



**CANCELLED**

**Official Notice**

**Special Meeting of Regional Council**

Regional Council Chambers  
Regional Headquarters Building, 605 Rossland Road East, Whitby

**Wednesday, July 4, 2018**

**11:00 AM**

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**ORDER OF BUSINESS**

**Call to Order**

**Roll Call**

**Declarations of Interest**

**Unfinished Business, Other  
Business & By-Laws**

**Section 5**

**Pages 501 – 525**

**Confirming By-Law**

- By-law to confirm the Proceedings of Council

**Adjournment**

**UNFINISHED BUSINESS, OTHER BUSINESS & BY-LAWS**

**July 4, 2018**

Other Business

1. Routine Disclosure and Active Dissemination By-law and Policy  
(2018-COW-139)
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Recommendations to Council:

- A) That the draft Routine Disclosure and Active Dissemination Policy (Attachment #1) be approved;
- B) That copies of the Routine Disclosure and Active Dissemination – Guidelines for Regional Staff (Attachment #2) and the Access and Privacy – Guidelines for Councillors (Attachment #3) be received for information; and
- C) That the draft Routine Disclosure and Active Dissemination By-law (Attachment #4) be approved.

(A copy of Report #2018-COW-139 is attached, see pages 502 – 525).

2. Appointment of Commissioner of Finance and Treasurer (2018-COW-150)  
**Report #2018-COW-150 to be provided as a handout at the meeting.**

By-laws

- 40-2018 Being a by-law to authorize the Routine Disclosure and Active Dissemination Policy.

This by-law implements the recommendations contained in Item #1 of Other Business presented to Regional Council on July 4, 2018.

- 41-2018 Being a by-law to appoint a Treasurer and Commissioner of Finance of The Regional Municipality of Durham.

This by-law implements the recommendations contained in Item #2 of Other Business presented to Regional Council on July 4, 2018.

Confirming By-law

- 42-2018 Being a by-law to confirm the proceedings of Regional Council at their meeting held on July 4, 2018.



# The Regional Municipality of Durham Report

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To: The Committee of the Whole  
From: Commissioner of Corporate Services  
Report: #2018-COW-139  
Date: June 6, 2018

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**Subject:**

Routine Disclosure and Active Dissemination By-law and Policy

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**Recommendation:**

That the Committee of the Whole recommends to Regional Council:

- A) That the draft Routine Disclosure and Active Dissemination Policy (Attachment #1) be approved;
  - B) That copies of the Routine Disclosure and Active Dissemination – Guidelines for Regional Staff (Attachment #2) and the Access and Privacy – Guidelines for Councillors (Attachment #3) be received for information; and
  - C) That the draft Routine Disclosure and Active Dissemination By-law (Attachment #4) be approved.
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**Report:**

**1. Purpose**

- 1.1 The purpose of this report is to seek Council approval of a Routine Disclosure and Active Dissemination (RD/AD) Policy (Attachment #1). Enquiries have been received from Councillors requesting that the Region provide information regarding the sharing of documents with Council members. This will enable the Region to meet its legislative requirements under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) of routinely or automatically making available certain records to the public. This will ensure that an appropriate balance exists between ease of access to information in the custody or under the control of the Region, while protecting the privacy of personal and confidential information.

## **2. Background**

- 2.1 The Region of Durham is committed to streamlining services and ensuring that information is available to members of the public, along with supporting a culture of open and transparent government. Formal Freedom of Information (FOI) requests should be used as a last resort to seek access to Regional 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.
- 2.2 At times, staff is unsure whether or not they should be providing information when a request has been made from a Councillor or member of the public. As such, a guideline entitled Routine Disclosure and Active Dissemination – A Guide for Regional Staff as set out in Attachment #2 to this report was created to assist staff in understanding the rules under MFIPPA that allow for the routine disclosure of information.
- 2.3 Similarly, Councillors are challenged with separating constituency information from Regional information. Information in Councillors' offices normally includes records pertaining both to constituency and the Region. Records created in connection with Regional business, e.g. a schedule of meetings or meeting agendas, are considered Regional records. Records related to the Councillor's responsibilities as a Member of Council or to some aspect of Regional Council's mandate (e.g. as a member of a standing committee or special task force), are subject to the provisions of MFIPPA.
- 2.4 The Region's Council Code of Conduct places an obligation upon Members not to secure or attempt to secure information from Regional officials to which they are not entitled to have access.
- 2.5 Guidelines to Access and Privacy for Councillors as set out in Attachment #3 to this report has been created to give Councillors a clear understanding of their rights and obligations in their role to reduce the potential risks of mishandling Regional information.

