Introduction

The *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* provides the public a formal right of access to records that are in a municipality's custody or under its control, subject to limited and specific mandatory and discretionary exemptions to disclosure.

While *MFIPPA* lays out a process for formal requests under the *Act*, municipalities may choose to release records in response to requests made informally or under *MFIPPA*, or periodically release general records in the absence of a request. This can be achieved through Routine Disclosure or Active Dissemination.

This document provides a brief overview of the legislative context for Routine Disclosure and Active Dissemination, as well as further considerations for the development of Routine Disclosure and Active Dissemination Policies / Plans from a municipal perspective.

This guide was developed with the input of the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO) *MFIPPA* Working Group to provide consolidated, municipal-specific guidance and promising Routine Disclosure and Active Dissemination practices for establishing a policy and program. The intent is to assist AMCTO members challenged by the volume of requests related to Freedom of Information (FOI) and improve the breadth of publicly available information. It is not to replace a municipality's own legal advice or any new or updated guidance, orders or education from the Information and Privacy Commissioner of Ontario.

What are Routine Disclosure and Active Dissemination?

According to the **Information and Privacy Commissioner** (IPC), Routine Disclosure (RD) is the automatic or routine release of certain records in response to an inquiry or request for access that can be granted without filing a formal request under *MFIPPA*. Examples of this might include corporate policies or procedures or organizational charts, or site plans and planning applications.

Active Dissemination (AD) is the release of certain records by the municipality to the public in the absence of a request. Examples of this might include meeting agendas, staff reports and minutes, public notices, and audit reports, which could be published online or released as part of an Open Data or information catalogue etc. While RD and AD are two distinct processes covering the release of different documents, they are often covered by a single policy and operationalized differently.

Municipalities may already be releasing records through RD/AD in the absence of a policy and plan. A RD/AD policy can help ensure consistency across the organization with respect to how, when and which records are released and build support for the development of RD/AD plans. Some municipalities already have RD/AD policies that should be reviewed regularly.

Legislative Considerations

MFIPPA has two purposes, as stated in the *Act*. The first is to provide a right of access to information under the control of institutions in accordance with three principles:

(1) Information should be made available to the public;

(2) Necessary exemptions from the right of access should be limited and specific; and

(3) Decisions on the disclosure of information should be reviewed independently of the institutions controlling the information.

The second purpose is to protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals the right of access to that information.

A RD/AD policy can assist a municipality with the first purpose, particularly ensuring that information is made available to the public, unless there is a specific reason (exemption) it should not be, while also respecting the balance between providing greater access to information and protecting personal and confidential information.

RD/AD can also assist a municipality moving towards a more mature Open Government program. According to the IPC, "Open Government is based on the core belief that the public has the right to access the records and proceedings of government to enable greater openness, accountability, and engagement." The IPC encourages municipalities to determine how they can begin or expand their Open Government activities.

As noted in the IPC's Practice 22, there are several records that municipalities are required to make publicly available due to statutory requirements. Ensuring accountability and transparency is one of council's roles under S. 224 of the *Municipal Act, 2001*. Ontario municipalities operate under a legislated accountability and transparency framework which consists of a mix of mandatory and discretionary measures through *MFIPPA* and other pieces of legislation. In addition to the mandatory requirements for openness set out in the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act, 1990*, and other legislation, releasing records can be one way a municipality can operate under the principle of openness and contribute to a culture of transparency.

What are the benefits of a Routine Disclosure and Active Dissemination Policy for my municipality?

While a key benefit of a robust Routine Disclosure and Active Dissemination Policy, supported by Routine Disclosure and Active Dissemination Plans, is supporting a culture of open and transparent government, other benefits include:

• Making municipal records more accessible to the public;
• Giving municipalities the opportunity to contextualize records disclosed;
• Providing greater accountability and transparency in day-to-day operations;
• Helping to reduce the number of *MFIPPA* requests to the municipality;
• Managing the flow of information to allow municipalities time to prepare for potential questions;

- Automating certain operations to free up staff time for other priorities; and
- Monitoring and tracking the documents accessed.

RD and AD processes can create an efficient and cost-effective means of providing the public with greater access to government information. When general records are classified as candidates for RD/AD and a plan is in place for their release complete with roles and responsibilities, municipalities could run a more efficient and streamlined Freedom of Information (FOI) program, reducing administrative costs and ensuring staff time is best utilized. The number of formal requests fulfilled through a formal FOI process is not necessarily a sign of program success if many of these requests could have been handled through a RD/AD process.

How does my municipality establish a Routine Disclosure and Active Dissemination program?

The process for establishing a RD/AD program will depend on the sophistication and maturity of the municipality's FOI, recordkeeping and/or customer service programs, and their existing practices and processes in various departments across the municipality.

