



Title: Personal Information Privacy Policy	
Policy #: G-PIP-1	
Approved by: Regional Council	Page #: 1 (of 10)
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Responsibility: Corporate Services-Legislative Services	Section: General

1. Policy Statement

- 1.01 The purpose of this policy is to inform Regional employees, and members of the public of their rights and obligations associated with privacy legislation as it applies to The Regional Municipality of Durham. It describes the when, how and the purposes for which The Regional Municipality of Durham routinely collects, uses, modifies, discloses, retains or disposes of personal information and personal health information and the administrative, technical and physical safeguards and practices that The Regional Municipality of Durham maintains with respect to this information. As a result, this policy is intended to constitute the general information practices of The Regional Municipality of Durham and its health information custodians, subject to more specific policies and procedures which may be developed at the departmental or health information custodian level.
- 1.02 The Regional Municipality of Durham's practices related to personal information have been mainly governed by the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) since that Act came into force on January 1, 1991. In recent years, information technology advances along with other legislative enactments that have altered the requirements governing how The Regional Municipality of Durham collects and uses personal information. These legislative changes include the enactment of the Personal Health Information Protection Act, 2004 (PHIPA) in relation to The Regional Municipality of Durham's personal health information functions.
- 1.03 While MFIPPA and PHIPA apply in different contexts to the personal information handled by The Regional Municipality of Durham, they each share a common list of ten (10) principles set out in the Canadian Standards Association's Model Code for the Protection of Personal Information:
- i) Accountability
 - ii) Identifying Purposes
 - iii) Consent
 - iv) Limiting Collection
 - v) Limited Use, Disclosure and Retention
 - vi) Accuracy
 - vii) Safeguards
 - viii) Openness
 - ix) Access
 - x) Challenging Compliance

- 1.04 This policy constitutes an endorsement of the principles listed above, and describes the particular manner in which The Regional Municipality of Durham will apply these principles to its operations.

2. Objectives

- 2.01 To protect the privacy and personal information collected and used by The Regional Municipality of Durham by establishing clear rules for the management and safekeeping of personal information and informing staff of these rules and their responsibilities;
- 2.02 To inform the public how personal information is protected by The Regional Municipality of Durham and how the public may submit complaints respecting The Regional Municipality of Durham's management of personal information.

3. Definitions and Interpretation

- 3.01 This policy and any specific terms used herein shall be interpreted to ensure consistency with all applicable information privacy legislation, including MFIPPA and PHIPA. This policy cannot fully describe how the legislation is to be applied in every instance by The Regional Municipality of Durham. As a result, the legislation itself should be referred to, or specified advice regarding privacy should be obtained.

For the purposes of this policy statement:

“Agent” in relation to a health information custodian (HIC), means a person that, with the authorization of the HIC, acts for or on behalf of the HIC in respect of personal information for the purposes of the HIC and not the agent's own purposes, whether or not the agent has the authority to bind the HIC, whether or not the agent is employed by the HIC and whether or not the agent is being remunerated [PHIPA s. 2]. The term “Agent”, although not defined in MFIPPA, shall also have a corresponding meaning in relation to persons acting on behalf of The Regional Municipality of Durham in respect of personal information for the Region's purposes;

“Applicable privacy legislation” means MFIPPA and PHIPA;

“Head” means the individual or body determined to be the Head of the Region, which is currently designated to be the Regional Chair under MFIPPA;

“Health information custodian (HIC)” means a person or organization who has custody or control of personal health information as a result of or in connection with performing the person's or organization's powers or duties or the work and includes those described in the following paragraphs:

- A health care practitioner or a person who operates a group practice of health care practitioners;
- A service provider within the meaning of the Home Care and Community Services Act, 1994 who provides a community service to which that Act applies;
- A long-term care home within the meaning of the Long-Term Care Homes Act, 2007;
- An ambulance service within the meaning of the Ambulance Act;
- A centre, program or service for community health or mental health whose primary purpose is the provision of health care;

- A medical officer of health of a board of health within the meaning of the Health Protection and Promotion Act.

As the Region is an organization that operates the facilities, programs or services set out in the attached Schedule “B” (HIC functions), the meaning of the HIC will be interpreted as The Regional Municipality of Durham with the exception of public health programs and services which fall under the direction of the Medical Officer of Health of the Board of Health within the meaning of the Health Protection and Promotion Act.

“Departmental Coordinators” are staff designated by a Department Head to represent a department of The Regional Municipality of Durham that collects personal information. Departmental Coordinators are also considered Agents for this purpose. Schedule “A” contains a listing of Departmental Coordinators.

“Department Head” means the official with ultimate managerial authority over a department of The Regional Municipality of Durham and includes Commissioners and the CAO.