## **3. Conclusion**

By implementing Routine Disclosure and Active Dissemination practices at the Region, we will streamline citizen access to Regional information, reduce staff time and costs associated with processing requests for information, and adhere to legislated requirements.

## **4. Attachments**

- Attachment #1: Draft Routine Disclosure and Active Dissemination Policy
- Attachment #2: Routine Disclosure and Active Dissemination – Guidelines for Regional Staff
- Attachment #3: Access and Privacy – Guidelines for Councillors
- Attachment #4: Draft Routine Disclosure and Active Dissemination By-law

Respectfully submitted,

Original signed by

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Don Beaton, BCom, M.P.A.  
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

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G.H. Cubitt, MSW  
Chief Administrative Officer



**Regional Municipality of Durham**  
 Corporate Services  
 Policy and Procedures Manual

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

## 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.



# Routine Disclosure and Active Dissemination

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## Guidelines for Regional Staff

# Contents

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<b>Routine disclosure and active dissemination guidelines .....</b>	<b>3</b>
Overview .....	3
Principles of the RD/AD plan .....	3
Council documents.....	4
Reports and proposals .....	4
Law enforcement reports.....	5
Confidential information from another government.....	5
Confidential information from a third party.....	5
Personal information .....	5

## Routine disclosure and active dissemination guidelines

### Overview

One of the key principles of the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) is that "information should be available to the public." MFIPPA provides for a right of formal access to records through filing an access request. However, MFIPPA also provides that the Municipality may establish a routine disclosure program, when there is nothing in the Act to prevent the Municipality from giving access to information. It's important to note that the rules governing access and privacy under MFIPPA apply to both formal and information requests for information.

The Regional Municipality of Durham routinely provides information to the public, to engage citizens and encourage public access to information that matters the most to them. The Region utilizes 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.

The following guideline outlines the main rules in MFIPPA that allow for the routine disclosure of information. It will assist staff in developing departmental Routine Disclosure and Active Dissemination (RD/AD) Plans identifying records that should be routinely provided or automatically made available to the public.

### Principles of the RD/AD plan

The following underlying principles shall guide the development of the RD/AD Plan:

- All department RD/AD Plans need to be approved the by Regional Clerk to ensure MFIPPA requirement are met.
- The focus on identifying records that are subject to RD/AD processes should be based 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.
- In determining which records are to be subject to RD/AD, staff should not consider the identity of requestor(s).
- 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 information.
- New programs and policies should be developed with an understanding of the routine disclosure and active dissemination opportunities, and this should be incorporated into any related staff report and/or department RD/AD Plan.
- The department shall review and update RD/AD Plan(s) annually.

## Council documents

Many Council related documents are routinely available to the public. Under the Municipal Act, 2006, the Municipal Clerk must make publicly available:

- Regional by-laws and resolutions.
- Minutes and proceedings of regular, special or committee meetings of Council, whether the minutes and proceedings have been adopted or not.
- Records considered at a meeting, except those records considered during that part of a meeting that was closed to the public ("in camera" meeting).
- The records of Council.
- An itemized statement on remuneration and expenses paid in the previous year to each member of Council and each person appointed by the Region to serve as a member of any body.

This public access is limited by the exemptions in MFIPPA. The Region may refuse to disclose:

- A draft by-law.
- A record that reveals the substance of deliberations of a meeting of Council or a committee, where the Municipal Act, 2006 authorizes holding that meeting in the absence of the public ("in camera" meeting).

However, the Region may not apply this exemption to:

- Draft by-laws that have been considered in a meeting open to the public.
- Records of an "in camera" meeting, where the subject matter of the deliberations has been considered in a meeting open to the public.
- Records that are more than 20 years old.

## Reports and proposals

The Region may refuse to disclose under MFIPPA, records that would reveal the advice or recommendations of a Regional employee or consultant. This is discretionary, so the Region may also choose to disclose such information. It is best to speak to your Records Analyst in the Legislative Services Division for advice on these matters.

There is a long list of exceptions to this rule. The Region may **not** use this exemption to refuse access to:

- Factual material.
- Statistical surveys.
- Reports by a valuator.