Smaller municipalities may not have the in-house capacity, staff time or IT infrastructure to create a robust RD/AD program, or even be able to readily identify appropriate records, right off the bat. Smaller municipalities can consider starting out by keeping statistics and tracking their FOI requests in a spreadsheet. Larger municipalities may have the in-house expertise to support the design and implementation of a program, but that does not mean they will not face challenges. To reduce barriers to a successful program across the organization, larger municipalities can consider launching department-specific RD/AD plans at the same time as their general RD/AD policy to ensure consistency across the organization.

Where to begin

It is difficult to prescribe a step-by-step guide for establishing a program, as any program will have to be suited to the municipality that administers it. However, there are a few broad practices that municipalities can include in their planning as their program moves through maturity.
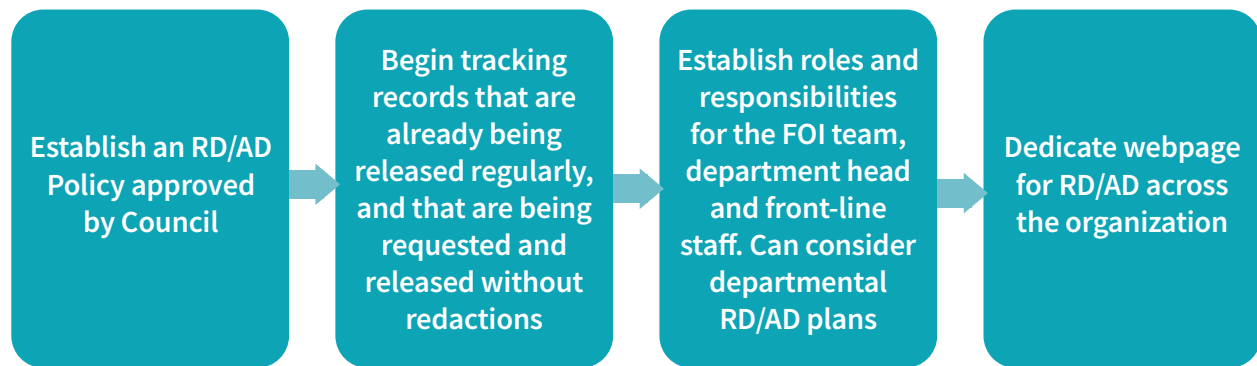
As a first step, municipalities should consider establishing a council-approved RD/AD Policy. Council approval will help encourage participation in the program across departments and can contribute to a culture of openness and is one step in engaging the public. Council-backing helps ensure uptake by departments across the organization and cements RD/AD as an organizational practice, rather than something that takes place only in the clerk's department.

As a starting point, municipalities can use existing tracked data about records that are already being released in response to a request and those that are actively disclosed without redactions. IPC Practice 22 suggests governments study, examine and review FOI requests to identify trends and patterns. This can be led by the staff member responsible for managing FOI requests (e.g. clerk, FOI coordinator, FOI lead etc.) or can be undertaken by individual departments and shared with the the FOI lead regularly.

Municipalities should also consider creating a RD/AD Guideline and/or departmental plans to establish procedures and roles and responsibilities for those involved. Plans can outline specifically what records are released, who releases them, how often they are released, and where they can be accessed. These can be made along the same time recordkeeping schedules are updated/established.

Municipalities with an established RD/AD program including a policy and departmental RD/AD plans can consider a dedicated webpage that could house the records that municipalities regularly release. Having a dedicated webpage explaining RD/AD, the municipality's policy, departmental plans, and hosting records, can serve as an educational resource for the public and those that access records regularly.

Establish an RD/AD Policy approved by Council	→	Begin tracking records that are already being released regularly, and that are being requested and released without redactions	→	Establish roles and responsibilities for the FOI team, department head and front-line staff. Can consider departmental RD/AD plans	→	Dedicate webpage for RD/AD across the organization

Other Considerations

Candidates for RD/AD

As mentioned above, municipalities already routinely make available records such as council agendas and minutes, municipal bylaws and policies, financial statements and annual budgets. Some processes require sharing of information publicly as noted in the Legislative Considerations section above. There are many more records that municipalities can release proactively.

Candidates for RD are records that can be released in response to informal requests for information; whereas candidates for AD are records that are released in the absence of a request for information. Municipalities can consider establishing policies for proactive disclosure for individual projects or initiatives that have strong public attention.

A municipality can identify what may be good candidates for AD or RD by using these guiding questions:

- What records are released regularly without exemption?
- What records are being requested?

This is where a document request tracker can come in handy in providing the municipality with this data. Thereafter, the scope of records to release can be broadened to include others that may be subject to active dissemination. For instance, the IPC has provided guidance on Open Contracting and sharing their procurement records.

Any newly created classes of records should be evaluated for ease of dissemination and potential addition to a RD/AD plan. A review period can be written into a policy which may incorporate the addition of new records. Municipalities can also consider if records that they are disclosing through RD would be candidates suited to an AD program. Records that are requested frequently and are time-consuming to prepare for release when requested through a RD program, could be transitioned to AD where their release can be planned for.

