

Routine Disclosure and Active Dissemination Policy

Policy Statement

This policy supports the strategic principle that “The City of Hamilton (City) is committed to promoting an open approach to government. Ensuring public information is readily available and accessible” and uses the fundamentals of *Access by Design* as set out by the Information and Privacy Commissioner of Ontario. The City, as a public entity, recognizes that the information that it holds was created through the provision and management of city services. Through routine disclosure and active dissemination, the City will proactively identify and share information that is under its custody and control. Any exceptions to this policy should be limited and specific.

The City and its departments shall provide public access to information by making records routinely available in response to requests for access or by means of periodically releasing identified allowable records. These Routine Disclosure and Active Dissemination (RD/AD) Plans will be implemented at the Division level.

The formal application through the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) process will be used for those records which are not routinely released by Departments/Divisions.

Purpose

The purpose of this policy is to support the strategic direction set out in the City of Hamilton Strategic Plan 2016-2025. This policy identifies the requirement for City Departments to develop Plans for routinely releasing or actively making available certain records to the public. City Departments will adhere to the requirements of MFIPPA in respect of exemptions to disclosure for 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 City’s custody, or under its control, subject to limited and specific exemptions to disclosure. While the City 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 Routine Disclosure and Active Dissemination for “everyday”, non-confidential records is beneficial as it allows the City to:

- Make City records available to the public and ensure that information is easily accessible to the residents of Hamilton;
- Proactively streamline the access to information process;

- Reduce staff time in responding to formal requests for information, resulting in greater cost efficiencies;
- Assist in reducing administrative costs;
- Provide greater accountability and transparency in its day-to-day operations; and
- Ensure a balance between providing greater access to City information while at the same time protecting personal and confidential information.

RD/AD is consistent with the Information and Privacy Commissioner of Ontario's Access by Design principles and existing City practices to make certain information available to the public.

Application

This policy applies to all City staff and to all records in the custody and under the control of the City of Hamilton. Personal and constituency records of Members of Council are not considered to be in the custody and control of the City and therefore not subject to this policy.

Policy Requirements

With guidance from the Corporate Access and Privacy Team (Access & Privacy), every Division shall establish a Routine Disclosure and Active Dissemination Plan that identifies:

1. Official Business Records that are to be disclosed through routine disclosure requests;
2. The method by which the Divisions will make the records available through routine disclosure or active dissemination;
3. All Department/Division Routine Disclosure and Active Dissemination Plans shall be approved by the Access & Privacy Team. The following underlying principles shall guide the development of the RD/AD Plan by each Division:
 - (a) The focus on identifying records that are subject to RD/AD processes should be on records that are of interest to the public, for which there are no exemptions to disclosure under MFIPPA, and that do not contain any Confidential Information. Classes of records which are often requested and regularly released should be considered for inclusion in the RD/AD Plan;
 - (b) In determining which records are to be subject to RD/AD, staff should not consider the identity of requester(s);
 - (c) Service Excellence should always be considered when developing RD/AD Plans, and the method by which the records are disseminated should provide the public ease of access to the information;

- (d) New programs and policies should be developed with an understanding of the routine disclosure and active dissemination opportunities, and these should be incorporated into any related staff report and/or division RD/AD Plans; and
- (e) The Division shall review and update RD/AD Plans routinely. Plans will be made available to the public on the City's website.

A Routine Disclosure and Active Dissemination guideline will be developed to assist departments with identifying 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.

When the Access and Privacy Team receives a request under MFIPPA that should be released as routine disclosure, team staff will direct the request to the responsible department and, where necessary, assist staff in understanding their obligations to release the information. A similar approach will be taken where possible with respect to requests received under the *Personal Health Information Protection Act*, relating to requests by individuals for their own personal health information.

Responsibilities

All City staff must comply with the Routine Disclosure and Active Dissemination Policy and with the applicable Division's RD/AD Plans.

Senior Management will be responsible for promoting compliance with this policy and ensuring RD/AD Plans are developed in consultation with the Access & Privacy Team. Senior Management shall also ensure that a review of the RD/AD Plan, as it relates to their respective area, occurs at a minimum of once a year.

Directors and Managers are responsible for identifying records suitable for RD/AD in their own respective areas. Updates and/or modifications to the RD/AD Plan shall be provided to their General Manager as new classes of records are created or modified, existing classes are deleted, or as otherwise needed.

The Corporate Access & Privacy Team shall work with all Departments/Divisions to identify types of records suitable for routine and active dissemination and be responsible for approving all RD/AD Plans to ensure compliance with this policy and MFIPPA.

Monitoring

The City Clerk shall be responsible for receiving complaints or concerns related to this policy.

Legislative and Administrative Authorities

The *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) governs the collection, use and disclosure of information by certain institutions in Ontario including municipalities, public library boards, and police services boards. The purpose of MFIPPA is to provide a right of access to information in the custody of and under the control of the institutions with the principle that information should be made available to the public and that necessary exemptions from the right of access should be limited and specific. The purpose of MFIPPA is also to protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information.

Definitions

Confidential information means information that is subject to the exemptions to disclosure found in s. 9 (Relations with Governments), s. 10 (Third Party Proprietary Information) and s. 14 (1) (Personal Privacy) of MFIPPA, as well as any other information that the City deems to be confidential.

MFIPPA means the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56, as amended, and includes any regulations passed under it.

Official Business Record means an original record, generated or received, in the City's custody and control that serves important functions of the City supporting program delivery or policy development, committing the City to action, meeting legal, financial, operational and other official requirements, or providing evidence of obligations, responsibilities, decisions and actions;

Open Data is a practice requiring that certain data be made freely available to the public, in machine readable format without restrictions from copyright, patents or other mechanisms of control. Open Data focuses on non-textual material such as geographic data, schedules, statistics, and demographic data.

Personal Information as defined in MFIPPA means recorded information about an identifiable individual, including,

- a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- b) 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;
- c) any identifying number, symbol or other particular assigned to the individual;
- d) the address, telephone number, fingerprints or blood type of the individual;
- e) the personal opinions or views of the individual except if they relate to another individual;

- f) correspondence sent to an institution 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;
- g) the views or opinions of another individual about the individual;
- h) 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;

Record means information however recorded or stored, whether in printed form, on film, by electronic means or otherwise, and includes but is not limited to documents, financial statements, minutes, accounts, e-mails, correspondence, memoranda, plans, maps, drawings, photographs, and films, complete and unchanged;

Responsible Department refers to the department, division, or service area which holds custody and control of the original records for the length of time required under the Records Retention By-law 11-040;

Routine Disclosure and Active Dissemination (RD/AD) are activities designed to provide greater access to government information. **Routine disclosure (RD)** is the routine or automatic release of certain records in response to informal rather than formal requests 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 City of Hamilton website.

Third Party Information is personal information of a person other than the requester or scientific, technical, commercial, financial or labour relations information supplied in confidence by someone other than the requester or the City of Hamilton.

References

Access by Design Principles – Information & Privacy Commissioner of Ontario
Municipal Freedom of Information & Protection of Privacy Act
Records Retention By-law 11-040, as amended