- Environmental impact statements or similar records.
- Reports or studies on the performance or efficiency of the Region.
- Feasibility studies or other technical studies, including a cost estimate, relating to a Region policy or project.
- Reports containing the results of field research undertaken before the formulation of a policy proposal.
- Final plans or proposals to change a Regional program, or for the establishment of a new program, including a budgetary estimate for the program.
- Reports of internal committees or similar bodies, established for the purpose of preparing a report on a particular topic.
- Reports of bodies attached to the Region, established for the purpose of undertaking inquiries and making reports or recommendations to the Region.
- Reasons for a final decision, order or ruling of Regional staff made during or at the conclusion of the exercise of discretionary power conferred by or under an enactment or scheme administered by the Region.
- Records more than 20 years old.

### **Law enforcement reports**

The Region may refuse to disclose certain records relating to the Region's law enforcement programs, as outlined in MFIPPA, except for:

- Reports prepared in the course of routine inspections by the Region.
- Records on the degree of success achieved in a law enforcement program, including statistical analyses.

### **Confidential information from another government**

The Region is obliged to keep confidential information received in confidence from a federal or provincial government ministry or agency. However, if the other ministry or agency consents to the disclosure, the Region must disclose the information.

### **Confidential information from a third party**

The Region is required to keep financial, technical or commercial information received in confidence from a third party, such as a private company, where disclosure of the information could reasonably cause harm to the third party's interests. However, the Region is allowed to release this information if the third party consents.

### **Personal information**

The Region is required to protect the privacy of personal information relating to individuals, except in limited circumstances. This is one of the key principles of MFIPPA.

It is not an invasion of privacy to disclose the following:

- Classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of the Region.
- Financial or other details of a contract for personal services between an individual and the Region.

Individuals have the right to obtain access to their own personal information. This can be done under routine disclosure as well as through a formal request. Access may be restricted where another exemption applies to the information, or where disclosure would invade another individual's privacy.

Personal information may also be disclosed, without a formal access request, as follows:

- If the person to whom the information relates has identified that information in particular and consented to its disclosure.
- For the purpose for which it was obtained or compiled, or for a consistent purpose which an individual might reasonably expect.
- To an officer or employee of the Region who needs the record in the performance of his or her duties and disclosure is necessary and proper in the discharge of the Region's functions.
- For the purpose of complying with any federal or provincial legislation, an agreement or arrangement under such legislation, or a treaty.
- To an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.
- In compelling circumstances affecting the health or safety of an individual if upon disclosure notification is mailed to the last known address of the individual to whom the information relates.
- In compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or is deceased.
- To the Government of Canada or the Government of Ontario in order to facilitate the auditing of shared cost programs.

This guideline has been prepared to assist staff in understanding what information they are able to share with the public or members of Council. As departments develop RD/AD plans that fall within the Council approved policy, an important resource is the Records Analyst in the Legislative Services Division.





# Access and Privacy

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## Guidelines for Councillors

## Contents

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<b>Access and Privacy for Councillors.....</b>	<b>3</b>
Overview .....	3
Access to Regional information.....	3
Formal requests for information under MFIPPA .....	4
Access to personal information by Councillors.....	4
Protecting personal and confidential information.....	5
Confidential Council Reports .....	5
Personal Information.....	5
The Integrity Commissioner.....	5
The Information and Privacy Commissioner/Ontario .....	6
Managing information in a Councillor's office .....	6
Managing Regional information.....	7
Managing Constituency information .....	7
The Office of the Regional Clerk .....	7
Glossary of terms .....	7

## Access and Privacy for Councillors

### Overview

The rights of Regional councillors to access information and their obligations to protect the confidentiality of information are set out in:

- Ontario's Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).
- The Regional Municipality of Durham (Region) Council Code of Conduct.

This guide will assist Members of Council in understanding their rights and obligations surrounding access and privacy to Regional information.

### Access to Regional information

Individual Councillors are provided access to Regional information as directly as possible, subject only to specific legislative restrictions.

Councillors have the same rights of access to Regional records as a member of the public. A Councillor does not have greater rights of access to confidential information by virtue of office, although Councillors may be entitled to confidential records through their role as a result of their work on Council or Committees. Councillors may request Regional information from the appropriate Department Head or through the Office of the Regional Clerk.

The Region's Council Code of Conduct prohibits members from using their authority to coerce or influence staff with the intent of interfering with that person's duties. The prohibition includes an obligation upon Members not to secure or attempt to secure information from Regional officials to which they are not entitled to have access.

Information regarding specific legislation and legislative restrictions governing access to Regional records is available from the Office of the Regional Clerk.

