

Decision to Proceed to Court

Policy

The Office of the Information and Privacy Commissioner (OIPC) may appeal a decision of a custodian in response to a Report with the consent of the complainant or intervene as a party to an appeal if the Commissioner believes that the decision raises a significant issue of statutory interpretation or that an appeal is otherwise in the public interest.

The decision of the Commissioner to appeal, with the complainant's consent (section 84(1)), or to intervene (section 84(2)), will be informed by several factors, including but not limited to the following:

- whether it is in the public interest, for example, the issue has an enduring, widespread or significant impact on the public, relates to the promotion of transparency and accountability of custodians;
- whether the matter to be decided raises an important issue of statutory interpretation, particularly in regards to PHIA;
- whether the matter to be decided relates to an issue of general and widespread applicability in access and privacy law; or
- whether the Commissioner's specialized knowledge and expertise with PHIA is likely to assist the Court in arriving at a just and legally correct decision.

Purpose

There will be times when it is necessary to proceed to Court. This might be on behalf of the complainant because a custodian is not complying with a recommendation made by the Commissioner or it might be as an intervenor in a court case between a complainant and custodian or other individuals (section 84 of PHIA). The decision to proceed to Court is not taken lightly and requires a thorough assessment of the case to move forward.

Scope

This policy applies to all decisions to appeal or intervene or to other matters OIPC feels is warranted.

Approved by Information and Privacy Commissioner



Commissioner

February 16, 2024

Date