“Personal health information” means identifying information about an individual in oral or recorded form, if the information:

- Relates to the physical or mental health of an individual, including information that consists of the health history of the individual’s family;
- Relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual;
- Is a plan of service within the meaning of the Home Care and Community Services Act, 1994 for the individual;
- Relates to payments or eligibility for health care, or eligibility for coverage for health care, in respect to the individual;
- Relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance;
- Is the individual’s health number; or
- Identifies and individual’s substitute decision-maker [PHIPA s. 4(1)].

“Personal information” means recorded information about an identifiable individual, including:

- Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- Any identifying number, symbol or other particular assigned to the individual;
- The address, telephone number, fingerprints or blood type of the individual;
- The personal opinions or views of the individual except if they relate to another individual;
- Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and relies to that correspondence that would reveal the contents of the original correspondence;

- The views or opinions of another individual about the individual; and
- The individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual [MFIPPA s.1].

Personal information also includes personal health information for the purposes of this policy, unless otherwise specified.

“Region” means The Regional Municipality of Durham being a municipal corporation and as defined as an institution for the purposes of MFIPPA, and includes Durham Region Transit, Durham Regional Local Housing Corporation and Durham Region Non-Profit Housing Corporation [MFIPPA s.2(3)].

See “Health information custodian (HIC)” for interpretation of “Region” under PHIPA.

4. Roles and Responsibilities

Principle 1. Accountability

4.01 (a) Personal Information Generally

The Region is required to designate individuals to be accountable for compliance with the privacy obligations of all applicable privacy legislation (See: by-law to designate a Head of The Regional Municipality of Durham for the purposes of MFIPPA, and to designate individuals for the purposes of the PHIPA and those designations set out in this Policy).

The Regional Chair is the designated head of the Region under MFIPPA (See: By-law to designate the Head for the purposes of MFIPPA and PHIPA). As head, the Regional Chair is accountable for ensuring the Region's overall compliance with all applicable privacy legislation, subject to those further designations set out herein.

The Regional Clerk is designated as the Region's MFIPPA Coordinator and has been delegated the day to day functions of the Head with responsibility for the administration of MFIPPA. In particular, the Regional Clerk is responsible for:

- Facilitate the custodian's compliance with this policy
- Informing all employees, custodians and agents of their duties under all applicable privacy legislation and this policy
- The submission of an annual report of the Region to the Information and Privacy Commissioner on statistical information pertaining to MFIPPA (and any other information that indicates the Region's efforts to comply with the Act)
- All requests for access to information or correction of a record under MFIPPA
- Responding to inquiries about the Region's information practices
- Receiving and responding to complaints about any alleged contravention of MFIPPA
- Disclosure of records to the public or person affected that involve grave environmental, health or safety hazard and for disclosures where it is believed on reasonable grounds that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to the person or group of persons.

All Department Heads are responsible for ensuring that a proper notice of collection of personal information is provided in relation to any collection of personal information carried

out by their operational department, and to ensure that any such records are accurately protected and maintained. All Department Heads may also disclose records containing personal information on an informal basis, to the person to whom the information relates, subject to exceptions in the application privacy legislation.

The above accountabilities also apply to Durham Region Transit, Durham Regional Local Housing Corporation and Durham Region Non-Profit Housing Corporation, which are deemed to be part of the Region for MFIPPA purposes.

All Regional employees shall comply with this policy and all applicable privacy legislation as it relates to their particular employment responsibilities.

All Agents of the Region shall be required to comply with this policy and all applicable privacy legislation as it relates to their agency relationship with the Region (including its functional HICs). This policy may be incorporated by reference into any related agreements between the Region and its Agents.

4.02 (b) Personal Health Information (specifically subject to PHIPA)

The operations of the Region and the Medical Officer of Health set out in Schedule "A" constitute health information custodians (HICs) for the purposes of compliance with PHIPA.

The Regional Clerk is further designated as the contact person for each of the Region's HIC functions with the exception of the Health Department, as defined elsewhere in the policy for:

- Facilitating the custodian's compliance under PHIPA as it relates to personal health information;
- Informing all employees, custodians and agents of their duties under PHIPA;
- All requests for access to information or correction of a record under PHIPA;
- Responding to inquiries about the Region's information practices related to PHIPA;
- Receiving and responding to complaints about any alleged contravention of PHIPA;
- Disclosure of records to the public or persons affected that involve grave environmental, health or safety hazard and for disclosures where it is believed on reasonable grounds that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons [PHIPA s.40(1)].