Process and Procedure

How records are released will depend on the type of records and the municipality's local circumstances, including the technology available to the municipality. Process and procedure may also vary by department. Many municipalities use RD/AD plans that identify the records that are to be disclosed and the method by which a department will make the records available to the public.

Municipalities with existing strong record management practices, especially electronic records management, may find their records management system assists with efficiently responding to FOI requests. These practices may also help facilitate an efficient RD/AD program.

Roles and Responsibilities

Having a RD/AD policy can help ensure that everyone understands their roles and responsibilities with respect to RD/AD. Though municipalities should tailor roles and responsibilities suited to their local needs, organizational buy-in is key to the success of a RD/AD program. Front-line staff should be empowered to carry out regular duties under the policy. However, senior management and department heads have a role to play too. For example, department heads or directors may have the responsibility of supporting and promoting the RD/AD policy and ensuring that RD/AD plans are developed and reviewed. Management may be responsible for developing RD/AD plans for their division or unit and identify records that would be suitable for inclusion, and finally employees may be responsible for compliance. In some municipalities, department heads may work with the FOI Coordinator to identify and publish records that are appropriate for RD/AD.

There are other factors than can be addressed in an RD/AD policy and plans as a municipality's program matures. These can include training, the involvement of any third-party service providers, and processes for program review and evaluation.

Conditions and Fees

For some records, there may be conditions placed on the release of the record. This might be done to ensure compliance with *MFIPPA* and maintain privacy. For example, a municipality may release building or planning permits through RD and may choose to release entire permit application forms to the property owner or their representative but remove information of the owner when they are released to anyone else on request. Conditions can be part of a policy or plan.

Municipalities may also consider charging a service fee for certain records, if fees are justified and do not pose a barrier to access. Records for which there is a service fee should be identified in policies and/or plans. Service fees can be identified in the policy or plan directly or might be part of the municipality's User Fee Bylaw.

Conclusion

Routine Disclosure and Active Dissemination is one way that a municipality can work towards a culture of openness and transparency, while simultaneously enhancing municipal efficiency. A robust policy supported by guidelines and plans can help a municipality ensure they are using their resources as effectively as possible.

Examples of Municipal Policies, Plans and Disclosed Records

City of Ottawa	Routine and Active Dissemination Policy Routine Disclosure and Active Dissemination Plans
City of Hamilton	Routine Disclosure and Active Dissemination Plans
Town of Newmarket	Routine Disclosure Policy
Regional Municipality of Durham	Routine Disclosure and Active Dissemination Policy
Municipality of Highlands East	Routine and Active Dissemination Policy
Township of Wellington North	Routine Disclosure of Information Policy
Municipality of North Perth	Routine Disclosure and Active Dissemination of Municipal Records and *MFIPPA* Guidelines
Township of Ramara	Routine Disclosure / Active Dissemination Policy
Town of Wasaga Beach	Routine Disclosure and Active Dissemination Policy
Town of Bracebridge	Routine Disclosure Policy
City of Toronto	Routinely Disclosed Records

Other Sources of Interest

- City of Mississauga and Information and Privacy Commissioner of Ontario, "Routine Disclosure/Active Dissemination A Best Practice in the City of Mississauga,"2000. https://www.ipc.on.ca/wp-content/uploads/resources/mrdad-e.pdf
- Government of Canada, "Proactive Disclosure" https://open.canada.ca/en/proactive-disclosure
- Government of Ontario, "Open Data Catalogue". https://data.ontario.ca/
- Information and Privacy Commissioner of Ontario, "Access by Design: The 7 Fundamental Principles", 2010. https://www.ipc.on.ca/wp-content/uploads/2010/05/accessbydesign_7fundamentalprinciples.pdf
- Information and Privacy Commissioner of Ontario, "Electronic Records and Document Management Systems: A New Tool for Enhancing the Public's Right to Access Government-Held Information?", 2003. https://www.ipc.on.ca/wp-content/uploads/resources/up-erdms_e.pdf
- Information and Privacy Commissioner of Ontario, "Enhancing Access to Information: RD/AD Success Stores", 1996. https://www.ipc.on.ca/wp-content/uploads/resources/success.pdf
- Information and Privacy Commissioner of Ontario, "Practices Number 22: Routine Disclosure/Active Dissemination of Government Information", 1998. https://www.ipc.on.ca/wp-content/uploads/resources/up-num_22.pdf
- Information and Privacy Commissioner of Ontario, "Promoting Transparency through Electronic Dissemination of Information", 2004. https://www.ipc.on.ca/wp-content/uploads/resources/up-protrans.pdf

Acknowledgements

About AMCTO

The Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO) represents excellence in local government, management and leadership. Over the past 80 years, AMCTO has provided education, accreditation, leadership, and management expertise for Ontario municipal professionals. With 2,000+ members working in municipalities across the province, AMCTO is Ontario's largest association of local government professionals, and the leading professional development organization for municipal professionals.

Our mission is to strengthen and support the capabilities and performance of Ontario municipal professionals by providing professional development and engagement opportunities, advocacy and leadership in the sector.

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