



ACCESS AND PRIVACY BRIEFING FOR TRIBUNAL AND STAFF

Introduction to Access and
Privacy for Administrative
Penalty Tribunal and Staff



AGENDA

1. Principles of Access and Privacy
2. MFIPPA
3. The Tribunal as an Institution
4. Access
5. Freedom of Information and Tribunals
6. Privacy
7. Privacy Requirements
8. Public Records
9. Notice
10. City Policy

Principles of Access and Privacy

Information is available to the public;

Grounds for denying access should be necessary, limited and specific;

Disclosure decisions should be independently reviewed;

Personal privacy must be protected

THE ACT

Municipal Freedom of Information and
Protection of Privacy Act (MFIPPA)



INSTITUTION

- “institution” means,
- (a) a municipality,
- (b) a school board, municipal service board, city board, transit commission, public library board, board of health, police services board, conservation authority, district social services administration board, local services board, planning board, local roads board, police village or joint committee of management or joint board of management established under the *Municipal Act, 2001* or the *City of Toronto Act, 2006* or a predecessor of those Acts,
- (c) **any agency, board, commission, corporation or other body designated as an institution in the regulations; (“institution”)**

HEAD OF AN INSTITUTION

- Head of the institution section 2.1 of MFIPPA
 - Section 136 of City of Toronto Act declares the Clerk as the de facto Chief Privacy Officer of the City.
 - The head is the final arbiter of provisions under MFIPPA, even when dealing with Council.
 - Final say on FOI, Privacy and Information Management as it falls under MFIPPA.
- The tribunal is a separate institution from the City under MFIPPA.
- The head of the tribunal is responsible for FOI and Privacy for the records produced, collected and maintained by the Tribunal.
- The City Clerk's Office is arms length but will advise as necessary

ACCESS WITHIN THE OPEN GOVERNMENT CONCEPT

- Freedom of Information
- Open Data
- Routine Disclosure
- Proactive Disclosure
- Civic Engagement

FREEDOM OF INFORMATION

Public has a right to know

Aligns with Charter Rights – Fundamental Freedoms

- Religion
- Expression
- Assembly
- Association

Peace, Order and Good Government



Fostering a culture of transparency...

City information:

- belongs to the public
- must be provided to the public, limited by a few exceptions
- should be released proactively and responsibly

FOI Process [1]

Day 1



Transfer of request required?

Day 2



Do you have responsive City business records?

Days 3-13



Extensive records?
Time extension or fee estimate required?

Day 14



FOI Process [2]

Day 14 onward

Day 30 (or sooner)



Notification to any affected parties

Determine if exemptions apply – redact or remove documents as required

If no decision by day 30, it is a deemed refusal – appeal possible



PUBLIC RECORDS

The tribunal records are created to be fully transparent.

All documentation may be disclosed without referring to the Freedom of Information Process.

This can include email communications, submissions and records entered into the Tribunal process.

Draft all records as if they will be viewed by the public.

WHAT IS PRIVACY?

- the **quality of being** secluded from the presence or view of others
- The condition of being left alone, out of public view and in **control of information** that is known about you
- Privacy is the ability of an individual or group to stop information about themselves from becoming known to people other than those they **choose** to give the information to

PROTECTION OF PRIVACY

Core value for the public

Respect, Dignity and Choice

Privacy is about protecting Personal Information



PERSONAL INFORMATION

Recorded information about an identifiable individual.

- ✓ Name
- ✓ Home address
- ✓ Social Insurance Number
- ✓ IP address
- ✓ Date of Birth
- ✓ Credit card numbers
- ✓ Driver's Licence
- ✓ Telephone Number

- ✗ Business
- ✗ Official
- ✗ Professional



LEGAL PROVISIONS REGARDING PRIVACY UNDER PART 2 OF MFIPPA

- Collecting personal information requires a formal legal notice
- Personal information may only be used for the purpose for which it was collected or for a consistent purpose
- Under FOI personal information is a mandatory exemption
- Under section 32 of Part 2 of MFIPPA an institution shall not disclose personal information in its custody or under its control except according to certain subsections.
- Tribunal records contain personal information.

RISK AWARENESS

Business risk events:

1. Legal – discovery, audit, litigation, compliance
2. Financial – financial losses, debt rating
3. Reputation – public image, confidence
4. Operational – organizational performance
5. Information – information security, retention, disposition

SECTION 27 MFIPPA

Section 27 states that this Part (meaning Part 2) does not apply to personal information that is maintained for the purpose of creating a record that is available to the general public.

Tribunal records are declared to be public in Toronto Municipal Code Chapter 610-1.2, E,

- (All information collected by the City, or a party authorized for the purpose of issuing a penalty notice, or otherwise on the City's behalf in relation to any aspect of the administrative penalty program, including all information collected in the context of a meeting with a screening officer and a hearing conducted by the hearing officer, is collected specifically for the purpose of **creating and maintaining a record available to the general public** respecting the issuance of a penalty notice and review of administrative penalties and administrative fees.)

Therefore no notice, restriction on disclosure or exemption is required.



RECOMMENDATIONS

- Information is the lifeblood of all government.
- Accountability always keeps close company with public trust.
- Care should still be taken to ensure that basic principles of minimizing collection, possible negative outcomes due to the inclusion of some information in formal records and especially communications between the tribunal and staff are observed.
- Any notice should prominently include that the records are public and that they may be posted, disclosed, recorded or broadcast if that is the method chosen to distribute.

CONCLUSION

- Although the Tribunal is arms length and a separate institution, City Clerk's Office and IT Risk Management are available for consultation.
- We have a centre of excellence for access and privacy and multiple tested due diligence tools that can be shared
- If in doubt, please contact our staff to assist you.