



Yukon
Information
and Privacy
Commissioner

Code of procedure

*Access to Information and
Protection of Privacy Act*

2026

Table of Contents

Part 1 – Complaint Process.....	3
1.0 Application	3
2.0 Purpose and interpretation	3
3.0 Definitions	3
4.0 Initiating a complaint.....	6
5.0 Intake	8
6.0 Informal Case Resolution (ICR)	8
7.0 Formal Investigation (FI)	9
8.0 Investigation reports.....	12
Part 2 – General	13
1.0 Accommodation	13
2.0 General powers of the Commissioner	13
3.0 Additional powers of the Commissioner	13
4.0 Practice directions and varying the code procedures	14
5.0 Calculation of time	14
6.0 Abuse of process/vexatious complainant.....	15
7.0 Use of artificial intelligence.....	15

Part 1 – Complaint Process

1.0 Application

- 1.1 This Code of Procedure (Code) applies to a complaint made under the [Access to Information and Protection of Privacy Act](#) (Act).

2.0 Purpose and interpretation

- 2.1 Subject to the provisions of the Act, the Office of the Information and Privacy Commissioner (IPC) will interpret this Code, for purposes of the public interest, in a broad manner to secure the fairest, most just, comprehensive and expeditious determination on the merits of every complaint.
- 2.2 Where this Code does not set out specific procedures, the IPC may do whatever is permitted by law to enable it to resolve a complaint effectively and completely and to ensure compliance with the provisions of any recommendation.
- 2.3 The Information and Privacy Commissioner (Commissioner) may, at its sole discretion, waive, vary or periodically update, modify, or otherwise change any of its own procedures, including this Code.
- 2.4 If the Commissioner does not follow any procedure in this Code, this does not render invalid a complaint or any step in a complaint process for that reason alone.
- 2.5 Anyone interacting with the IPC must adhere to our [Public Code of Conduct](#).

3.0 Definitions

- 3.1 In this Code, the following definitions apply:

Act means the *Access to Information and Protection of Privacy Act*.

Access and Privacy Officer (APO) means an employee of a public body appointed as such under subsection 84(1).

Access information summary means the written summary of public body responses provided to the APO under section 53.

Access request means a written application provided to the APO pursuant to subsection 44(1) and section 12 of the *Access to Information and Protection of Privacy Regulation*.

Authorized individual means a person who has been authorized by a complainant to act on their behalf in respect of a complaint.

Code means this Code of Procedures for the *Access to information and Protection of Privacy Act* with its accompanying policies and practice directions.

Commissioner means the Information and Privacy Commissioner (IPC) as appointed by the Act.

Complaint means any application submitted to the IPC in accordance with section 90.

Complainant means a person who makes a complaint to the IPC in accordance with the Act.

Formal Investigation means a formal process in which an investigator conducts an examination of the particulars of a complaint to make determinations of fact and law, inclusive of recommendations.

Informal Case Resolution (also known as **consultation**) means a preliminary stage of the complaint process in which an investigator works collaboratively with a responsive authority to resolve a complaint informally, noting that the Ombudsman's office may dismiss the complaint or move it to another stage of the complaint process, such as to a formal investigation.

Intake means the process in which the IPC receives and reviews a matter for completeness and, on meeting the requirements of the Act and this Code, decides to move it to informal case resolution, formal investigation, dismiss it, or provide a referral to a more appropriate resource, depending on its circumstances.

Investigator means a person to whom the Commissioner has delegated the power to investigate a complaint.

Investigation Report means a written report issued by the IPC that details the findings of fact and law produced from a formal investigation, and which may contain recommendations.

Notice of investigation means a document, generally a letter, prepared by the IPC and sent to a public body confirming that a complaint has been filed against it under the Act.

Notice to produce records (NTPR) means a document issued to any person, organization or public body by the Commissioner that details what records are required to be produced as part of an investigation.

IPC means the Office of the Information and Privacy Commissioner for the Yukon and includes the Commissioner and its staff.

Party (or collectively **Parties**) means an individual or organization with a direct interest in a complaint, including the complainant, the public body, any other public body identified as such by the IPC, or any third-party complainant.

Practice direction means the IPC's direction on procedures and processes that govern how the Code is conducted.

Public body means any entity identified as a public body in the Act and its regulation.

