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IPC Practices

PUTTING ONTARIO'S INFORMATION AND PRIVACY LEGISLATION TO WORK
INFORMATION AND PRIVACY COMMISSIONER/ONTARIO
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The Indirect Collection of Personal Information

This issue of IPC Practices outlines the Information and Privacy Commissioner's (IPC) recommended approach to assist government institutions in determining if the indirect collection of personal information is permissible under the Freedom of Information and Protection of Privacy Act or the Municipal Freedom of Information and Protection of Privacy Act (the Acts).

The *Acts* specify when an institution is allowed to collect personal information, and describe the manner in which this information can be collected, i.e., either directly from the person to whom it relates, or indirectly.

Collecting personal information from a source other than the person to whom it relates, such as another institution or a third party, is considered to be an "indirect collection." An application form that requires an individual to provide personal information about his or her spouse, children or someone else is a common example of an indirect collection.

Reviews and investigations by the IPC have revealed that some institutions routinely collect personal information indirectly. From time to time, the IPC has found that the authority to collect the information, or the manner in which it was collected, did not comply with the *Acts*.

Where an institution collects personal information indirectly, or intends to do so, it should examine its practices. In order to comply with the *Acts*, the IPC encourages institutions to consider the following procedures:

Authority to Collect Personal Information

The institution should determine if it has the authority to collect the personal information by referring to section 38(2) of the provincial *Act* or 28(2) of the municipal *Act*.

Manner of Collection

If collection is permitted, the institution should refer to section 39(1) of the provincial *Act* or 29(1) of the municipal *Act*, which deals with the manner of collection.

The *Acts* state that personal information should be collected directly from the individual, except in specific and limited circumstances. These circumstances are listed in subsections 39(1)(a)-(h) of the provincial *Act* and subsections 29(1)(a)-(h) of the municipal *Act*.



Although subsection (c) of this provision allows indirect collection where the IPC has authorized it, an institution should determine if any of the other provisions in this section apply before filing an application for indirect collection with the IPC.

Where a provision in this section applies, an institution may collect the information indirectly. Otherwise, if an institution believes it is necessary to collect the information indirectly, it should apply to the IPC for authorization.

Application for Indirect Collection

Sections 59(c) of the provincial *Act* and 46(c) of the municipal *Act* allow the IPC to authorize an indirect collection, in appropriate circumstances.

Institutions should request “Guidelines on Indirect Collection” and an application form from the IPC.

An institution should provide all pertinent information so that the IPC can determine if the proposed indirect collection is appropriate. The more information provided, the easier it will be to evaluate the application.

Examples of the required information are listed below:

- a detailed explanation of why the personal information is required (e.g., for administrative purposes, to carry out a program, research, etc.);
- the authority for collection (e.g., statute, for law enforcement purposes, etc.);
- a description of all the personal information to be collected;

- an explanation of why the information needs to be collected indirectly;
- the duration of the collection (e.g., one-time occurrence, time-limited, on-going, etc.);
- the method of collection (e.g., on a form, from another institution, by telephone, modem, etc.);
- whether a waiver of the requirement to provide notice has been requested from the responsible minister, and if so, if it has been granted.

IPC Procedure for Processing Applications

When an application is received, the IPC will send the institution an acknowledgement; analyze the application; and, where appropriate, may contact the institution to discuss the issues or request additional information.

It takes approximately two months to complete an application for authorization to indirectly collect personal information. However, if the IPC has processed a similar application in the past, it will be processed more quickly.

The IPC will authorize or deny applications for indirect collection. If authorized, specific terms and conditions may apply.

For more information, or to obtain a copy of the “Guidelines on Indirect Collection” and an application form, please contact the IPC.

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