



Civil Resolution Tribunal

ACCESS TO INFORMATION AND PRIVACY POLICIES
May 2021



The Civil Resolution Tribunal (CRT) collects a wide variety of information from parties during the dispute resolution process. Most of that information will be shared with the other parties and their representatives. In some cases, members of the public may also be able to access CRT dispute records, when authorized in this policy document.

Contents

Purpose 2

Application of this Policy Document 2

Background 3

Policies in this Policy Document 3

1. Protecting Personal Information and Privacy Policy 3

2. Anonymization of Decisions Policy 4

3. Records Sealing Policy 5

4. Security and Storage of CRT Records Policy 6

5. Access to Records Policy 8

 A. Overview 8

 B. Types of Records and Access 9

 C. Minors and Parties with Impaired Capacity 12

 D. Information Sharing Agreements 13

References: 14

Purpose

The Civil Resolution Tribunal (CRT) collects and creates many types of records during its dispute resolution process, including

- information about the parties, including names, contact information, and financial information;
- evidence provided by the parties or third parties;
- communications between the parties and the CRT and any documentation created regarding discussions between the parties and CRT employees; and
- notices, decisions, orders, certificates and other formal documents issued by the CRT with respect to a dispute.

This policy document sets out the CRT's policies which relate to providing public access to those dispute records, including which dispute records can be accessed and in what circumstances access will be provided, as well as the CRT's policies relating to protecting personal information, anonymizing decisions, sealing records, and security and storage of records.

The CRT's objectives for these policies include:

- Striking an appropriate balance between the competing policy goals of maintaining transparent decision-making processes and protecting the privacy interests of the parties involved;
- Promoting consensual resolution of disputes, consistent with the CRT's mandate, by confirming the confidentiality of settlement discussions between the parties to a CRT dispute; and
- Protecting, to the extent reasonably possible, the privacy interests of third parties (e.g. witnesses), where the third parties' personal information becomes part of the CRT records during the dispute resolution process.

Application of this Policy Document

This policy document applies to:

1. All CRT dispute records stored and maintained by the CRT that are linked to a CRT dispute ("dispute records"), whether they are physical records or stored electronically, and
2. Records that are in the care, custody or control of the CRT

This policy document does not apply to:

1. Documents issued by the CRT or copies of CRT dispute records that have been filed with another agency or a court. Once filed with the agency or court, its rules and policies will apply.
2. Records in the care, custody or control of a party or witness.

3. CRT administrative, financial management or personnel records that are subject to the *Freedom of Information and Protection of Privacy Act* (FIPPA).

Background

The CRT's online dispute resolution process is unlike traditional dispute resolution processes where the trial or hearing is held in-person in a courtroom or hearing room that is open to the public. In most cases in the courts, the public has physical access to the hearing rooms and can observe the proceedings and watch the parties present their evidence and arguments. Parties can search physical records at court registries to access pleadings, evidence and court decisions.

The CRT does not have a physical registry that the public can attend in person to search dispute records. As well, most CRT hearings involve electronic, written submissions and hearings are rarely conducted in-person. As a result, it is important to provide transparency for the tribunal's decision-making process in other ways.

Transparency is partly realized by the requirement, in section 85 (1) of the *Civil Resolution Tribunal Act* (CRTA), that the CRT post its final decisions on its website (<https://decisions.civilresolutionbc.ca/crt/en/nav.do>). As well, subject to the restrictions in this policy document, the public may access the evidence and submissions provided by the parties during the hearing stage by submitting a request form and paying the applicable fee.

Conversely, there is some information that is not appropriate for public access, and disclosure of that information is not necessary to support transparency. For example, a feature of the CRT's dispute resolution process is that the CRT provides a secure, online platform for the parties to negotiate resolution of their dispute, and tribunal employees will facilitate confidential settlement discussions between the parties. Parties to traditional court or tribunal proceedings may negotiate the resolution of their dispute outside the court or tribunal process, or as part of a court-hosted process that is closed to the public (e.g. a small claims settlement conference). Parties in CRT disputes are entitled to a similar level of privacy and confidentiality for their facilitated settlement discussions.

