



# Financial Services Tribunal

Fourth Floor, 747 Fort Street, Victoria BC V8W 3E9

Tel: (250) 387-3464

Fax: (250) 356-9923

info@bcfst.ca

www.bcfst.ca

## DECISION PUBLICATION POLICY

### Introduction

Financial Services Tribunal hearings are generally in writing but any oral hearings are open to the public.

In the internet age, the world-wide public disclosure of personal information in reasons for decisions requires a delicate balancing between public accountability and privacy. The Tribunal is committed to respecting the privacy of those whose personal information may be contained in the decisions, particularly where they are not necessarily parties to the proceedings. This Policy describes how the Tribunal will seek to balance public accountability with personal privacy in its published reasons for decision.

### Legal Requirements of Disclosure

Legal requirements of disclosure that are applicable to the Tribunal are provided in the *Financial Institutions Act*, R.S.B.C. 1996, c. 141 and in the *Administrative Tribunals Act*, S.B.C. 2004, c.45 (ATA)

Section 50(4) of the ATA requires that the Tribunal make its decisions available to the public.

Section 61(2)(f) of the ATA provides that the relevant privacy protection provisions in the *Freedom of Information and Protection of Privacy Act* do not apply to a decision of the Tribunal for which public access is provided by the Tribunal. This gives the Tribunal discretion to determine what information should and should not be included in its published decisions.

### Publication Policy

All decisions of the Tribunal made prior to December 31, 2016 will remain available to the public on the Tribunal's website or from the registry office, in their original or prior published form, subject to any application to alter the format of disclosure.

All decisions issued by the Tribunal after January 1, 2017 will be written in a manner that takes into account personal privacy and is suitable for public disclosure of the decision in its entirety, wherever possible. In order to balance public accountability with the protection of certain information, the following guidelines will normally be followed:

- 1) The name of the panel member issuing the decision will be disclosed.
- 2) The names of the parties and their legal counsel or other representatives will be included, in the published decision, except where the Tribunal orders otherwise.

- 3) The names and all other identifying and any personal information of other persons who are not parties, but whose information may be relevant to the proceedings, may or may not be publicly disclosed, at the discretion of the Tribunal. At the discretion of the Tribunal, individual witnesses may be referred to by name or by their position, relationship to the parties or their initials only in published decisions.
- 4) Decisions of the Tribunal will be posted to the Tribunal's website not less than 7 days after the date of the decision.

### **Application to Alter Usual Form of Publication**

A party or non-party named in a decision of the Tribunal issued before or after the effective date of this policy may apply to the Tribunal, in writing, outlining why a particular type of editing for publication, or editing of a published decision after the fact, is appropriate.

The person requesting alteration of the manner in which a decision is published must address (a) the specific information to be redacted or anonymized, and (b) why the identified privacy interest (or other interest) outweighs the public interest in access to the Tribunal's proceedings. Normally, notice will be given to the parties to the original appeal and the parties may be canvassed for their positions on the application.

If the application is granted, the published decision will be replaced with an appropriate version of the decision for publication, as determined by the Tribunal.

-----

*This policy was approved by the members of the Financial Services Tribunal at a meeting of the Tribunal on the 15<sup>th</sup> day of December, 2016 at Victoria, BC.*