The Department Head (apart from the Medical Officer of Health as described herein) that is accountable for the management of a HIC function as set out in Schedule "A" is responsible for ensuring that a proper notice of collection of personal health information is provided in relation to the collection of personal health information carried out by the HIC function, and to ensure that any such records are accurately maintained. The Department Head may also approve more specific operational policies and procedures which govern the HIC function under their management.

The Medical Officer of Health is required to designate individuals to be accountable for compliance with the privacy obligations related to the public health programs and services which fall under the direction of the Medical Officer of Health of the Board of Health within the meaning of the Health Protection and Promotion Act. As a result, the Medical Officer of Health may approve a more specific privacy policy which shall take precedence over this policy in relation to public health matters (See: Durham Region Health Department Privacy Policy, as may be amended).

5. Guidelines and Procedures

5.01 In addition to the principle of Accountability that defines the roles and responsibilities for Regional staff, the nine remaining principles for the protection of personal information set out the practices the Region and staff will follow to ensure personal information is protected.

5.02 Principle 2. Identifying Purposes

The Region will identify the specific purposes for which personal information is collected and used, and make those purposes known to persons whose personal information is collected. It is reasonable to believe that an individual knows the purposes of the collection, use or disclosure of personal information where the Region provides the individual with such notice, or it posts or makes readily available a notice that is likely to come to the individual's attention.

A list of specific purposes for which the Region collects personal information and personal health information is included in Schedule "B" to this policy.

5.03 Principle 3. Consent

The Region collects personal information with the knowledge and consent of the individuals to whom the information relates. The Region may only collect personal information in instances where the collection in the absence of consent is authorized by law, and where it would otherwise be inappropriate in the circumstances to obtain consent.

The Region will endeavor to obtain express written consent where reasonable given the nature of the personal information to be collected, used or disclosed. However, consent may be express or implied where it is reasonable to believe that an individual knows the purposes for which the information is collected, used or disclosed.

When personal information that has been collected is to be used for a purpose not previously identified, the new purpose will be identified. Unless the new purpose is permitted or required by law, consent is required before the information can be used for that purpose.

5.04 Principle 4. Limiting Collection

The Region will limit the collection of personal information to only that information that is necessary for the purposes identified. Information will be obtained through fair and lawful means. The Region will only collect personal information in a manner that does not mislead or deceive the public about the purpose for the collection.

5.05 Principle 5. Limiting Use, Disclosure and Retention

Personal Information shall only be used or disclosed by the Region in a manner consistent with the purposes for which it was collected or as otherwise permitted by law. The Region will only retain personal information for as long as necessary to fulfill the purposes for which the information was collected, except with the consent of the individual to whom the information relates or as permitted or required by law. The Region has in place a Records and Information Management (RIM) Manual that provides for the management of information within the Region and a Corporate Classification Scheme/Records Retention By-Law that sets a timetable for the life of records from its creation to its final disposition. Personal information that has been used to make a decision about an individual will be retained long enough to allow the individual access to the information after the decision is made. Personal information that is no longer required to fulfill the identified purposes will be destroyed, erased, or made anonymous.

5.06 Principle 6. Accuracy

To the extent reasonably possible, personal information used by the Region will be as accurate, complete and up-to-date as is necessary for the purposes for which it is to be used. This will minimize the possibility that incorrect information will be used to make a decision about an individual.

The Region will not routinely update personal information unless this is necessary to fulfill the purposes for which the information was collected. Individuals generally have the right to access their own personal information and to request and obtain corrections to any inaccuracies found in those records where warranted. Where an individual is unsuccessful at having a record of their personal information corrected, they may prepare a statement to attach to the record, outlining their objection to its accuracy.

Where personal information is disclosed by the Region for authorized purposes, any limitation on the accuracy of the information will also be disclosed.

5.07 Principle 7. Safeguards

The Region has implemented safeguards that are reasonably appropriate to the sensitivity and amount of personal information that is held by the organization. These safeguards will protect the information against loss or theft as well as unauthorized access, disclosure, copying, use or modification. The methods of protection include:

Physical Measures

- File cabinets are secured when not in active use, and access is restricted to offices where personal information is held
- Records containing personal information about an individual may only be kept in a place under the control of the HIC if the record is kept in a secure manner and with the consent of the individual.

Organizational Measures

- Access is restricted to staff requiring the information in the performance of their duties, to improve customer service and to develop new programs and services.

Technological Measures

- Secure computer networks are maintained with strong password access;
- Information Technology audits are performed at regular intervals;
- All electronic exchanges of personal information outside the computer network shall be strongly encrypted;
- The use of technology including portable computers and removable media by the Region and its agents is subject to specific policies and procedures under the responsibility of Corporate Services-Information Technology (see: Corporate Services-Information Technology Policies and Procedure Manual as may be amended).

