

Municipal Matters: Tips for Councillors

PURPOSE

This guidance touches on some key aspects of the **Access to Information and Protection of Privacy Act, 2015** (ATIPPA, 2015) that councillors need to be aware of, including records management, designating the Head, designating an ATIPP Coordinator, handling personal information, safeguarding personal information, and the disclosure of personal information about councillors.

RECORDS MANAGEMENT

ATIPPA, 2015 applies to all records in the custody or control of a municipality. The physical location of records is just one of many factors to consider in assessing custody and control. Records not physically on municipal property or in its IT network can still be accessed under ATIPPA, 2015 if they are in the control of the municipality. Records are considered to be in the control of a municipality if the contents of the records relate to a municipal matter and the municipality could reasonably expect to obtain a copy of the records upon request.

This includes all emails sent on a municipally “owned” email system and also any records created or stored on personal devices or in personal email systems that relate to municipal business. In order for the municipality to remain accountable and transparent, the municipality must have access to all its records, regardless of where they are stored.

DESIGNATING THE HEAD

ATIPPA, 2015 requires municipalities to designate a “head” of the municipality for the purpose of making and being accountable for decisions under this legislation. This can be one person or a group of people. If councillors are not designated as the head (either individually or as a group), they have no authority to make decisions for the municipality under ATIPPA, 2015, including decisions about what information can be disclosed to a person that has made an access to information request. They are also not entitled to ask or be advised as to the identity of the applicant making a request; section 12 protects the anonymity of the applicant to best avoid bias concerns and to depoliticize the process of answering access to information requests.

OIPC recommends a permanent employee of the municipality be designated as the head in order to avoid any apprehension of bias and to depoliticize the process of answering access to information requests.

DESIGNATING A COORDINATOR

In addition to the head, the municipality also has a “coordinator”, often known as the ATIPP Coordinator, who is responsible for responding to requests for information. This person may ask you to search your records to determine if you have anything responsive to a request or may independently search for the records, including email accounts and text messages. If you are asked to conduct a search, all records found must be turned over to the coordinator. The coordinator then reviews and assesses whether the records can be disclosed in full or whether redactions should be made prior to disclosure. The identity of the requestor is known only to the coordinator and must remain confidential, often even after the request has been fulfilled.

HANDLING PERSONAL INFORMATION

In the course of your duties as councillor, you may be given access to the personal information of employees, residents, or other councillors. In keeping with the privacy provisions of ATIPPA, 2015, the personal information that is disclosed to you must be the minimum amount necessary (unless, of course, the person whom the information is about has consented to the disclosure). Similarly, you have a duty to use or disclose the personal information only for the purpose it was shared with you, and again it should be the minimum amount necessary. A disclosure of personal information by you that is not in accordance with ATIPPA, 2015 is a privacy breach. The municipality’s ATIPP Coordinator may be able to help you determine what an appropriate disclosure is. The ATIPP Office is also there to assist with questions about ATIPPA, 2015 and how to implement its requirements at 709-729-7072, 1-877-895-8891 or atippoffice@gov.nl.ca. You can also contact OIPC for general information (see below for contact information).

SAFEGUARDING PERSONAL INFORMATION

Personal information held by the municipality must be adequately protected. ATIPPA, 2015 requires that municipalities take reasonable safeguards to protect the personal information in its custody or control against theft, loss, unauthorized collection, use, disclosure, unauthorized copying, or modification, and to ensure that it is retained, transferred, and disposed of in a secure manner. What is reasonable will depend on several factors, including the sensitivity of the personal information and the cost of the safeguards. If personal information must leave the municipality’s offices, it should be properly secured in a locked briefcase (for paper files), or on an encrypted portable device. Never leave records containing personal information in vehicles or otherwise unsecured when you leave your office. Laptops and other electronic devices issued to councillors should be password protected and regularly updated with security software. Adding personal software and other non-work related applications to municipality-owned electronic devices should be prohibited.

DISCLOSURE OF PERSONAL INFORMATION OF COUNCILLORS

Some personal information about you may be disclosed under ATIPPA, 2015. This information includes your position and functions as a councillor, your salary, opinions given by you in your role as councillor (unless they are opinions about a person other than the person seeking records), and expenses you incurred while travelling at the expense of the municipality.

More detailed information about how ATIPPA, 2015 applies to municipalities can be found in the [ATIPPA - Guidelines for Municipalities](#), published by the ATIPP Office.

Contact OIPC with any questions:

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