Talking MFIPPA with New Council

ZONE 6 MEETING



- 18+ years in municipal government
- Masters in Information Studies
- Instructor University of Toronto School of Continuing Studies
- Columnist with Municipal World (until 2021)
- Trainer AMCTO
- Consultant: Privacy/Access/Information Management



Agenda

- Access and Councillors
- Privacy and Councillors
- 3. Privacy tools



Access and Councillors



Confidentiality and the MFIPPA Process

Institution is not permitted to reveal the identity of the requester UNLESS it is necessary to locate the relevant records

Requester does not have to advise why the information is being requested

Institution shouldn't engage in speculation as to why information is requested

However, Institution can (should) ask for clarification to facilitate response

Requests for Councillor Information

Previous IPC rulings have shown that Councillor records ARE NOT out of scope for FOI requests

When training new Council, ensure that they are aware of their obligations under MFIPPA

As much as possible, create an infrastructure where Councillors can separate their personal and municipal work (and extend this to staff, too), e.g. BYOD policies, waivers and agreements for cell phone/tablet use, etc.

Yay! Municipal elections!

West Lincoln Councillor Harold Jonker breached code of conduct during freedom convoy: integrity commissioner

Councillor was considered one of the leading figures in the convoy that occupied Ottawa in winter

Custody or Control

Custody

- simply put "possession"
- when the institution has responsibility for the collection, storage, preservation or security of a record for a legitimate business purpose
- not unsolicited or accidental possession
- is the information related to the mandate of institution

Control

• Not necessarily physical "possession" ... but institution could reasonably expect to obtain a copy on request

How Does This Affect Councillors?

Do they separate their personal/political records from their "work" records?

Do they communicate via email, voice messages, texts, etc.?

Do they "reply all" email a lot?

Are they prepared to respond to an MFIPPA request?

Do they know what staff to contact in their municipality for more information?

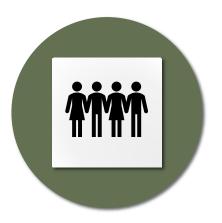
Councillor Access to Records



INDIVIDUAL COUNCILLORS DO NOT HAVE ADDITIONAL RIGHTS TO INFORMATION



COUNCILLORS MAY NEED TO REQUEST RECORDS THROUGH MFIPPA



COUNCIL AT LARGE HAS GREATER
ACCESS TO INFORMATION THAN
INDIVIDUAL COUNCILLORS

Councillor MFIPPA Accountability Scenarios

Councillor requesting access to personal information of a constituent?

Councillor requesting access to confidential information, e.g. procurement?

Councillor requesting access to confidential information, e.g. hiring/firing?

Protection of privacy: emails, texts, hallway conversations?

Privacy and Councillors

Protection of Privacy Obligations

To protect the privacy of our residents with respect to their personal information

To allow individuals access to their own personal information

To allow individuals the right to correct their personal information

Rules and obligations for how we collect, use, retain and disclose of personal information

Personal Information

Personal Information:

Name

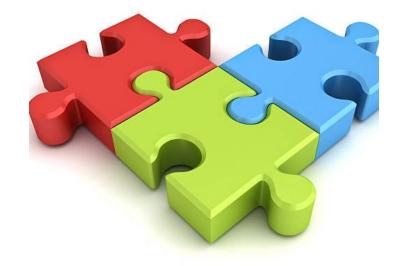
Contact information

Gender, sexual orientation

Race, ethnicity, religion, political opinions

Employment/educational/financial history

Personal Health Information



Identifiable or Not?



