

# Talking MFIPPA with New Council

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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

1. Access and Councillors
2. Privacy and Councillors
3. Privacy tools



# Access and Councillors

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## 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!

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## **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

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## 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?

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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

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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

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Personal Information:

Name

Contact information

Gender, sexual orientation

Race, ethnicity, religion, political opinions

Employment/educational/financial history

Personal Health Information



# Identifiable or Not?

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GENDER



AGE



MEDICAL  
DIAGNOSIS



EMPLOYMENT  
HISTORY



RESIDENTIAL  
ADDRESS



WORK EMAIL  
ADDRESS



EMPLOYEE  
IDENTIFICATION  
NUMBER



OHIP CARD  
NUMBER

# Context is King

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# 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

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

Information	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	X		Digital equipment, COVID PPE & room furniture

# Privacy Impact Assessments: Part 2

## PRIVACY ANALYSIS CHECKLIST

### Collection

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

## 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

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# Privacy Audits

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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)

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Security assessment

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

IT Security should do these

# Data De-identification Risk Assessments

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

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

# Privacy Assessments

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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

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## Ontario town plans to pay ransom after computers locked down



### Ransom paid in Midland hacking



Town of Midland pays hacker they held their entire computer hostage. CTV Barrie's Mike A reports.

### CTV National News: Cottage country blackmailed



Small town governments are increasingly being held hostage by hackers who have accessed data. John Vennavally-Rao reports.

### Midland to pay ransom after cyber-attack



The Town of Midland is preparing to pay a ransom after a cyber-attack. CTV's Mike Arsalides reports.

# WHAT THE HACK?



Ryan Flanagan, Producer, CTVNews.ca  
@flanaganyryan

Questions?

[else.khoury@outlook.com](mailto:else.khoury@outlook.com)