To promote a culture of openness and commit to delivering accountable government, the Region's information is made available and accessible to the public unless prohibited by law. Opening up government information leads to collaboration and information sharing, promotes citizen engagement, delivers more efficient public services, demonstrates accountability and provides economic development opportunities.

The Region is committed to providing individuals with the right of access to information in its custody and control, including most operational records and records containing their own personal information, where applicable, subject to very specific and limited exemptions. This process is called routine disclosure and allows certain records to be disclosed, without having to make a formal request under MFIPPA.

Regional departments will develop departmental Routine Disclosure and Active Dissemination Plans summarizing records that can be requested by Councillors and the public directly from the department and identify records that are publically available on the Region's website. These records do not need to be processed as formal requests under MFIPPA.

## Formal requests for information under MFIPPA

MFIPPA places rules regarding the collection, use, disclosure and disposal of personal information in the custody and control of a municipal institution.

The Act gives individual's the right to access municipal government information, including most general records and records containing their own personal information, subject to very specific and limited exemptions. As well, the Act provides individuals with the right to request a correction of their personal information which they believe to be false or inaccurate and/or to attach a statement of disagreement to their records. An individual is also provided with the opportunity to request an independent review from the Information and Privacy Commissioner/Ontario of the decisions made under MFIPPA by the head of an institution.

There are three **mandatory exemptions** under MFIPPA:

- Information concerning relations with governments, if the information was received in confidence.
- Third party information, if supplied in confidence and its disclosure could prejudice the interests of the third party.
- Personal information about an individual other than the requester.

There are eight **discretionary exemptions**:

- Draft by-laws, records of closed meetings
- Advice or recommendation
- Law enforcement
- Economic and other interests
- Solicitor-client privilege
- Danger to safety or health
- Published information
- Limitation on access to own personal information

## Access to personal information by Councillors

Councillors may obtain personal information about individuals only under the following conditions:

- With the written consent of the individual to disclosure of the particular information.
- Under compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased.
- Without consent of the individual in a closed meeting of Council/committee, for the purpose of conducting Council/committee business.

## Protecting personal and confidential information

Members of Council are prohibited by the Council Code of Conduct from disclosing confidential information unless required by law or authorized by Council. Confidential information may be shared with a Councillor through his or her role by Regional staff as a result of their work on Council or its committees or by a constituent or member of the public.

Councillors who have access to Regional records containing personal or other confidential information have a responsibility to protect this information while it is in their possession. Councillors must ensure that the privacy of the individual's personal information is protected at all times and kept physically secure to avoid unauthorized access or destruction.

Councillors are accountable for how their staff handles confidential information. It is recommended that Councillors emphasize to their staff the need to handle confidential information responsibly.

Documents containing confidential or personal information should be stored in locked cabinets except when in active use. Data stored on laptop computers, USB drives or similar devices should be encrypted or otherwise password protected. Documents and devices should not be left unattended in vehicles or in other offices.

Care should be taken to ensure that personal information is not disclosed during public meetings without prior, written consent of the affected individual(s).

### Confidential Council Reports

Councillors are provided with confidential information when decisions need to be made at closed meetings of Council or one of its committees (for example, decisions relating to employment matters, legal advice, or details of ongoing negotiations or transactions). There are normally only a small percentage of confidential agenda items that are discussed in closed sessions. As noted above, Councillors must be authorized by law or the express authorization of Council to release confidential information in any form.

### Personal Information

Personal information supplied by a constituent to deal with a specific matter should not be used for other unrelated purposes. For example, if an individual asks to be included on a distribution list about a particular issue, that individual should not be identified with the issue in a newsletter without their permission. Councillors should not disclose the constituent's personal information to others without the constituent's consent.

### The Integrity Commissioner

Complaints citing failure to observe the Council Code of Conduct or a breach of privacy are periodically filed by members of the public against Councillors. The Integrity Commissioner investigates these complaints. If the Commissioner concludes that a violation did occur, the Integrity Commissioner may recommend to Council that a reprimand be administered. The

compliance section of the Council Code of Conduct provides additionally for penalties that include:

- Suspension for a period of up to 90 days.
- Removal from membership of a Committee or local board (restricted definition).
- Removal as Chair of a Committee or local board (restricted definition).
- Repayment or reimbursement of moneys received.
- Return of property or reimbursement of its value.
- A request for an apology to Council, the complainant, or both.

