

Anonymity of Applicants

Overview

Section 12 of the *Access to Information and Protection of Privacy Act, 2015*, (“ATIPPA, 2015” or the “Act”) requires that the name and type of the applicant remain confidential and only disclosed to certain individuals within the public body:

12.(1) The head of a public body shall ensure that the name and type of the applicant is disclosed only to the individual who receives the request on behalf of the public body, the coordinator, the coordinator’s assistant and, where necessary, the commissioner.

(2) Subsection (1) does not apply to a request

(a) respecting personal information about the applicant; or

(b) where the name of the applicant is necessary to respond to the request and the applicant has consented to its disclosure.

(3) The disclosure of an applicant’s name in a request referred to in subsection (2) shall be limited to the extent necessary to respond to the request.

(4) The limitation on disclosure under subsection (1) applies until the final response to the request is sent to the applicant.

Preserving an applicant’s anonymity is grounded in the duty to assist. Anonymity ensures that public bodies respond to requests in an open, accurate, and complete manner and process requests fairly and without bias or the perception of bias. The [Report of the 2014 Statutory Review of the Access to Information and Protection of Privacy Act](#) noted at page 47:

Requests for information should be anonymized (except in the case of requests for personal information or where the identity of the requester is necessary to respond to the request) before they leave the hands of the coordinator. The coordinator should be the only person to communicate with the requester, and therefore needs delegated authority from the head of the public body. Administrative sanctions should be envisaged for those who attempt to interfere in the integrity of the ATIPP process.

Disclosure of Applicant’s Identity

Generally, only the ATIPP coordinator, the coordinator’s assistant (i.e. back-up coordinator or ATIPP administrative staff) and the person who received the request are entitled to know the identity of the applicant. However, there are limited exceptions:



Office of the Information and Privacy Commissioner
P.O. Box 13004, Station “A”, St. John’s, NL A1B 3V8
Telephone: (709) 729-6309 or 1-877-729-6309 Fax: (709) 729-6500
E-mail: commissioner@oipc.nl.ca www.oipc.nl.ca

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- i. if the request is for the personal information of the applicant and a search for records must be conducted by persons other than those listed above, the identity of the applicant may be disclosed to the individuals who must conduct searches; or
- ii. where the name of the applicant is otherwise necessary to respond to the request and the applicant has consented to the disclosure, the identity of the applicant may be disclosed to achieve that purpose.

Even where one of these exceptions applies, the disclosure of the applicant's personal information must be limited to the extent necessary to respond to the request.

To ensure that the disclosure of applicants' identities is appropriately limited, public bodies should clearly identify the back-up coordinator(s) and coordinator's assistants within their organizations. Additionally, public bodies should provide contact information for the back-up coordinator(s) to the Access to Information and Protection of Privacy ("ATIPP") Office of the Department of Justice and Public Safety. However, simply being identified as being a back-up coordinator or assistant does not mean those individuals are routinely entitled to know the identity of an applicant. The identity of an applicant should only be disclosed to those individuals where it is necessary to respond to the request (i.e. those individuals are involved in the processing of the request). Generally, a brief absence of a coordinator does not require others to know the identity of an applicant unless urgent action is necessary in order to meet timelines in *ATIPPA, 2015*.

The requirement for anonymity applies to both the first and last name of the applicant or any other means of identification including nicknames. Consequently, referring to an applicant by only a first name, last name or initials or any other similar means will not meet the anonymity requirement. Anonymity also extends, until the response is issued, to the type of applicant, such as: "media", "employee", "political party", or "individual", etc.

This Office appreciates that there may be instances where, by virtue of the wording or nature of the request, or by the actions of the applicant, it may be possible to infer the identity of the applicant. In those instances, coordinators must decline to confirm or deny any speculation.

Anonymity During Consultations

Anonymity of the applicant encompasses not only interactions within a public body, but also any permitted consultations that may occur during the processing of the request. Where it is necessary to seek assistance in locating records or consult with another public body or third party, the coordinator should only provide those involved with the wording of the request without identifying the applicant.

Anonymity Following an ATIPP Request

The limitation on disclosure extends only until the public body provides its final response to the applicant. However, public bodies are still not permitted to disclose the identity of an applicant after this time simply for informational purposes or to confirm speculation. Section 68 of *ATIPPA, 2015* prescribes when personal information may be disclosed and requires that only the minimum amount necessary be disclosed. Unless the identity of the applicant

becomes necessary in relation to one of the permitted disclosures, it should not be disclosed.

Anonymity when Responding to a Commissioner’s Report

If a complaint is subsequently filed with this Office which results in a Commissioner’s Report being issued, then the Act requires a public body to provide written notice of its decision, in relation to the recommendations, to the Commissioner and all persons who received a copy of the Commissioner’s Report. The notice must be in writing, however, the Act is silent as to its format. In instances where more than one individual received a copy of the Report, public bodies must be cautious in copying all parties on one notification letter. In these instances, public bodies must not disclose personal information in the copy line. The copied parties should simply be referred to as “Applicant”, “Third Party”, etc.

Anonymity in Court Proceedings

Where a public body chooses to seek a declaration not to comply with a recommendation of the Commissioner, a copy of the application for a declaration must be served on the Commissioner, the Minister of the Department of Justice and Public Safety, and all parties who were sent a copy of the Commissioner’s Report. While the Complainant must be served with a copy of the application for a declaration, the Complainant is not a Respondent to the application and should not be named in the application. While the Court may later require that the identity of the Complainant be disclosed – and the Complainant should not be assured of anonymity at this stage for this reason – unless this occurs, the identity of the Complainant should not be provided in the court documents.

Furthermore, as with a public body’s response to a Commissioner’s Report, if more than one party is receiving the same copy of the declaration, public bodies must not disclose personal information in the copy line.

Measures to Assist in Ensuring Anonymity

- 1) Refer to an applicant as “the applicant” or by an assigned request number.
- 2) Remove the name and address of the applicant on correspondence related to the request, other than correspondence solely to the applicant.
- 3) If final sign-off has not been delegated to the coordinator, the head of the public body should review and approve the final response before being provided with correspondence containing the name of the applicant.
- 4) If an access request is made by an employee, documents associated with the request should not be placed on the employee’s personnel file.
- 5) Ensure that any verbal or written references to other on-going or past requests by the applicant, of any type, do not reveal the identity of the applicant.
- 6) Restrict access to ATIPP request documents, both electronic and paper.
- 7) Anonymize the wording of the request, where necessary, and ensure any written search instructions do not contain personal information.
- 8) Develop and implement a policy for preserving the anonymity of applicants.