



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
City Clerk's Office

TO:	Chair and Members Audit Finance and Administration Committee
COMMITTEE DATE:	January 14, 2020
SUBJECT/REPORT NO:	Protection of Privacy Policy (FCS21003)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Lisa Barroso, Manager, Corporate Records and FOI (905) 546-2424 Ext. 2743
SUBMITTED BY:	Andrea Holland City Clerk, Office of the City Clerk
SIGNATURE:	

RECOMMENDATION(S)

- (a) That Report FCS21003 entitled Protection of Privacy Policy, be received;
- (b) That the Protection of Privacy Policy, attached as Appendix "A" to Report FSC21003, be approved; and,
- (c) That the request for 1 FTE to support the administration of the privacy policy, be referred to 2021 budget deliberations for consideration.

EXECUTIVE SUMMARY

The City is responsible for information assets created through the provision and management of city services. Staff are obligated to protect personal information under the *Municipal Freedom of Information & Protection of Privacy Act* (MFIPPA) and the *Personal Health Information Protection Act* (PHIPA). The City is committed to protecting the privacy of individuals while balancing an open, transparent and accessible approach to governing. While the Protection of Privacy Policy is not mandated through legislation, the Protection of Privacy Policy, attached as Appendix A, establishes accountability, roles and responsibilities and direction to support staff through legislated privacy requirements and guidelines. Once the Policy is approved, operational, support documentation and training will be provided to all staff.

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: An additional FTE is requested in the Records and FOI section of the Clerk's office in order to continue to support and educate staff in our legislated requirement to protect personal and confidential information. The total cost of an additional FTE is \$109,000.

Staffing: There are currently two Access & Privacy Officers supporting corporate staff in managing personal information and personal health information, with the exception of personal health information administered under programs supported by the Medical Officer of Health. The Access & Privacy Officers have been spending a majority of their time processing access requests for information due to the increased volume of requests being received in the past few years. This past year, there has been a notable increase in providing staff with privacy advice and support to ensure they are meeting their privacy obligations. Due to the heightened awareness of our privacy obligations, there has also been an increase in the number of privacy breaches reported and investigated by the FOI team. In addition to the increased workload, the team began preparing Privacy Impact Assessments (PIA) to support the heightened awareness and need to evaluate corporate initiatives to ensure the protection of privacy is embedded into the design and architecture of our systems and business practices. In order to fulfil the organizations obligations under MFFIPA, an additional staff position is required that focuses on education, investigations and privacy analysis.

Legal: We are obligated to administer Access & Privacy legislation.

HISTORICAL BACKGROUND

In the past, Committee discussions regarding the administration of MFIPPA were more focused on the public's right to access information. Issues regarding the protection of privacy were more prevalent this year. The City must be equally committed to protecting the privacy of individuals while balancing an open, transparent and accessible approach to governing. Staff require support in understanding the legislated requirements related to the protection of personal information in the City's custody or control.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Municipal Freedom of Information & Protection of Privacy Act* (MFIPPA) supports two key purposes:

- (a) to provide a right of access to information under the control of institutions in accordance with the principles that:
 - (i) information should be available to the public

- (ii) necessary exemptions from the right of access should be limited and specific, and
 - (iii) decisions on the disclosure of information should be reviewed independently of the institution controlling the information;
- (b) 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.

The purposes of the *Personal Health Information Protection Act* (PHIPA) are:

- (a) to establish rules for the collection, use and disclosure of personal health information about individuals that protect the confidentiality of that information and the privacy of individuals with respect to that information, while facilitating the effective provision of health care;
- (b) to provide individuals with a right of access to personal health information about themselves, subject to limited and specific exceptions set out in this Act;
- (c) to provide individuals with a right to require the correction or amendment of personal health information about themselves, subject to limited and specific exceptions set out in this Act;
- (d) to provide for independent review and resolution of complaints with respect to personal health information; and
- (e) to provide effective remedies for contraventions of this Act.

RELEVANT CONSULTATION

This policy has been reviewed by members of the Senior Leadership Team, Legal Services, Public Health, IT Security and Risk Management.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As a best practice, the adoption of a Protection of Privacy Policy outlines the organization's commitment to the protection of personal information assets that the City has custody and control over. It further outlines the roles and responsibilities of various staff positions across the organization. It is a key foundational policy for the management of the City's information assets.

The FOI team's workload increased substantially this past year to support the increased demand to provide advice and assistance relating to privacy matters. Privacy awareness will continue to be prevalent with the adoption and implementation of the Protection of

Privacy Policy. Staff will be required to take mandatory privacy training as part of implementing the policy to ensure staff are confident about their responsibilities to protect privacy. It will be important for the FOI team to be available to support staff, who are very likely to have questions and require continued guidance. As indicated, a new and additional volume of work will be realized through the preparation and review of Privacy Impact Assessments (PIA) to evaluate corporate initiatives to ensure the protection of privacy is embedded into the design and architecture of our systems and business practices. PIA's are an important process, designed to identify, assess and mitigate privacy risks, which supports the principles of *Privacy by Design*, developed by the Information & Privacy Commissioner of Ontario. There will also be continued work involved in developing and maintaining associated policies and procedures to support staff in their work. All of this important work cannot be sustained within the existing staff complement in the FOI section. Providing training to improve staff awareness of their obligations under MFIPPA and PHIPA is the basis of safeguarding personal information assets and preventing information incidents from occurring.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix A – Protection of Privacy Policy