Policies in this Policy Document

This policy document contains a series of policies relating to access to information and privacy. The policies are:

1. Protecting Personal Information and Privacy
2. Anonymization of Decisions
3. Records Sealing
4. Security and Storage of CRT Records
5. Access to Records

1. Protecting Personal Information and Privacy Policy

The CRT's goal of providing transparent decision-making processes must be balanced with parties' reasonable

expectations that their personal information will not be disclosed, except where authorized and necessary to support the dispute resolution process. As a result, CRT policy requires that tribunal employees, members and contractors have an obligation to protect personal information and only disclose it to third parties when required by legislation, CRT rules, a tribunal or court order, or where disclosure is necessary to satisfy the CRT's duty to act fairly and transparently.

To the extent reasonably possible, the CRT will:

- only include personal information, other than names, in notices, communications and decisions where there is an administrative justice or operational requirement to do so;
- take steps to ensure that any notices and communications that contain personal information are delivered to the address provided by the recipient for that type of communication and that notices and communications are not misdirected to incorrect destinations;
- avoid referring to personal information about non-parties, including names, in CRT decisions and orders, unless the personal information is required for administrative fairness or is a critical element in the decision; and
- where disclosure of personal information is authorized by a CRT policy, only disclose as much personal information as is necessary to satisfy the request, the policy objectives, and the requirements of the CRTA and the CRT Rules.

If the CRT discloses information contrary to its policies, the tribunal will immediately take steps to inform the proper recipients of the information and to remedy the inadvertent disclosure.

2. Anonymization of Decisions Policy

Although the CRTA requires that the CRT post all final decisions on its website, there are extraordinary circumstances where the CRT will not publicly identify the parties to those decisions. Section 86(3) of the CRTA allows the tribunal to remove or obscure personal information, or replace the personal information with anonymous identifiers. If a party establishes that the need for protection of personal information outweighs the goal of transparent CRT proceedings, the CRT chair or the member assigned to decide a dispute may direct that a party's name and other personal information be anonymized in the decision that is posted to the CRT website. One way that this may be done is by using initials, instead of full legal names.

The tribunal may anonymize a decision on its own initiative or at the request of a party. If a party wants to ask the CRT to anonymize a decision, they should make a request that the CRT do so before the dispute enters the CRT's hearing stage (also known as the Tribunal Decision Process). CRT decisions are automatically posted to the website when they are issued, so the tribunal member hearing the dispute must decide whether names should be anonymized before issuing the final decision.

In deciding whether to anonymize a decision, the member will consider:

- a) the circumstances of the case and nature of the evidence provided;

- b) the potential impact of disclosure on the person; and
- c) how anonymization would impact the CRT's goals of transparent decision-making processes and protection of personal information.

There are limitations to the CRT's ability to anonymize a decision:

- Names may only be anonymized from the version of the decision posted to the website. The official version of the decision and copies of it provided to the parties will include party names.
- The CRT can't anonymize a party's name in the version of a CRT order that is validated for filing and enforcement in court.
- If there are subsequent court proceedings about the CRT decision, the CRT may be required to file its records for the dispute with the court. This may include the full, unredacted version of the decision.

3. Records Sealing Policy

The CRT Chair (or another member designated by the Chair) may, at any time, order that public access be limited for some or all information and records related to a specific dispute. Such an order/direction may apply to records and information that would otherwise be available to the public or to a party to the dispute. The order/direction may also include restrictions on which CRT employees and members may access the records and information.

Any order/direction sealing the records for a dispute shall specify the following:

- a) the case number and style of cause for the dispute;
- b) what types of records the order/direction applies to;
- c) who may have access to the records and what they may do with them (view only or photocopy);
- d) the reason for the order/direction; and
- e) the expiry date of the order/direction, if any.

A request for the Chair to seal records can be initiated by any person, whether or not that person is a party to a proceeding. An employee or tribunal member may also initiate a request for the Chair to seal records.

