



## You are Affected by a Freedom of Information Request: What You Should Know

September 2016

Under the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act (FIPPA and MFIPPA, or the acts)*, everyone has a right to request access to records held by Ontario's public institutions. If a requester asks for records that include your personal information, you are considered an affected party (or a third party) to that request.

Your personal privacy is a key consideration when deciding whether to release records. Ontario public institutions are required by law to protect your personal information, and to follow strict rules when collecting, using and disclosing your personal information. You have certain rights because you may have an interest in the outcome of the request.

This fact sheet seeks to answer some of the common questions an affected party may have about the freedom of information process.

### WHAT INFORMATION CAN BE REQUESTED?

An individual can seek access to records held by public institutions, including those that contain your personal information. The requester does not need to provide the reasons for making the request.

The records may include information recorded in any format, such as paper or electronic records, digital photographs, videos or maps.

Personal information means recorded information about an identifiable individual. This information may include your name, address, sex, age, education, medical and employment history, views or opinions, or any other personal information about you held by a public institution.

### WILL THE INSTITUTION RELEASE INFORMATION ABOUT ME?

The acts contain a number of provisions (**section 21 and 49 of FIPPA**, and **section 14 and 38 of MFIPPA**), which help the institution decide whether your privacy would be jeopardized by the release of the records. We refer to these provisions as "exemptions" because they exempt information from disclosure.

## WILL I BE ASKED FOR MY OPINION ABOUT THE RELEASE OF INFORMATION ABOUT ME?

Yes. An institution will send you a letter if it is considering disclosing records that contain your personal information. The letter will explain the personal information exemption, ask you for your views on whether it applies to the record, and if you consent to that information being disclosed to the requester. The letter must contain a description of the records, as well as inform you of your right to respond within 20 days of the date of the letter. At the same time, the institution will notify the requester that they will have to wait 30 days to allow an affected party to respond and then for the institution to issue a decision.

When you receive the letter, you may consent in writing, to the release of some or all of the information. You may also give reasons why the records should not be disclosed, in other words, why you believe they are exempt. Your response is usually required in writing, unless the institution agrees with you providing your reasons orally.

## CAN I KNOW WHO IS ASKING FOR MY INFORMATION?

You may contact the institution to ask for the name of the requester. Institutions, however, generally do not disclose the name of the requester unless they provide consent. In most cases, the requester's identity is treated as confidential unless the requester is making the request in a professional capacity, such as when a representative of a business makes a request on behalf of the business.

## WILL MY VIEWS BE TAKEN INTO ACCOUNT?

If you object to disclosure of the records, the institution must consider your position before making a decision on whether to disclose them. Although you have the right to explain why information about you should not be disclosed, it is ultimately the institution that makes the decision. Whether its decision is to refuse to disclose the records, to partially disclose them or to disclose them in their entirety, the institution will advise you and the requester of its decision in writing.

## WHAT IF I DISAGREE WITH THE INSTITUTION'S DECISION TO RELEASE THE RECORDS?

If you disagree with the institution's decision, you have 30 days to file an appeal with our office. The institution will not release the records to the requester until the time-limit to appeal has expired. As an affected party, there is no fee to appeal the institution's decision.

## WHAT HAPPENS IF I DO NOT APPEAL THE INSTITUTION'S DECISION?

If you do not file an appeal with the IPC, the institution will disclose the records according to its decision after the 30-day appeal period has passed.

## IF THE INSTITUTION'S DECISION WAS TO DENY ACCESS TO THE RECORDS, CAN THE REQUESTER APPEAL THE DECISION?

Yes. The requester can appeal the decision to deny access to records within 30 days of receiving the decision letter.

## WHAT HAPPENS ONCE AN APPEAL IS FILED?

The IPC will open a file and begin mediation. If it is not possible to settle the appeal through mediation, the file may move to adjudication where an inquiry will be conducted. During the inquiry, you will have an opportunity to provide your views on the issues to an adjudicator. They will then resolve the appeal by issuing a written order. For more information on the mediation and adjudication process, please see the **IPC Code of Procedure**.

## DO I NEED A LAWYER TO FILE AN APPEAL?

No. The IPC's appeal process does not require you to hire a lawyer, although you do have that option.