### **The Information and Privacy Commissioner/Ontario**

The Information and Privacy Commissioner (IPC) may investigate a privacy complaint made against a Member of Council when the complaint relates to Regional records.

Examples of privacy breaches include the following:

- Disclosing personal information to a third party or in a public meeting without the individual's consent.
- Misdirected mailings or release of e-mails involving personal information.
- Insecure disposal of documents containing personal information, e.g. in a blue bin instead of shredding console.
- Stolen/lost laptops or other devices that contain unencrypted personal information.

#### **IPC contact information:**

Information and Privacy Commissioner/Ontario  
2 Bloor Street East  
Suite 1400  
Toronto ON M4W 1A8  
Telephone: 416-326-3333/1-800-387-0073  
Facsimile: 416-325-9195  
TDD/TTY: 416-325-7539

### **Managing information in a Councillor's office**

Risks of mishandling information are reduced if steps are taken to manage that information appropriately. Information in Councillors' offices normally includes records pertaining both to constituency, e.g., email from constituents, and the Region, e.g., committee minutes. It makes sense to administer both kinds of records in ways that help Councillors and their staff protect confidential and personal information. Keeping the two categories of records – constituency and Region – separate will help. Ensure that the information in each is handled appropriately. Determine what purpose the information was provided for in order to clarify whether information relates to Region or constituency business.

## Managing Regional information

Documents and records created in connection with Regional business, e.g., a schedule of meetings or meeting agendas, are considered Regional records. Records related to the Councillor's responsibilities as a Member of Council or to some aspect of Regional Council's mandate, e.g. as a member of a standing committee or special task force, are subject to the provisions of MFIPPA. It is recommended that Councillors ensure that copies of these records are held by the relevant business department(s). Regional business departments are responsible for the records of decisions and plans to ensure the effective, ongoing operation of the Region.

The Regional Chair, as Head of Council, is an officer of the Region. The Regional Chair's records that relate to Regional Chair duties are considered to be in the Region's custody or control and are therefore subject to MFIPPA.

## Managing Constituency information

Documents and records received or created interacting with constituents is considered personal. Constituency records generally relate to issues the Councillor is dealing with involving one or more members of the public who either live or own a business within the Councillor's ward. Constituency records may include letters, emails, faxes, telephone messages, and mailing lists.

Constituency information is not subject to MFIPPA. The IPC has confirmed that, except in unusual circumstances, a Councillor is not an officer or employee of the Region. Councillors' constituency liaison records are considered "personal" and are not subject to MFIPPA. Accordingly, under MFIPPA, a person generally does not have a right to access a Councillor's constituency records.

## The Office of the Regional Clerk

Council has delegated responsibility for overseeing the administration of MFIPPA to the Regional Clerk. The Office of the Regional Clerk also has overall responsibility for setting standards, policies, implementing effective procedures and tools for the management of Regional information, and providing training to Regional staff for the efficient and effective management of Regional information.

## Glossary of terms

**Access to Information:** Information should be available to the public. Necessary exemptions from the right of access should be limited and specific.

**Regional Records:** Documents and information received or created by Regional employees in the operation of the Region and delivery of services to the public.

**Constituency Records:** Documents and information received or created by Councillors, including their staff that relate to matters dealing with their constituents.

**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.

**Information and Privacy Commissioner (IPC):** The IPC is a provincial officer independent of the Ontario (and municipal) government charged with upholding and promoting open government and the protection of personal privacy in Ontario.

**Integrity Commissioner:** The Integrity Commissioner is a municipal officer independent of the Region administration charged with providing advice and education to Members of Council and members of Regional Boards to assist in maintaining a high standard of ethical behaviour in Regional government; investigating complaints (formal or informal) about the conduct of Members of Council and members of Regional Boards to determine whether the Region's Code of Conduct has been violated.

**MFIPPA:** The *Municipal Freedom of Information and Protection of Privacy Act (Ontario)*.

**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.

**Privacy Breach:** A privacy breach occurs when personal information is collected, used, disclosed or destroyed in ways that are not in accordance with privacy legislation.

**Privacy Protection:** Governments have an obligation to protect the privacy of individuals with respect to personal information about themselves held by government. This includes controls over the collection, use, disclosure, and security of that information and a duty to provide individuals with a right of access to their own personal information.

**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.

**By-law Number \*\*-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 XX day of XXX, 2018.

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Gerri Lynn O'Connor, Regional Chair and CEO

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R. Walton, Regional Clerk