

# USING AFFIDAVITS IN A REVIEW WITH THE IPC

In reviews by the IPC, affidavits may be used to make a public body/trustee's case for exemption. Affidavits may be desirable because, unlike other statements made to the Commissioner's office, an affidavit is evidence given under oath and makes a stronger case.

Saskatchewan Information and Privacy Commissioner  
October 2014



# Using Affidavits in a Review with the IPC

An affidavit is a written statement made under oath. An affidavit must be sworn or affirmed before a Commissioner for Oaths or a Notary Public for Saskatchewan. In some instances, an affidavit can strengthen a public body/trustee's arguments. This is especially helpful when establishing records were obtained in confidence and showing that a proper search has been performed.

On some occasions, the IPC may request an affidavit to assist in determining factual issues in a review. This may be done in cases where there is a question as to whether a reasonable and adequate search has been undertaken for responsive records. An affidavit may be requested when the facts asserted by the public body/trustee are contradictory or inconsistent with other material. The Commissioner has the same ability as the Courts to compel production of documents or to take verbal evidence under oath [FOIP section 54; LA FOIP, section 43; HIPA section 46].

During a review, where an analyst believes that an affidavit may help to resolve the issues, the analyst may request a party to provide an affidavit to the IPC. Where the IPC requests an affidavit, the request will specify the relevant issues in the review and the types of information that should be included. The analyst will seek consent from the party providing the affidavit to share a copy of that affidavit with the other party or parties involved in the review. If the party consents to sharing the affidavit, the IPC will provide a copy to the other party or parties.

Even if the IPC has not requested an affidavit, if a factual issue may be contentious, parties could consider providing their arguments concerning that issue to the IPC in affidavit form.

An affidavit must contain information about the person swearing the affidavit, including the individual's name, residence and occupation. The affidavit must include an explanation of how he or she has knowledge of the issues being presented in the affidavit (often satisfied by a description of the individual's qualifications and/or job responsibilities).

Affidavits should be detailed enough to allow the IPC and/or the other party or parties receiving it to fully understand its contents, and should, wherever possible, be confined to facts within the personal knowledge of the person swearing the affidavit.

# Sample Format for an Affidavit

## AFFIDAVIT OF WITNESS CANADA

**Province of Saskatchewan**

**TO WIT:**

I, (name of person swearing affidavit), of the (city, town, municipality) in the Province of Saskatchewan, (occupation)

**Make oath and say:**

1. That I am (description of individual including job title and employer where relevant). Because of (insert reasons), I have personal knowledge of the facts as set out in this affidavit.
2. (Set out relevant facts using single numbered paragraphs. Provide names and job titles where relevant.)
3. This affidavit is made for the purpose of reviewing (name of institution)'s decision with regard to (describe decision) and for no other purpose.

Sworn before me at the \_\_\_\_\_ )

of \_\_\_\_\_ )

in the Province of Saskatchewan ) \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ ) signature of the person named above

A.D., 20 \_\_\_\_\_ )

\_\_\_\_\_  
A Commissioner for Oaths or Notary Public

In and for the Province of Saskatchewan

My appointment expires: \_\_\_\_\_