Public body representative means a person who is some way associated with a public body under investigation and accompanies a witness to an interview, and includes:

- a) a union representative;
- b) an employee associate representative; or
- c) another person representing, or otherwise associated with, the public body.

Record means a storage medium (including a written, graphic, digital, photographic, or audio medium) in which information is contained and stored but does not include any software or mechanism used to store or produce the information.

Registrar means a role within the IPC responsible for managing communication between the parties during a Formal Investigation, including the receiving and exchanging of submissions.

Schedule of records means the documentation provided by a public body, at the request of the IPC, when providing records to an investigator, and includes:

- the record number and name;
- the type of record;
- creation date of record;
- who the record is from and to;
- the number of pages within that record;
- whether the record was refused in whole or in part;
- the exception(s) claimed for each record; and
- a detailed rationale to support why the public body believes the cited exception(s) applies.

Secure file transfer (SFT) means any electronic method of securely moving data between systems, utilizing encryption and authentication to protect information from interception, tampering, or unauthorized access during transit.

Submissions means the documents, affidavits, assertions or other evidence a public body, complainant or third party submits in response to an investigator's request, or as may otherwise be required by the IPC.

Support person means a person

- a) who accompanies a witness to an interview but is not associated with the complaint or public body;
- b) whose role is limited to supporting the witness when they are answering the investigator's questions;
- c) who is not themselves a witness or under oath; and
- d) can be, for example, a family member, friend, another person from the witness' personal life or a language translator.

Third-party means a person or organization other than the complainant or a responsive public body.

Third-party complainant means a third party who complains of a decision made by a public body to release information about the third party in response to an access request.

4.0 Initiating a complaint

4.1 The following are the types of complaints that can be made to the IPC under section 90:

- a) **Abandonment of an access request complaint** – where the APO has determined that an access request has been abandoned [section 58].
- b) **Adequacy of search complaint** – whether the public body has conducted a search for records responsive to an access request in an open, accurate, and complete manner [subsection 64(5)].
- c) **APO refusal complaint** – where the APO has refused to process an access request [section 48].
- d) **Cost estimate complaint (fees / amount)** – whether the APO's cost estimate determination complies with the Act [section 54].
- e) **Cost waiver complaint (waiver denial)** – whether the APO's decision to deny a fee waiver application complies with the Act [section 56].
- f) **Deemed refusal complaint** – whether the public body has responded to a complaint within the time frame allotted by the Act [section 50].

- g) **Personal information correction complaint** – where a public body has taken or not taken an action in response to a personal information correction request [sections 35 and 36].
 - h) **Privacy complaint** – where a complainant reasonably believes that a public body has collected, used, or disclosed their personal information in contravention of the Act [section 37].
 - i) **Refused access complaint** – where a public body’s decision to refuse access to all or parts of the records in response to an access request [section 66].
 - j) **Third-Party complaint** – regarding the release of third-party information [section 61], [refer to clause 4.4 for more details].
 - k) **Time extension complaint** – whether the APO’s decision to extend the time for a public body to respond to an access request complies with the Act [section 62].
- 4.2 If a person has the right to make a complaint under the Act, with the exception of third-party complaints under section 61, they must make it within thirty business days from the day on which a complainant is provided with notice of, or becomes aware of, the complaint matter.
- 4.3 The IPC may accept a complaint after the thirty business day period from the date of the public body’s non-compliance if the complainant can demonstrate that they could not file their complaint within that period because of circumstances beyond their control.
- 4.4 A third-party who has received notice under paragraph 60(1)(b) that a public body intends to release their information in response to an access request may file a complaint to the IPC as per section 61 at least five business days before the response date for the access request.
- 4.5 A complaint must include:
- a) the complainant’s legal name and their contact information including, as applicable, their address, email address, and telephone number;
 - b) the public body’s name and file number assigned by the public body to the access request (if any);
 - c) a copy of the notice of a public body’s decision (if any);
 - d) a copy of the access request (where relevant);

- e) a brief explanation of the basis for the complaint; and
 - f) an acknowledgement and agreement by the complainant that the complaint will be processed in accordance with this Code.
- 4.6 The failure of a complainant to comply with the requirements of subclause 4.5 may result in the IPC refusing to accept a complaint.
- 4.7 The IPC may allow a lawyer, or in limited circumstances a third party, to fill out and file a complaint on behalf of a complainant. Prior to accepting such a complaint, the IPC will require the complainant to complete a form authorizing a lawyer or third-party to act on their behalf for purposes of filing and managing the complaint. Unless otherwise directed, where an authorization form has been completed, the IPC will communicate directly with the authorized individual(s) instead of the complainant.