If there are subsequent court proceedings relating to the CRT dispute, the CRT may be required to file its records with the court. This may include any records affected by an order/direction to seal them. As well, a CRT order or direction to seal records does not prevent a party from submitting those records as part of the Tribunal Decision Process. The CRT order/direction also cannot prevent a court or other tribunal from accepting those records as evidence in a proceeding with the court or other tribunal.

4. Security and Storage of CRT Records Policy

Subsection 86 (1) of the CRTA requires the CRT to protect personal information in its custody or under its control. Subsection 86 (2) requires that the CRT must ensure that personal information in its custody or under its control is stored only in Canada.

Most information provided by parties during the CRT's dispute resolution process is recorded electronically in the tribunal's Dispute Resolution Suite (DRS). The CRT also uses DRS to generate records and send them to the parties. Parties to disputes can submit evidence and other information to DRS through their CRT Account. They are also able to use their CRT Account to view evidence and information submitted by other parties.

DRS operates on a cloud-based platform provided by Salesforce.com. The Salesforce servers are in Montreal, Quebec and are operated by Amazon Web Services (AWS). Both the Salesforce platform and the AWS servers are subject to the highest possible levels of security. CRT Accounts are password-protected and only provide access to some of the dispute records stored in DRS.

The CRT also uses other types of software (Word, Adobe Acrobat, Outlook) to create and distribute some types of records, including email communications and evidence, submissions, request forms, etc.¹ When dispute records cannot be stored in DRS, they are stored on a dedicated drive accessed through the CRT's Local Area Network (LAN). The CRT's LAN is located on a server in the Telus Data Centre in Kamloops (currently operated by Telus, pursuant to a contract with the Province of BC). Only authorized CRT employees can access the drive.

In limited circumstances, CRT dispute records are temporarily copied to a library (folder) on the CRT's SharePoint site. The SharePoint site is used to provide tribunal members with access to the records for decision-making purposes, where: a) DRS cannot be used (including for decisions on preliminary issues, default decisions, requests for substitute service or requests to cancel a default decision), or b) one or more of the parties cannot participate online. Members' access to the SharePoint library is limited to read-only, and only certain CRT employees have read-write access to the library. The SharePoint library is also stored on a server in the Telus Data Centre in Kamloops.

Occasionally, the CRT receives portable encrypted memory devices that contain electronic evidence files, usually because they are too large to transfer to the LAN or DRS. In very rare cases, the CRT may accept physical evidence from a party. The CRT stores these memory devices and physical records in a locked cabinet in a secure file room at the CRT's offices.

The CRT has established policies and procedures to support secure storage of CRT records and to ensure those records and the information in them is only disclosed in accordance with the CRTA and the CRT policies regarding access set out in this document.

¹ Over time, enhancements to DRS will permit the CRT to use DRS to create and store more of these records, eliminating the number of records stored on the LAN.

The CRT requires that staff, members and authorized contractors:

- Maintain the integrity and security of the CRT's online systems, by:
 - securing their passwords for CRT systems and not sharing them with anyone;
 - viewing and downloading dispute records only where required for dispute resolution activities (e.g. by case managers for facilitation, by members for adjudication);
 - using only secure methods (e.g. encrypted USBs) where it is necessary to download dispute information from DRS or a CRT server;
- Disclose records and information only where disclosure is required by the CRT or authorized by the policies set out in this document;
- Verify the accuracy of the intended recipient's address or contact information in each communication, before the communication is finalized and sent;
- Refrain from downloading electronic dispute records to their personal computer or electronic device, except where it is stored as a temporary record on the device in the course of viewing the record;
- Regularly (at least once per week) clear and delete the contents of download folders and temporary records caches or folders on computers or electronic devices that are used to access CRT systems or dispute records;
- Only print dispute records when clearly necessary and shred any printed copies as soon as the printed copy is no longer required;
- Ensure there is no ability for an unauthorized person to inadvertently see the contents of a record, including avoiding viewing records in public, unless absolutely necessary to do so;
- Store records on an encrypted memory device provided by the CRT where it is necessary to have a portable, electronic copy;
- Restrict access to the CRT's physical records storage area to only those who have an operational need for access;
- Limit their disclosure and communication of dispute information or records to persons and circumstances authorized by the policies governing access to CRT records.

