unsure, please contact the IPC.

Note: A record is the information that has been requested.

Reason	Explanation	During an IPC Review...
I have been refused access to all or part of the record.	LA FOIP lists certain reasons why a local authority can withhold records. They are called exemptions. A local authority should specifically list the exemptions that they are relying upon in their response to you.	The IPC will ask the local authority 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 IPC's Guide to LA FOIP .
I have been notified that the record does not exist / cannot be found.	This means that the local authority says it does not have records that you are looking for. Please note that a local authority does not have to create new records to answer your request.	The IPC would ask the local authority for a very detailed explanation of its search for records. The IPC would measure the search against best practices.



Reason	Explanation	During an IPC Review...
<p>I have been notified that the existence of the record shall neither be confirmed nor denied.</p>	<p>This means that the local authority will not tell you if the records you are looking for exist. It may only do so if the following exemptions would apply to a record if it exists or existed: sections 14, 20, 21 or subsection 28(1) of LA FOIP.</p>	<p>The local authority would have to rely on an exemption (see above). The IPC would consider the exemption and then, if it warrants, neither confirm nor deny the existence of the record.</p>
<p>I have not received a reply to my application, which I submitted ___ days ago.</p>	<p>A local authority has 30 days to reply to your request once they have received it. Generally, this reply would either give access to records, state that records do not exist or that access is denied because an exemption has been applied.</p>	<p>The IPC will contact the local authority and work to get you a response within a reasonable period of time agreed to by the applicant.</p>
<p>My request for a correction to a personal information record was not accepted as correct/verifiable.</p>	<p>LA FOIP allows individuals to request that their personal information be corrected (e.g., an employee file, account information). If a local authority 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 local authority and then make a determination if the correction should be made or if only a notation be placed in the file.</p>
<p>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.</p>	<p>Sometimes a local authority 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 local authority. The third party can only claim exemptions in section 18 of LA FOIP if it objects to release of the record.</p>
<p>I disagree with the fee estimate.</p>	<p>Local authorities are allowed to charge the applicant fees for searching, preparing and reproducing records. The guide for fees is found in the LA FOIP Regulations. The local authority will provide a fee estimate to the applicant.</p>	<p>The IPC will ask the local authority for a detailed breakdown of the fee estimate including how the estimate was determined. It will be measured against established formulas. See Fee Estimate – Quick Calculation Guide.</p>



Reason	Explanation	During an IPC Review...
My request for a fee waiver was refused.	If an applicant cannot afford a fee, it may ask the local authority to waive the fees. If a local authority 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.
I disagree with the transfer of application.	If a local authority receives a request for information, it may transfer the request to another local authority or government institution if it believes that the records requested are in the possession of that other body. If an applicant disagrees, it can request a review.	The IPC would ask for submissions from the local authority and possibly for search efforts to make a determination if the transfer was reasonable.
I disagree with the manner of providing access.	A local authority 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 they disagree with the way in which access is given.	The IPC will assess on a case-by-case basis.
I disagree with the need to extend the 30 day response period.	A local authority has 30 calendar days to reply to your request once they have received it. Within this period a local authority can inform the applicant they will extend this deadline by another 30 calendar days.	The IPC will ask the local authority 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 local authority if one has been received. You can also provide 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 local authority, we encourage you to first raise your concerns with the local authority. The IPC can assist you in reaching the privacy officer for the local authority.

If you are unable to reach a resolution directly with the local authority, submit your complaint in writing. Please provide details of your communications with the local authority.

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 request for review is received at the IPC from an applicant.
2. An Intake Officer (IO) 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 IO 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 30 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 30 calendar days (this can be extended in certain circumstances):
 - If the public body agrees, the Analyst will share the index of records with the applicant, if applicable. The Analyst may attempt to narrow scope of the review:
 - If materials are not received in 30 calendar days – the escalation guideline for the Analyst is as follows:
 - a. Follow up and attempt to receive materials.



- b. The Analyst will escalate to the Director of Compliance (DoC) – the DoC will attempt to get materials within seven calendar days before escalating it to the Deputy Commissioner (DC).
 - c. The DC will attempt to get materials within seven calendar days before escalating to the Commissioner – the Commissioner may contact the 'head'.
5. The Analyst will review materials received – do some initial analysis, ask questions of the local authority or others and may meet with the Commissioner, the DC and the DoC to discuss direction of review.
6. If the local authority is reluctant to provide the records, the Analyst, after one or two requests, will refer the local authority to section 43 of LA FOIP which allows for the production of documents.
7. Following the meeting, the Analyst will prepare a draft report and send it to the local authority via email (password protected) requesting a response in seven calendar days. The local authority is asked to identify factual errors. Once a final outcome is reached, the Analyst will complete the report and provide it to the Commissioner for approval.
8. The Analyst will then email the final report to the applicant and the local authority and any engaged third parties via email. The report is now issued.
9. Reports will be posted to the IPC website within three to five calendar days of issuance. The report may be posted sooner if there are inquiries from the media.
10. The local authority 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 local authority, 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 local authority has applied exemptions to withhold the record, the local authority's submission would discuss why the exemptions apply and an applicant's submission might provide reasons why the exemption does not apply.

The local authority is encouraged to provide a submission. The local authority must provide a copy of the record withheld and an Index of Records. If the local authority is reluctant to provide the records, the Analyst, after one or two requests, will refer the local authority to section 43 of LA FOIP which allows for the issuing of a subpoena for the production of records. Section 51 of LA FOIP indicates that it is up to the local authority 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 LA FOIP](#) provides tests and factors that the Commissioner uses when considering different issues.
- These blogs, directed mainly to local authorities, 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 LOCAL AUTHORITY 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 local authority to accept recommendations.

If you are dissatisfied at the end of a review, you can appeal to the Court of King'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 FROM THE IPC?

The local authority wishes to disregard your access request

In very specific circumstances, a local authority can apply to the Commissioner to disregard your access to information request or request for a correction of personal information. If the Commissioner grants the disregard, the local authority will not have to reply to your request. In addition, 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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intake@oipc.sk.ca | www.oipc.sk.ca