5.0 Intake

- 5.1 The IPC will receive and screen all submitted complaints.
- 5.2 If the IPC decides to accept the complaint, they will then determine how best to resolve it, whether that means through the [Informal Case Resolution](#) process or directly to [Formal Investigation](#).
- 5.3 Once a complaint is accepted, the IPC will send a notice to the public body advising it of the complaint and of any information that the IPC deems relevant.
- 5.4 The IPC may refuse to accept a complaint where:
- a) it does not meet the requirements of the Act or this Code; or
 - b) the IPC lacks jurisdiction or for the grounds set out in section 91.
- 5.5 If the IPC dismisses a complaint because they lack jurisdiction or for the grounds set out in section 91, the IPC will then send a notice, inclusive of reasons, to the relevant parties.

6.0 Informal Case Resolution

- 6.1 The IPC will assign an investigator to conduct an Informal Case Resolution (ICR) investigation to resolve some or all of the issues in the complaint, as well as to ensure compliance with the provisions of the Act. The Act refers to this as a consultation.

- 6.2 The investigator may request and, if necessary, require that a public body produce copies of the records at issue, a schedule of records, or both, to the IPC in accordance with the statutory authority contained in the Act.
- 6.3 The IPC may contact the parties to examine the circumstances of the complaint and attempt to:
- a) resolve all the issues in the complaint; or
 - b) if all the issues cannot be resolved through the ICR process, narrow the issues to those that will move to the Formal Investigation process.
- 6.4 The IPC may only conduct the ICR process for a maximum period of sixty calendar days, the first day of which is the day on which the complaint is filed.
- 6.5 The IPC may conduct the ICR process via email including through secure file transfer, through telephone, on a virtual meeting platform, or in any other manner as determined by the investigator in consultation with the parties.
- 6.6 The audio and/or video recording of conversations, interviews, or meetings with the IPC, by any party, is not permitted.
- 6.7 Where a complaint is fully resolved in ICR, the IPC will then close the complaint and notify the parties.
- 6.8 Where some or all of a complaint cannot be resolved within the ICR sixty calendar day period, the IPC may then move the unresolved issues of the complaint to the Formal Investigation process.
- 6.9 When some or all of the complaint is escalated to the Formal Investigation process, the ICR Investigator will then provide the parties with an agreed statement of facts.
- 6.10 If the IPC advises a complainant that the ICR process is not likely to resolve the matter fully, and the complainant responds that they do not want the complaint to move to Formal Investigation, the IPC may then close the complaint.

7.0 Formal Investigation

- 7.1 The IPC may decide to investigate a complaint by means of a Formal Investigation (FI) without first having referred it to the ICR process.
- 7.2 The IPC may assign an investigator to conduct an FI into some or all of the remaining complaint issues from an ICR investigation and to ensure compliance with the provisions of the Act, noting that the investigator assigned to the FI will not be the same one(s) from ICR.

- 7.3 If a complaint has proceeded by way of ICR prior to an FI, then the investigation begins anew on fresh evidence gathered by the investigator assigned to it.
- 7.4 Once a complaint is assigned to an FI investigator, the registrar will provide the parties with a notice of investigation.
- 7.5 The investigator must complete such an investigation within a period no longer than ninety calendar days from the day on which the registrar provides the parties with a notice of investigation, noting that, on consent of the complainant, the IPC may extend this period by a further sixty calendar days.
- 7.6 After completing the investigation, the investigator has an additional thirty business days to complete the investigation report.
- 7.7 For purposes of their investigation, an investigator may:
- a) gather evidence through the production of records and related documents by a complainant, public body, any other person, or all of them who may have related information;
 - b) gather evidence for their investigation through interviews conducted in person, via telephone, or by teleconference; and
 - c) subpoena any individual who, in the investigator's opinion, may have information relevant to the investigation.
- 7.8 If deemed appropriate for the purpose of conducting an FI, the registrar may request submission(s) on the complainant issue(s) and require the public body to produce the information or records in question.
- 7.9 At any time, the registrar may, if the IPC considers it necessary, send a notice of investigation to a third-party, requesting its submission(s) on the issue(s).
- 7.10 On receipt of any submissions, the registrar may, if they consider it necessary, share submissions with another party and request reply submissions.
- 7.11 The investigator may also notify any other individual or organization and invite them to submit useful information to assist in the resolution of a complaint.
- 7.12 At any point during an FI, the investigator may, via the registrar, request further particulars from any party regarding their submissions, noting that a party cannot insert new information not originally contained in their submission(s).
- a) If, for example, a public body has claimed a mandatory exemption in its submission(s) but has not provided any reasons in support of it, then the investigator may request such reasons.