The CRT has taken the following steps to ensure adherence to these security precautions and this policy, by:

- Developing DRS functionality so that the system will in future generate and send most dispute communications, reducing the risk of human error that results in a communication being sent to the wrong person;
- Creating procedures, together with associated checklists, that reduce the potential for inadvertent unauthorized disclosure of information (e.g. a required step that staff double-check contact information before sending correspondence);

- Providing employees with privacy, security and records management training tailored to the unique requirements of the CRT, as set out in this policy;
- Requiring that employees and members acknowledge, in writing, that they have read and understand the applicable Standards of Conduct document and the government Information Management and Information Technology Agreement;
- Sending regular communications to employees and holding regular meetings to remind them of the requirements of this policy and the need to maintain the security of CRT systems and physical records;
- Where an inadvertent breach of a policy does occur, taking immediate steps to remedy it and conducting a post-incident review with the employee(s) involved, to reduce the likelihood of future breaches.

5. Access to Records Policy

A. Overview

Before initiating a CRT dispute, most applicants are required to use the Solution Explorer. The Solution Explorer is a legal expert system, which provides tailored legal information and self-help tools. At the end of the Solution Explorer applicants are provided with a link to the CRT's online application for dispute resolution. The CRT does not collect personal information from users until a person begins to use the online application process.

The CRT's formal dispute resolution process includes four stages of dispute resolution:

1. **Intake** – To initiate the CRT dispute resolution process, applicants submit an application for dispute resolution. The CRT reviews the application and, if appropriate, issues a Dispute Notice to the applicant. In most cases, the CRT will serve the Dispute Notice on the respondents. After being served, a respondent has a limited period of time to file a Dispute Response with the CRT.
2. **Negotiation and Facilitation** – If the respondent files a Dispute Response, the dispute is referred to Negotiation and Facilitation, to attempt consensual resolution of the dispute. In Negotiation, the parties may use the CRT's secure online platform to negotiate directly with each other. During Facilitation, a CRT case manager attempts to guide the parties to a consensual resolution.
3. **Tribunal Decision Process**– The Tribunal Decision Process (TDP) is the CRT's hearing process. CRT staff will assist the parties in preparing the Tribunal Decision Plan, by having them provide their evidence and submissions in support of their positions on the claims. Most parties provide this information using the CRT's secure online platform. Once the parties complete the Tribunal Decision Plan, the dispute is assigned to a CRT member for a final decision. The Tribunal Decision Plan will be the basis for most CRT decisions, but the member making the decision may supplement the Tribunal Decision Plan by requesting more evidence or submissions from the parties, or by conducting an oral hearing by telephone or videoconference. In rare cases, the member may conduct an in-person hearing.

To support transparency of the CRT hearing process, the public can search for and obtain copies of most dispute records, once the dispute has reached the Tribunal Decision Process stage. To access the records, non-parties must complete a Public Information Request Form and pay the applicable fees. CRT staff will review the request and provide the requester with copies of the records authorized by this policy document. In some cases, the request may be reviewed by a CRT member, to ensure providing access is consistent with the purposes of the CRT policies on public access. The CRT will not provide access to dispute records that involve discussions or communications regarding settlement of the dispute or that include medical or financial information.

- 4. Post-resolution Support** – After the dispute is resolved, whether consensually or through the Tribunal Decision Process, the CRT provides the parties information about how to enforce the CRT decision. In some cases, a party may disagree with the CRT decision and may be able to file an appeal or request for judicial review to the BC Supreme Court or file a Notice of Objection in order to proceed to Provincial Court.

