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2. ACCESS REQUEST STAGE  
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# IPC Practices

PUTTING ONTARIO'S INFORMATION AND PRIVACY LEGISLATION TO WORK  
INFORMATION AND PRIVACY COMMISSIONER/ONTARIO  
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## Maintaining the Confidentiality of Requesters and Privacy Complainants

*Under the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act (the Acts), the disclosure of another individual's personal information to employees within an institution is permitted only in limited circumstances. Outside of these circumstances, the disclosure of the identity of a requester or privacy complainant is improper.*

*In this issue of IPC Practices, the Information and Privacy Commissioner (IPC) considers the limited occasions when the identity of requesters and complainants may be disclosed within an institution.*

It has come to the IPC's attention that institutions sometimes unnecessarily and inappropriately reveal the identity of requesters to employees who do not need this information to process access requests for general records. The IPC has conducted a number of privacy investigations in which it found that disclosing a requester's identity to an employee of an institution was a breach of one of the Acts.

Anyone, including employees of an institution, is entitled to exercise his or her right to access information under the Acts or make a privacy complaint, without being unnecessarily identified and without fear of negative repercussions.

It is extremely important that employees who process requests and privacy complaints are aware that casual conversations with co-workers about a requester or privacy complainant could be an invasion of an individual's privacy.

Sections 42(d) of the provincial Act and 32(d) of the municipal Act permit disclosure of personal information to officers or employees of an institution if:

- they need the information to perform their job duties; and
- the disclosure is necessary and proper to carry out the institution's functions.

Disclosure of personal information to employees, where both of the above conditions have not been met, would constitute a breach of the Acts.

### Basic Principles

#### *Access requests for general records*

Employees of an institution responsible for responding to requests — generally the Freedom of Information and Privacy Co-ordinator and assisting staff — should not identify any requester when processing requests for general records. There is no reason to identify an individual requesting general records to employees outside the Co-ordinator's Office.

#### *Access requests for personal information*

When an individual requests access to his or her own personal information, the Co-ordinator may need to identify the requester to other employees in order to locate the records or make decisions on access. The name of the requester should be provided only to those who need it in order to process the request.



### *Privacy complaints*

Similarly, when responding to privacy complaints, the Co-ordinator may need to identify the complainant and disclose complaint-related personal information to employees who need the information in order to respond to the complaint.

### *Employees' obligations*

Any employee who assists the Co-ordinator in responding to requests for personal information should be reminded that all information about the requester's identity and the request should remain confidential. This information can be disclosed to co-workers, managers, supervisors or officers of the institution only if they need it to perform their duties and carry out a function of the institution.

Similarly, any employee who assists the Co-ordinator in responding to a complaint should be reminded that the complainant's identity and all other personal information should remain confidential.

## **Recommended Procedures**

### *Ensure employee awareness*

Institutions should implement policies and procedures to ensure that all employees responding to access requests or privacy complaints are aware of their responsibility to protect the confidentiality of the individual. "Employees" may include the Co-ordinator, staff in the Co-ordinator's office or anyone else who assists in responding to a request or complaint (e.g., those who retrieve the records or make decisions about access).

### *Maintain access and complaint files*

Institutions should maintain access and complaint files in the Co-ordinator's office. Where requests and complaints are responded to from decentralized or regional offices, files should be maintained in a manner that adequately limits access to those who need the information to perform their duties.

If an access request or privacy complaint is made by an employee, institutions should not file the request or complaint, or copies of the records, in the employee's personnel file. This ensures that other staff, such as managers, supervisors or human resources officers, do not inadvertently discover that an employee has made an access request or privacy complaint.

### *Ensure physical security*

Access request and complaint files should be stored in a locked drawer or filing cabinet, or other manner which adequately limits access. Similarly, where these files are stored electronically, computer access to these files should be limited to those who need the information to perform their duties.

### *Faxing requests and complaints*

If an institution receives an access request for general records maintained at another location, the written request should not be faxed to the other location unless all personal identifiers have been removed (e.g., name, address, etc.). For more information, see the IPC's *Guidelines on Facsimile Transmission Security*.

Similarly, when it is necessary to fax material to other locations to process a complaint, any information which could identify the complainant should be removed.

## **IPC Practices**

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