

PAY EQUITY HEARINGS TRIBUNAL

POLICY ON OPENNESS AND PRIVACY

Open Justice

The Tribunal falls under the administrative auspices of the Ontario Labour Relations Board.

This document outlines the Tribunal's policy on the openness of its processes and describes how the Tribunal handles issues relating to privacy rights.

The concept of "open justice" is a significant principle in our legal system. The *Statutory Powers Procedure Act*, which governs the conduct of most administrative decision-makers in Ontario, provides that oral hearings are to be open to the public, save for exceptional circumstances. Because of its mandate and the nature of its proceedings, the Tribunal maintains an open justice policy to foster transparency in its processes, accountability and fairness in adjudication.

The Tribunal's website, notices, information bulletins and other publications advise parties and the community that Tribunal hearings are open to the public. Parties who engage the Tribunal's services should be aware that they are embarking on a process that presumes a public airing of the dispute between them, including the publication of decisions. Parties and their witnesses are subject to public scrutiny when giving evidence before the Tribunal and they are more likely to be truthful if their identity is known. Tribunal decisions currently identify parties and their witnesses by name, and may set out whatever information about them that is relevant to the determination of the dispute.

At the same time, the Tribunal acknowledges that in some instances the disclosure of an individual's personal information during a hearing or in a written decision may have an impact on that person's life. Privacy concerns arise most frequently when identifying aspects of a person's life are made public. The Tribunal endeavours to include this information only to the extent necessary for the determination of the dispute.

With the advances in technology and the availability of electronic dissemination of material—including PEHT decisions—the Tribunal recognizes that in some instances it may be appropriate to limit the concept of openness as it relates to the identity and circumstances of individuals who are parties or witnesses in proceedings before the Tribunal.

In exceptional circumstances, the Tribunal will depart from its open justice principles and in doing so, the Tribunal may grant requests to maintain the

confidentiality of specific evidence and tailor Tribunal decisions to accommodate the protection of an individual's privacy (including depersonalizing the identity of parties or witnesses or holding a hearing in private).

The Tribunal considers its policy to be consistent with the protocol adopted by the Heads of Federal Administrative Tribunals Forum¹ (endorsed by the Council of Canadian Administrative Tribunals) and the principles found in the Canadian Judicial Council's *Use of Personal Information in Judgments and Recommended Protocol*.²

Access to Tribunal decisions

Requests by third parties for access to files maintained by the Tribunal are handled consistent with [Procedures on Access to Documents and Exhibits Contained in Board Adjudication Files](#).

Full text of PEHT decisions are available in hard or electronic copy through the Ontario Workplace Tribunals Library (www.owtl.on.ca, photocopying fees apply), or in electronic format on public websites (<http://www.canlii.org>) or by subscription (<http://www.lexisnexis.ca>).

Challenges to compliance with this policy may be addressed to:

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Toronto, ON M5G 2P1
T: 416-326-7442

¹ <http://www.hfatf-fptaf.gc.ca/declaration-web-eng.php>

² http://cjc-ccm.gc.ca/cmslib/general/news_pub_techissues_UseProtocol_2005_en.pdf