If a dispute was resolved through the Tribunal Decision Process, the public may request access to the initiating documents (Dispute Notice and Dispute Response), as well as evidence and arguments submitted during the Tribunal Decision Process, unless access is specifically restricted by the policy addressing sealing of records. As above, the CRT will not provide access to records that include discussions or communications about settlement of the dispute, or that includes medical or employment information. The person requesting access must complete the Public Information Request Form and pay the applicable fee. Anyone may search and read CRT final decisions on the CRT’s website.

B. Types of Records and Access

The table below lists the types of records that are commonly found in a CRT dispute. The table also indicates who can have access to each record type and, if so, what limitations may apply to the access. The CRT will review requests for access to records not listed in the table below and determine whether access should be provided, based on the principles set out in this document.

Legend:			
Y: Yes – can be accessed as soon as created	N: No – cannot be accessed	R or R²: May be disclosed, subject to redaction or with restrictions, upon review by staff or member.	
Y*: Can be accessed, but only after dispute reaches TDP	N*: Only provided as content in records for which access is	S: Searchable	
L/V: Listen or View only	P: Can be accessed only by party records is about provided	W: Available on website	
Type of Record (electronic or physical)	Applicant¹	Respondent¹	Public
Application for Dispute Resolution	Y	R²	R²
Dispute Notice	Y	Y	Y

Legend:			
Y: Yes – can be accessed as soon as created	N: No – cannot be accessed	R or R²: May be disclosed, subject to redaction or with restrictions, upon review by staff or member.	
Y*: Can be accessed, but only after dispute reaches TDP	N*: Only provided as content in records for which access is	S: Searchable	
L/V: Listen or View only	P: Can be accessed only by party records is about provided	W: Available on website	
Type of Record (electronic or physical)	Applicant¹	Respondent¹	Public
Proof of Notice Form	Y	Y	Y*
Dispute Response Form	Y	Y	Y
Request for Waiver of Fees Form	P	P	N
Request for Directions on How to Provide Notice Form	Y	Y	R
Counterclaim/Third Party Claim Form	Y	Y	Y*
Other CRT Forms	R	R	R
Party contact information	Y	Y	N*
Indices of CRT disputes	Y	Y	S
Party information on special circumstances or potential barriers	P	P	N
Request for representative, including submissions	Y	Y	R
Discussions and communications between parties and/or CRT, regarding resolution of dispute	Y	Y	N
Discussions and communications between CRT case manager and one party, regarding resolution of dispute (caucusing)	P	P	N
Notes, summaries, transcripts or other records of facilitated dispute resolution activities	Y	Y	N
Settlement Agreement or draft Settlement Agreement	Y	Y	N
Other correspondence between CRT and one or more parties	Y	Y	R
Notices from CRT to one or more parties	Y	Y	R
Tribunal Decision Plan (TDP), including submissions	Y	Y	Y*
Evidence disclosed by a party during Intake or Facilitation	Y	Y	N

Legend:			
Y: Yes – can be accessed as soon as created	N: No – cannot be accessed	R or R²: May be disclosed, subject to redaction or with restrictions, upon review by staff or member.	
Y*: Can be accessed, but only after dispute reaches TDP	N*: Only provided as content in records for which access is	S: Searchable	
L/V: Listen or View only	P: Can be accessed only by party records is about provided	W: Available on website	
Type of Record (electronic or physical)	Applicant¹	Respondent¹	Public
Evidence submitted by a party during Tribunal Decision Process:			
• Contains medical or employment information	Y	Y	N
• Does not contain medical or employment information	Y	Y	R
Submissions and arguments submitted by a party to the CRT on preliminary issues (not part of TDP)	Y	Y	R
Summons Form	Y	Y	R
Witness statements submitted during Tribunal Decision Process	Y	Y	R
Evidence submitted by a witness during Tribunal Decision Process	Y	Y	R
Consent order	Y	Y	R
Default/non-compliance decision	Y	Y	R/W
Default/non-compliance order	Y	Y	W
Personal notes, communications or drafts of decisions made by a tribunal member, or sent by a CRT employee to a tribunal member, in the course of adjudicating a dispute	N	N	N
Personal notes, internal communications with CRT staff, or drafts of communications made by a case manager, or sent by a CRT employee to a case manager, in the course of, or related to, case management of the dispute	N	N	N
Personal notes, communications with CRT staff or members, or drafts of communications made by a CRT legal counsel, or sent by a CRT employee or member to a CRT legal counsel, related to a dispute	N	N	N
Tribunal decision, other than final decision	Y	Y	R

