


**Freedom of Information & Protection of Privacy:
What Every Elected Local Government Official
Needs to Know**

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Local Government Leadership Authority
2016 Leadership Forum
February 5, 2016



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
for British Columbia
Protecting privacy. Promoting transparency.

**Office of the Information and
Privacy Commissioner**



**Promoting Information Rights is
Commissioner Denham's
Top Priority.**

Elizabeth Denham
Information and Privacy
Commissioner for B.C.

The Purpose of this Session

Q: Why are we at this session today?

A: To reduce the risk of bad publicity by ensuring compliance with FIPPA.

Your Obligation as an Elected Official

Since 1994, all municipalities and regional districts have been legally obligated to comply with the *Freedom of Information and Protection of Privacy Act* ("FIPPA").

It applies to elected officials, as confirmed in Regina v. Skakum 2012.

The Freedom of Information and Protection of Privacy Act

The **purpose** of FIPPA is to make public bodies more accountable and to protect personal privacy.

It does so by:

- Providing an avenue of access to records
- Providing access to personal information
- Providing limited exceptions to disclosure
- Regulating the collection, use and disclosure of personal information.
- Providing for independent oversight

Applicable Records Under FIPPA

Both **privacy and access** functions are relevant to public officials.

FIPPA applies to **all records in the custody or under the control of municipalities.**

This includes municipal records on private email systems or social media, as well as the records of contracted service providers.

Key Exceptions for Disclosure

All records are subject to request, but not all information is subject to disclosure. Some key exceptions for municipalities include:

- s. 12(3) Substance of deliberations of in camera meetings
- s. 13 Policy advice
- s. 14 Legal advice
- s. 15 Disclosure harmful to investigations
- s. 16 Disclosure harmful to intergovernmental relations
- s. 17 Disclosure harmful to economic interests
- s. 21 Disclosure harmful to 3rd party business interests
- s. 22 Disclosure harmful to personal privacy

You must produce requested records.

Don't be reticent to provide records. When your FOI coordinator asks you for records responsive to a request, provide them ASAP.

The information will remain protected in nearly all cases where there would be unfair harm to the public interests and third parties.

Embarrassment is not an option....

Issues Management

The FOI request is one issue. Not processing it properly is another issue.

You can only afford to have one issue.

Failure to comply with FIPPA often makes for a worse story than just releasing the records.

Proactively release records whenever possible

Proactive disclosure:

- Promotes transparency.
- Avoids FOI requests.
- Will likely make the public lose interest.

Managing Appointment Calendars

Appointment calendars are municipal records and popular targets of FOI requests.

- Clearly distinguish any non-municipal appointments or put them on a separate calendar.
- Restrict level of detail to basic information about the appointment.
- Post on website if possible.

Professional Documentation

Always use professional standards of documentation and correspondence.

And avoid unnecessary comments that might cause embarrassment.

What is personal information?

Privacy rules apply to collection, use and disclosure of personal information.

“Personal information” is information about an identifiable individual.

Collection and Use of Personal Information

- Municipalities can only collect and use the minimum amount of personal information necessary for program or activity.
- Internal disclosure on a need-to-know basis.
- External disclosure only with consent or where otherwise authorized by FIPPA.
- Must provide adequate security to prevent unauthorized access use and disclosure.

Privacy Rights of Employees

Employees do not check their privacy rights at the door.

Employee surveillance must be justified with respect to an ongoing investigation or security threat.

Privacy Impact Assessments

- Ask if a PIA has been conducted.
- Conduct a PIA for new programs and initiatives that involve personal information.

Public Domain

- **Don't identify** any citizens by name in any public oral or written disclosure without their consent.
- You can talk about an issue in general, just ensure that there is no personally identifiable information disclosed.
- This applies even if that citizen has disclosed information about themselves to the media.

After you leave office....

- You may not disclose personal information you obtained while in office.
- Do not take any third party personal information with you when you leave office.

Educate yourself.

If your municipality offers FIPPA training, take it!

Note: New OIPC-approved Access and Privacy Training is available on a fee for service basis. Info at: www.oipc.bc.ca

Get to know your FOI Officer....

Each municipality has an FOI and Privacy Officer.

Their job is to help keep you in compliance.

If you have any doubts or questions about anything you have done or are think of doing, **ask them**.

Thank you. Questions?