- b) On receipt of these reasons, the investigator will consider, to the extent possible and based on any relevant information available to them, the merits of the mandatory exemption(s) that apply to the complaint.
- 7.13 Notwithstanding subclause 7.7, the investigator conducting an FI has no duty to inquire into incomplete submissions because each party has a burden to provide full and complete submission.
- 7.14 The registrar may provide to any other party, including an affected party, some or all of the submissions it received from a party.
- 7.15 A party who chooses to provide submissions to the IPC must do so by the date specified in the notice of investigation.
- 7.16 If interviews, which are at the discretion of the IPC, are required as part of the FI, the registrar may issue subpoenas to witnesses.
- 7.17 If a witness requests an alternate interview date, they may make a request either verbally or in writing to the investigator, explaining the reasons for this request, at least three days in advance, the following will occur:
- a) the investigator will consider the request and advise them of their decision to grant or reject it;
 - b) if the investigator rejects it, the witness is then required to attend the interview as scheduled; and
 - c) if the investigator accepts it, they will then schedule another date and time mutually convenient to the investigator and witness.
- 7.18 The investigator assigned to the FI conducts the interviews, noting that all witnesses are asked to affirm the truth of their evidence, and will audio record their testimony for the investigator's reference only.
- 7.19 The audio and/or video recording of interviews or meetings, by any party, other than the IPC, is not permitted.
- 7.20 A witness may request, either verbally or in writing, that they be accompanied by a support person, but they must submit such a request to the investigator at least three business days prior to a scheduled interview
- 7.21 Public body representatives and legal counsel are not generally permitted to attend interviews but the IPC may, at its sole discretion, allow their attendance, noting that the witness must submit a request at least three business days in advance of a scheduled interview.

- 7.22 If the IPC approves the attendance of a public body representative, legal counsel or both, then their conduct will be subject to their signing and abiding by a set of IPC interview protocols.
- 7.23 In the event that a public body representative or legal counsel breaches these protocols during an interview, the investigator will continue the interview without them.
- 7.24 Unless a complaint is abandoned, withdrawn, or otherwise terminated, the investigator, in consultation with the IPC, will an investigation report with their findings of fact and law, inclusive of any recommendations that they make to the public body and any procedural issues that may have arisen in the course of the investigation.
- 7.25 The registrar will provide the parties with written confirmation of any abandonment, withdrawal, or other termination of a complaint.
- 7.26 The investigator generally names public bodies and organizations in an investigation report, whereas they generally do not identify individuals.

8.0 Investigation reports

- 8.1 Once the IPC concludes an investigation, they issue a written report to the complainant and public body that sets out the investigator's findings of fact and law, including any recommendations made.
- 8.2 The IPC's findings and recommendations are final but are subject to a judicial review.
- 8.3 The IPC will only revise an investigation report or recommendation where it is established that there is:
 - a) a fundamental defect in the investigation process;
 - b) a jurisdictional defect in the investigation; or
 - c) a clerical error, accidental error or omission, or other similar error in the decision.
- 8.4 The IPC will not reconsider a finding or recommendation on the basis that:
 - a) new evidence is provided, whether or not that evidence was available at the time of the investigation; or
 - b) a party disagrees or is dissatisfied with the result.
- 8.5 On issuing an investigation report with recommendations, the IPC will provide the public body with the complainant's contact information so it can advise the complainant whether it accepts or rejects the recommendations.

- 8.6 If a public body does not accept one or more recommendation in an investigation report, a complainant may then make an application under section 105 to the Yukon Supreme Court to have the public body's decision judicially reviewed.

