

By-law Number 41-2018
of The Regional Municipality of Durham

Being a by-law to authorize the Routine Disclosure and Active Dissemination Policy.

Whereas under Section 253 of the *Municipal Act, 2001 c.25*, subject to the *Municipal Freedom of Information and Protection of Privacy Act*, any person may at all reasonable times, inspect any of the records under the control of the Regional Clerk;

And Whereas under Section 254 of the *Municipal Act, 2001 c. 25*, a municipality shall retain and preserve the records of the municipality and its local boards in a security and accessible manner;

And Whereas under Section 391 of the *Municipal Act, 2001, c. 25*, authorizes a municipality to impose fees or charges on persons, for services or activities provided;

And Whereas the Regional Municipality of Durham is committed to ensuring the public are provided with government records and information easily, informally, and in accordance with the Region's commitment to accountability and transparency, as well as the principles of the *Municipal Act*, PHIPA and MFIPPA and therefore deems it expedient to adopt a Routine Disclosure and Active Dissemination Policy.

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

1. That the Regional Council of The Regional Municipality of Durham adopt the Routine Disclosure and Active Dissemination Policy in accordance with Schedule "A" attached hereto and forming part of this By-law.
2. That a condition to Paragraph 1 of this By-law be that the Fees under Section 4 of the Routine and Active Dissemination Policy come into force upon being added to Purchasing By-law No. 68-2000 with the corresponding amendments and adopted by Regional Council.
3. That this By-law comes into force upon its adoption

This By-law read and passed on the 25th day of July, 2018.

G.L. O'Connor, Regional Chair and CEO

R. Walton, Regional Clerk



Regional Municipality of Durham
Corporate Services
Policy and Procedures Manual

Title: Routine Disclosure and Active Dissemination Policy		
Policy #:	Issued: DRAFT	Page #: 1 of 5
Revised:		
Approved by: Commissioner of Corporate Services		
Responsibility: Corporate Services – Legislative Services		Section: RIM

1. Policy

The Regional Municipality of Durham will routinely provide information to the public, to engage citizens and encourage public access to information that matters the most to them. The Region will utilize open and fair practices to provide for the routine disclosure of information in an efficient and cost effective manner, while ensuring compliance with applicable legislation, and safeguarding confidentiality and personal privacy.

Regional departments shall provide public access to information by making certain records routinely available in response to information requests or by means of periodically releasing certain records. This will ensure information held by the Region is made available to the public, and any exceptions to this should be limited and specific.

1.1 Purpose

This policy identifies the requirements for Regional departments to develop Routine Disclosure and Active Dissemination (RD/AD) Plans for routinely releasing or automatically making available certain records to the public. In order to ensure that an appropriate balance exists between ease of access to information and protection of privacy and of confidential information, Regional departments will adhere to the requirements of the Municipal Freedom of Information Protection of Privacy Act (MFIPPA) in respect of exemptions to disclosure of personal information, proprietary third party information, and other confidential information.

MFIPPA provides the public a formal right of access to records that are in the Region’s custody, or under its control, subject to limited and specific exemptions to disclosure. While the Region may legitimately require that formal access requests be submitted in respect of certain types of records for a variety of reasons, a practice of providing RD/AD for “everyday” non-confidential records is beneficial as it allows the Region to:

- Make more records available to the public and ensure that information is easily accessible to the residents of the Region of Durham.
- Proactively streamline the access to information process.
- Reduce staff time in responding to formal requests for information, resulting in great cost efficiencies.
- Assist in reducing administrative costs.
- Provide greater accountability and transparency in its day-to-day operations.
- Ensure a balance between providing greater access to Regional information while at the same time protecting personal and confidential information.

RD/AD is consistent with the Information and Privacy Commissioner/Ontario’s access by design principles and existing Region practices to make certain information available to the public, such as open data initiatives.

1.2 RD/AD Plan

All regional departments shall establish a RD/AD Plan that identifies official records that are to be disclosed without a requirement for submission of a formal access to information request. The plan must also state the method by which the department will make the records available to the public, either in response to an informal request from the public or a periodic release of information.

The development of a RD/AD Guideline will follow this Policy to assist staff in developing their RD/AD Plan. The guideline will identify among other things, the types of records that are not suitable for RD/AD and the specific types of information that must be excluded (severed) within records prior to disclosure.

2. Definitions

Confidential Information: Includes information in the possession of or received in confidence by the Region.

Note: MFIPPA restricts or prohibits disclosure of information based on defined exemptions, for example, trade secrets, law enforcement investigations, corporate, commercial, scientific or technical information received from third parties in confidence, information that is subject to solicitor-client privilege, matters related to an identifiable individual, personal, labour relations, litigation, property acquisition and the security of property of the municipality or local board.

MFIPPA: Municipal Freedom of Information and Protection of Privacy Act.