Legend:			
Y: Yes – can be accessed as soon as created	N: No – cannot be accessed	R or R²: May be disclosed, subject to redaction or with restrictions, upon review by staff or member.	
Y*: Can be accessed, but only after dispute reaches TDP	N*: Only provided as content in records for which access is	S: Searchable	
L/V: Listen or View only	P: Can be accessed only by party records is about provided	W: Available on website	
Type of Record (electronic or physical)	Applicant¹	Respondent¹	Public
Order giving effect to final decision or default decision	Y	Y	R
Notice of Objection Form	Y	Y	Y
Certificate of Completion	Y	Y	Y
Request for Cancellation of Final Decision or Dismissal Form	Y	Y	R
Other Tribunal decisions and orders	Y	Y	R
Recordings of Oral Hearings	L/V	L/V	L/V
Transcripts from Oral Hearings (if filed with CRT)	Y	Y	R
Public Information Request Form	R	R	P
Other records, not identified above	R	R	R

¹ Includes authorized representative of party.

² Information provided by applicant on potential limitations or barriers on CRT participation and fee waiver requests will be redacted from application form provided to respondent or non-party. It can only be accessed by non-parties after the dispute reaches TDP.

Where the above table indicates that a record will not be disclosed, the CRT may approve disclosure if all parties consent. As well, the CRT will disclose records where it is required to do so by legislation or court order, or pursuant to an information sharing agreement.

C. Minors and Parties with Impaired Capacity

The CRT will not disclose to the public personal information related to a minor or a party who has impaired capacity (a party with impaired capacity refers to a person who has a committee of estate, a representative appointed in a representation agreement, or an attorney appointed in an enduring power of attorney).

To support transparency in disputes involving minors or parties with impaired capacity, the CRT may, at its discretion, provide access to dispute records, subject to the following:

- Where the public would otherwise be entitled to access a dispute record, any information in the record that might identify a minor or a person with impaired capacity will be redacted or anonymized, if it is reasonably practical to do so (this also applies to a witness in the dispute);
- Any system-generated indices of disputes that are made available to the public will include only the initials of minors and persons with impaired capacity, instead of full, legal names;
- In public versions of decisions and orders, the CRT will use initials to refer to persons who are minors or have impaired capacity, rather than their full legal names;

CRT staff responsible for reviewing draft decisions and orders will check to ensure any persons who are minors or have impaired capacity are referred to using their initials.

D. Information Sharing Agreements

The CRT may enter into agreements with other organizations and government agencies, authorizing the disclosure of dispute records to that other organization or government agency. The purpose of an information sharing agreement must be to support:

1. a research project;
2. law enforcement or regulatory activities; or
3. any other purpose that is consistent with the CRT's mandate and the CRTA.

Where the CRT enters into an information sharing agreement, the tribunal will only disclose dispute records to the organization in accordance with the terms of the agreement. The terms of the agreement must:

- restrict the further disclosure of the records outside the other organization; and
- require the other organization to take steps to maintain the security of the records and prevent unauthorized disclosure of information, similar to those described in the CRT's Security and Storage of CRT Records Policy.

References:

[CRT Rules](#): PART 12 - TRIBUNAL INFORMATION AND DOCUMENTS

CRT Rules, [Public Request for Information Form](#)

CRT Rules, [Schedule of Fees](#)

Civil Resolution Tribunal Act: Particularly sections 85 through 90, 62 (1) and 62 (2) (l) (ii) and (iii)