GENDER



AGE



MEDICAL DIAGNOSIS



EMPLOYMENT HISTORY



RESIDENTIAL ADDRESS



WORK EMAIL ADDRESS



EMPLOYEE IDENTIFICATION NUMBER



OHIP CARD NUMBER

Context is King



Tools for Managing Privacy

Privacy Impact Assessments https://www.ipc.on.ca/wp-content/uploads/2015/05/planning-for-success-pia-guide.pdf

Expedited PIAs

Concurrent PIAs

Privacy Audits

Threat and Risk Assessments (TRAs)

Data De-identification Risk Assessments

Privacy Impact Assessments: Part One

3.1 Identify key characteristics of the project (check all that apply):

Inform	ation	Yes	No	Comments
a.	Involves creating a new program, process, service, technology, information system or other type of IT application	X		Loaning equipment, offering virtual room, Providing digital literacy training Providing gifted mobile phones
b.	Involves a change to an existing program, process, service, technology, information system or other type of IT application		X	
c.	Involves procuring goods or services	Х		Digital equipment, COVID PPE & room furniture

Privacy Impact Assessments: Part 2

PRIVACY ANALYSIS CHECKLIST

$\overline{+}$ Collection

Privacy Requirement	Findings					Privacy	Action Items
Questions		N	IP	NA	Explanation	Impact	
Authority							
Is the collection of personal	х				Personal information (PI) for the	Low	
information authorized					administration of the program is collected		
under FIPPA or MFIPPA or					under the authority of the Municipal Act,		
another act?					sections 10, 227		
Do all parties collecting	х				City staff or City volunteers will be collecting	Low	
personal information have					the information under the authority provided		
legal authority for the					in the above section.		
collection?							
Has responsibility for the	Х				City of XXXXXXXX staff will be responsible to	Low	
collection been assigned to					collect name and address in order to book		
program staff or third-party					private room, volunteer digital literacy		
service providers?					services and/or loaner equipment		

Expedited Vendor Privacy and Security Assessment:

Question	Yes/No	Explain
Vendor		
Is there robust, publicly-available		
privacy documentation you can		
review?		
Does the vendor have verifiable		
privacy certifications or trust		
marks?		
Does a quick online search		
reveal credible concerns (e.g.		
recent incidents) about the		
vendor's privacy or security		
practices?		
Is anything about the vendor's		
platform or service overly		
intrusive?		
Does the vendor have a privacy		
infrastructure in place, including		
staff?		

Expedited PIAs



Privacy Audits

Can be project or program-based and manual (like a PIA), or

An auditing tool that can assess for improper access/use (most often) of an application or database.



Threat and Risk Assessments (TRA)

Security assessment

Often completed to compliment or enhance a PIA for an externally-hosted tool/application/service

IT Security should do these

Week	Weekly_Total_of_Cases_by_Episode_Date	Weekly_Total_of_Cases_by_Reported_Date	Weekly_Rate_for_Cases_by_Reported_Date
12/25/2021, 7:00 PM	7,516	7,001	671.2
1/1/2022, 7:00 PM	4,489	4,824	462.5
12/18/2021, 7:00 PM	5,360	4,069	390.1
1/8/2022, 7:00 PM	3,238	3,256	312.1
1/15/2022, 7:00 PM	2,231	2,648	253.9
4/10/2021, 8:00 PM	1,731	2,169	207.9
1/22/2022, 7:00 PM	1,540	1,866	178.9
12/11/2021, 7:00 PM	2,515	1,637	156.9

Data Deidentification Risk Assessments

Used when data containing PI/PHI needs to be scrubbed for public reporting purposes, e.g. COVID statistics

Privacy Assessments

Are not currently mandatory under MFIPPA or PHIPA

BUT are now mandatory in other parts of Canada, e.g. BC and Alberta (custodians under the Health Information Act)

IPC may review your PIA (if you ask nicely)?

BUT anticipated changes in privacy sector privacy legislation (federal or provincial) may change this for privacy sector (and even non-profit organizations)

Eventual trickle down to PHIPA/MFIPPA?

Certainly a best practice NOW

Privacy Breach Response

Preventative Compliance: policy, training, more training...

Develop a Privacy Policy

Develop a Privacy Breach Response Plan

Assign responsibility: who will manage your breach?

N.W.T. employee dug through planters, trash to find stolen laptop, weeks after privacy training











The employee, a manager within the Health Department, did not routinely delete sensitive data off laptop



Priscilla Hwang · CBC News · Posted: Feb 26, 2019 5:00 AM CT | Last Updated: February 26



Breaches

Ontario town plans to pay ransom after computers locked down

















Ryan Flanagan, Producer, CTVNews.ca @flanaganryan

Questions?

else.khoury@outlook.com

