Mediation Tips for Institutions

Approach to Mediation

In general, for mediation to be successful, you need to:

• Display a commitment to the principles of mediation and make an investment in the mediation process.

• Display a non-adversarial attitude, a willingness to “think outside the box” and identify creative, innovative resolutions to particular issues.

• Recognize that access decisions should be made in the spirit as well as the letter of the Acts.

• Have in place a decision-making structure that permits the person mediating on behalf of the institution to bind the institution or, at a minimum, to quickly obtain the authority to bind.

Key Benefits of Mediation

• Better Results: the resolution is created by the parties.

• Speed: generally faster than formal adjudication.

• Cost: time, money and emotion can be saved through early resolution of the dispute.

• Control: each of the parties maintains greater control of the dispute and its resolution.

• Improved Relationships: can preserve or enhance the relationship between the parties.

Practical Things to do in Mediation

In addition to “coming to the table” with a positive attitude, some of the practical things that will go a long way toward making the process, and hopefully the outcome, successful are:

• Providing a detailed index of records to the appellant – often this will result in the appellant narrowing the appeal.

• Listening to ensure you understand the appellant’s request, interests and proposals.

• Recognizing the power imbalance in the process – you hold all of the information while the appellant has little or none.

• Providing explanations of background, processes, context and reasons.

• Involving staff with specific knowledge of the records and programs in the mediation discussions.

• Considering mediators’ advisory opinions – their role includes researching IPC precedents (orders) and providing an opinion as to the parties likelihood of success.

• Exercising discretion in favour of disclosure – the legislators made most exemptions discretionary – the Acts do not require an institution to claim these exemptions.