The Region stresses to its agents and employees the importance of maintaining the confidentiality of personal information. The Region's Code of Ethics for Employees that states "employees shall not disclose any confidential information relating to the affairs of the Region shall be deemed to include personal and personal health information.

Utmost care will be used in the disposal and destruction of personal information, to prevent unauthorized individuals from gaining access to personal information. However, should any breach of security occur, the Region shall promptly advise the individual to whom the information relates as to the breach, and will take any other reasonable action to investigate and minimize the impact of the breach on individuals.

6. Principle 8. Openness about Personal Information Policies

- 6.01 This policy or a summary of its contents shall be made readily available to the public, including those individuals whose personal information is held by the Region through the Region's website and brochures. Members of the public shall be advised that any questions relating to this policy may be addressed to the:

Regional Clerk
Legislative Services Division-Corporate Services
The Regional Municipality of Durham
605 Rossland Road East
P.O. Box 623
Whitby, Ontario L1N 6A3
<http://www.durham.ca>
Tel: 905-668-711
Toll Free: 1-800-372-1102

7. Principle 9. Access to Personal Information

- 7.01 An individual has the right of access to his or her own personal information with certain exceptions specified in the applicable privacy legislation. In the request for information, the individual may be required to provide sufficient detail to enable a knowledgeable employee to identify and locate the record with reasonable efforts.
- 7.02 Access may be obtained on an informal basis, directly from the Department, Division or Program that holds the personal information (where known by the individual making the request). Where the request is reasonably straight forward, access may be granted, as soon as is reasonably possible.
- 7.03 Alternatively, a formal request for access may be made (or may be required to be made) to the Regional Clerk at the above address. Formal requests shall be made in writing, accompanied by a \$5.00 application fee in the form of a cheque or money order, payable to the Region of Durham.
- 7.04 Fees can be charged for photocopies and computer costs as specified under MFIPPA but fees cannot be charged for search or preparation time for personal information (fees may also be charged for searching for and preparing non-personal general information). Before giving access to a record, the person requesting access shall be given a reasonable estimate of the amount they will be required to pay that is over \$25.00. If the fee estimate is over \$100.00, the Region may request a deposit equal to 50 per cent of the estimated fee before processing the request. The requester may ask the IPC to review the amount of the fee or the Regional Clerk's decision not to waive the fee for reasons specified under the applicable privacy legislation. The Region will follow the fee schedule specified under MFIPPA for PHIPA unless other fee schedule is set for PHIPA.
- 7.05 Access will be granted as soon as is reasonably possible, or within thirty (30) calendar days unless an extension is required. If an extension is required it is one time extension, must be for the reasons specified under the applicable privacy legislation and the requester must be

notified in writing. If access to information is denied or records are severed, the reasons for denying or restricting access will be provided to the requester and may include that the information:

- Contains references to other individuals that have not consented to the release of their personal information;
- Is prohibitively costly to provide;
- Is subject to an exemption; or
- May be otherwise withheld as permitted or required by law.

8. Principle 10. Challenging Compliance

Individuals who have questions or concerns about the privacy practices of any Regional Department may first address their concerns informally with a Departmental Coordinator.

Step 1

If an individual feels that privacy rights have been contravened or that the Region has not complied with this policy, the complaint must be made in writing within thirty (30) calendar days by either:

- Confirming the complaint, and outlining the actions taken or to be taken to address the concerns outlined in the complaint; or
- Denying the complaint and setting out the reasons for denying the complaint.

Step 2

If an individual is not satisfied with the action(s) taken in Step 1, a complaint or an appeal can be made in writing to the:

Information and Privacy Commissioner/Ontario (IPC)
2 Bloor Street East, Suite 1400
Toronto, Ontario M4W 1A8
1-800-387-0073
www.ipc.on.ca

If a complaint is found to be justified, the HICs will take appropriate measures, including, amending this policy and any related practices. In the case of an appeal, an Order is issued by the IPC and the Region must comply with the Order.

9. References-Related Documents

- Municipal Freedom of Information and Protection of Privacy Act (MFIPPA);
- Personal Health Information Protection Act (PHIPA);
- Code of Ethics-Employees;
- By-law to designate a Head of the Regional Municipality of Durham for the purposes of MFIPPA and PHIPA;
- By-law to provide for periods of retention for and destruction of records and a Corporate Classification Scheme (CCS) (Schedule A of the Records Retention By-law);
- Durham Region Health Department Privacy;
- Corporate Services – Information Technology Policies and Procedures Manual related to personal information.

10. Inquiries

For additional information regarding this policy please contact the Regional Clerk/Director of Legislative Services.