Open Data: Data that can be freely used, reused and redistributed by anyone - subject only, at most, to the requirement to attribute and share alike.

Personal Information: Personal Information means recorded information about an identifiable individual, including:

- Information relating to the race, national or ethnic origin, religion, age, gender (sex), sexual orientation or marital or family status of the individual.
- Information relating to the education or the medical, 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 home address, telephone number and email address of the individual.
- Fingerprints or blood type of the individual.
- The personal opinions or views of the individual except if they relate to another individual.
- The views or opinions of another individual about the individual.
- Correspondence sent to the Region by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence.
- The individual's name if it appears with other personal information relating to the individual or where disclosure of the name would reveal other personal information about the individual.

Records Security Classification: Assesses the sensitivity and importance of Regional records. Access and security controls operate as a dual system that security classifications are applied to information in conjunction with access restrictions being applied to personnel.

Routine Disclosure and Active Dissemination (RD/AD): Routine disclosure (RD) is the routine or automatic release of certain records in response to information rather than formal requests made under MFIPPA. Active Dissemination (AD) is the periodic release of certain records in the absence of a request, for example periodic posting of operational records to the Region's website.

3. Procedures

- Requests for information received from a member of the public that departmental staff wouldn't provide in the normal course of business, should be directed to the Corporate Services Department, Legislative Services Division for review and disclosure under the MFIPPA process.
- Requests for information that is routinely made available may be submitted verbally, by fax, email or in writing by regular mail. The Region reserves the right to require that a request for information be submitted in writing where the verbal request is unclear or where the information being requested is of a personal, detailed or sizeable nature.
- Where it is reasonable and practical, individuals may visit the Regional department to review public records. Upon request, the department will provide the requestor with the specified records in a designated area in the office. The public records must remain in the department.
- Information requests for information that is routinely and easily available will be provided as soon as possible, but no later than 10 business days following the request.
- Information requests for information that is not routinely and easily available (information that is aged, sizeable amounts of information or information requiring research) will need to be assessed by the department and a determination made as to the amount of staff time required and applicable fees and charges to provide the information. The requestor will be provided with a response outlining time frames and fees no later than 10 business days after submitting the request. Upon authorization of the requestor, the information will be provided no later than 30 business days after the response is provided to the requestor.

4. Fees

Fees are not applicable for requests and searching for information that is routinely and easily available up to a limit of 12 requests per calendar year. After 12 requests per year, the Schedule of Fees and Charges listed below is applied to each request. However, the aforementioned fees do apply if the information is readily available on the Regional website but the requester requests that staff search and provide the information.

- Request for Information - \$5.00
- Developing a Computer Program - \$15.00 per 15 minutes
- External Costs - as invoiced
- Disks/CD - \$10.00 each
- Manual Search - \$7.50 per 15 minutes
- Photocopies - \$0.20 per page
- Preparing Record for Disclosure - \$7.50 per 15 minutes

5. Roles and responsibilities

5.1 Department Heads

- Actively support and promote compliance with the Routine Disclosure and Active Dissemination policy.
- Ensure RD/AD Plans are developed for their Department.
- Ensure annual review of RD/AD Plan is conducted.

5.2 Management

- Directors/Managers shall develop RD/AD Plans for their divisions, identifying records suitable for inclusion.
- Refer to the Region's Directory of Records to identify general classes of records and personal information banks held within their respective departments.
- Provide Department Heads with updates or modifications to the RD/AD Plan with respect to their area as new classes of records are created; existing classes are deleted, or as otherwise needed.
- Ensure RD/AD Plans are forwarded to the Office of the Regional Clerk to ensure the records security classification is updated on the Corporate Classification Scheme identifying records routinely provided to the public.
- Provide the Office of the Regional Clerk with annual statistics on numbers of routine disclosure requests received in order to calculate performance metrics measures for the organization.
- Ensure RD/AD Plans are developed using the RD/AD Guideline.
- Ensure staff is trained on the RD/AD Plan to ensure compliance with this policy.

5.3 Employees

- All employees must comply with the Routine Disclosure/Active Dissemination Policy and applicable departmental AD/RD Plan(s).

6. Application

This policy applies to all Regional employees and to all records in the custody and under the control of the Region. Personal and constituency records of the Region's elected representatives are not considered to be in the custody and control of the Region and therefore not subject to this policy.

7. References

7.1 Corporate Policy and Procedures Manual including the following policies:

- Open Data Policy #14.22

7.2 Information Management References

- Access and Privacy User Manual
- Municipal Freedom of Information Search Tip Sheet
- Routine Disclosure and Active Dissemination Guidelines for Staff
- Access and Privacy Guidelines for Councillors

8. Inquiries

For further information regarding this policy contact the Corporate Services Department, Legislative Services Division.