Part 2 – General

1.0 Accommodation

- 1.1 Any individual participating in a complaint is entitled to accommodation in accordance with the *Human Rights Act* and should notify the IPC as soon as possible if an accommodation is required.

2.0 General powers of the Commissioner

- 2.1 The Commissioner may:
- a) require a public body to produce any record in its custody or control, examine any record, and enter and inspect any premises occupied by a public body, including speaking in private to any person present on the premises;
 - b) summon and examine on oath any individual who, in the Commissioner's opinion, may have information relating to the complaint;
 - c) require any person or party to provide affidavit evidence in support of a position taken or an action undertaken by a public body; and
 - d) may create, issue, and require compliance with practice directions, policies, procedures, forms, guidance documents, other codes of conduct, or any other document that the Commissioner deems necessary to give effect to this Code, and to ensure the effective and efficient processing of complaints under the Act.

3.0 Additional powers of the Commissioner

- 3.1 The Commissioner may delegate, in writing, any of their duties or powers under this Act (except the power to delegate under this paragraph) to any person, subject to any conditions on the exercise of the delegated power or the performance of the delegated duty that the Commissioner considers appropriate.

4.0 Practice directions and varying the code of Procedures

- 4.1 At its discretion, the IPC may issue practice directions on how any part of this Code is to be conducted and how the Act should be interpreted.
- 4.2 At its discretion, the IPC may waive or vary any of the procedures under this Code, including any requirement or specified time period (where not specified by legislation) if the IPC considers it advisable to secure a fair, just, and expeditious resolution of the complaint.
- 4.3 If a party wishes the IPC to waive or vary any of the procedures under this Code, they must then submit a written request to the IPC and include the following in support of it:
 - a) the clause (*e.g.*, 4.0) or subclause (*e.g.*, 4.3) number;
 - b) the reason(s) for making the request;
 - c) any prejudice to the party if the request is not granted; and
 - d) the reasons any prejudice under paragraph (c) outweighs any prejudice to the other party or parties.
- 4.4 Before deciding whether to vary any of the procedures in a manner that may significantly impact the rights and interests of the parties, the IPC may notify and invite representations from the other parties by a specified deadline.
- 4.5 Failure to provide a response by the deadline will be deemed to constitute an absence of objection by the other party.
- 4.6 If the IPC decides to grant or decline a request, it will issue a brief written decision to the parties.

5.0 Calculation of time

- 5.1 Where the Act, this Code, or an IPC decision, including an NTPR, establishes a timeframe:
 - a) days are calculated as business days except where explicitly described as being calendar days;
 - b) the deadline to complete an action(s) is deemed to be 4:30 p.m. Yukon time on the due date;

- c) where there is a reference to a number of days between two events, they are counted by excluding the day on which the first event happens and including the day on which the second event happens; and
- d) where any deadline falls on a day when the IPC is not open for business (*e.g.*, weekends, statutory holidays), the deadline is deemed to be on the next day that the IPC is open.

6.0 Abuse of process/vexatious complainant

- 6.1 The IPC may make such findings or give such directions in a complaint as it considers proper to prevent abuse of its processes.
- 6.2 Where the IPC finds that a complainant has persistently submitted vexatious complaints or conducted themselves in a vexatious manner, it may find that complainant to be vexatious.
- 6.3 Where a complainant is found to be vexatious, the IPC may, at any stage of its complaint process:
 - a) close a complaint made by that complainant on the basis that it is an abuse of process;
 - b) require that the complainant obtain permission from the IPC to take further steps or make further complaints, subject to any conditions imposed by the IPC; or
 - c) both.

7.0 Use of artificial intelligence

- 7.1 Where a party makes submissions to the IPC and relies on artificial intelligence (AI) in the preparation of those submissions, it must disclose to the IPC:
 - a) that it used AI;
 - b) the type of AI it used; and
 - c) how it used AI.
- 7.2 Where a party uses AI to prepare its submission(s), it must:
 - a) review the accuracy and content of any legal references and any analysis contained in their submission(s) generated by AI; and

- b) certify in writing to the IPC that they have completed that review.
- 7.3 When a party refers to court cases, legislation, policies, or commentaries in its submission(s), they must use only well-recognized and reliable sources (eg. CanLii, a Canadian court's webpage of decisions, a government webpage, academic article, etc.). All relevant sources must be cited.