



Access to Information and Protection of Privacy – Policy Approval

Date: February 27, 2019
To: TTC Board
From: Chief Executive Officer

Summary

The purpose of this report is to obtain Board approval for the Access to Information and Protection of Privacy policy. This report recommends that the Board update its delegation of legislated responsibilities under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) to the position of Head - Commission Services Department. The subject policy has been updated to reflect that new delegation and also incorporates commitment statements around the TTC's core information management principles. This report also identifies supporting materials and initiatives that have been developed to assist TTC customers and employees with understanding rights of access to TTC information and the confidential information protections that are in place at the TTC.

Recommendations

It is recommended that the Board:

1. Approve the Access to Information and Protection of Privacy Policy, as attached; and
2. Direct staff to provide notice to the Information and Privacy Commissioner of Ontario (IPC) of the Board's policy approval and delegation of authority in accordance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) to the position of Head – Commission Services Department.

Implementation Points

Upon receiving Board approval, a policy release communication plan will be rolled out to inform TTC employees of the key elements of the policy and to re-affirm the responsibilities of all employees as it relates to access to information and the protection of confidential information. In support of this communication plan a number of key materials have also been developed or updated to assist employees and the public, including:

- Process for submitting access to information requests (public) on the TTC website;
- Procedures for managing access to information requests (employees)
- TTC Privacy Code on the TTC website informing the public of the TTC's commitment and methods for ensuring confidential information is protected;
- A Personal Information Bank Directory posted on the TTC website as required under MFIPPA;
- TTC Privacy Breach Protocol (employees).
- Mandatory e-learning training modules for employees on access to information and privacy protection.

Financial Summary

In 2017, the TTC managed a total of 138 formal access requests. In 2018 this number increased to 180 formal access requests. On January 24, 2019 the TTC Board approved for submission to City Council the 2019 TTC and Wheel-Trans Operating budgets which included provisions for one Freedom of Information Assistant position to assist with the growth in case volume and to ensure the TTC continues to meet its legislative deadline requirements.

MFIPPA has a prescribed fee schedule that an institution may refer to in the management of requests for access to records made under MFIPPA. Those include application fees and time to search and prepare records for disclosure.

The fees collected totalled \$2,999.55 in 2017 and \$5,363.49 in 2018.

The Chief Financial Officer has reviewed this report and agrees with the financial summary information.

Equity/Accessibility Matters

A link to the Access and Privacy section of the TTC website is available from the TTC homepage.

[Access and Privacy Webpage](#)

The Access and Privacy page provides visitors with information they need on how to file an access to information request, including the application form for submitting an access to information request, information on the controls and procedures in place to ensure the protection of personal information held by the TTC and contact information for the Freedom of Information Office (FOI). The TTC website and the access request form comply with the Accessibility for Ontarians with Disabilities Act (AODA). In addition, the TTC FOI office works with requesters who require assistance by providing documents in alternate formats prior to disclosure.

Decision History

At its meeting on August 27, 2008 the TTC Board approved Item 8(c) – TTC Corporate Policy Review – Policy 8.2.5 Freedom of Information and Privacy.

[TTC Corporate Policy Review - Policy 8.2.5 Freedom of Information and Privacy](#)

The 2008 policy review re-affirmed delegated authority for oversight of MFIPPA from the Board to the General Secretary. The subject policy also provided high level guidelines around the purpose, process and responsibilities to manage the TTC's legislative responsibilities under MFIPPA.

There has been no further update or review of the subject policy since that time.

Issue Background

Under MFIPPA the TTC Board is considered the Head of the Institution for the purpose of managing MFIPPA. The legislation also provides that the Head (the Board) may designate an individual to act as Head of the Institution for the purposes of this Act. Since 1991, when the legislation first came into effect, the General Secretary (later named the Chief Financial & Administration Officer) has been the Board's delegated position to perform in this capacity.

With the reassignment of duties and associated changes in reporting structure under the former Chief Financial & Administration Officer position it is now necessary for the Board to assign a new delegation of authority for the purpose of ensuring TTC compliance to the rules and regulations set out in the legislation, within the current organizational structure.

Comments

The Commission Services Department through further internal delegation staffs an independent FOI office where information requests and privacy matters are administered pursuant to legislative requirements. This department was established under the former General Secretary's Office, and continues to manage the day-to-day legislative requirements of MFIPPA.

In 2017 the TTC handled 138 formal access to information requests. There were no privacy breach investigations. In 2018, the number of formal access to information requests increased to 180 cases, and there was one formal privacy breach investigation undertaken. This case volume does not include regular informal consultations that the unit provides in response to inquiries received from the public and TTC employees.

For the purpose of maintaining the current level of independence and objectivity in the operational management of FOI matters, it is advisable that responsibility for this function remain within the Commission Services Department, and that the Head of Commission Services be the Board's designate to act as Head of the Institution for the purposes of the Act.

MFIPPA also sets out requirements of all institutions to develop and maintain formally approved procedures for responding to requests for information. Institutions are also required to make available for public inspection statements of assurance regarding the secured handling of personal and confidential information (referred to as Privacy Codes), and a directory of all personal information held by the TTC (Personal Information Bank Directory). The TTC has updated and fulfilled each of the foregoing legislated requirements.

Accountability, transparency and protection of privacy are core information management principles. This policy supports those principles and establishes a commitment that the TTC will manage information as a valuable asset, and safeguard the protection of personal and confidential information.

The Access to Information and Protection of Privacy policy ensures that all TTC employees and contractors are aware that the public have a general right of access to all records created and held by the TTC, with limited exceptions as set out in MFIPPA.

Contact

Kevin Lee, Head – Commission Services Department
416-393-3744
Kevin.lee@ttc.ca

Signature

Richard J. Leary
Chief Executive Officer

Attachment

Attachment 1 – Access to Information and Protection of Privacy Policy

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POLICY/INSTRUCTION

| SUBJECT | CLASSIFICATION | DATE APPROVED | P/I NUMBER |
|--|---------------------|---------------|------------|
| Access to Information and Protection of Privacy Policy | Commission Services | | |

1.0 RESPONSIBILITY

Head of Commission Services has oversight of this Policy.

2.0 PURPOSE

Accountability, transparency and protection of privacy are core information management principles outlined in the Information Management Policy; the principles support the TTC's commitment to manage information as a valuable asset, and safeguard the protection of personal information.

The Access to Information and Protection of Privacy Policy establishes the TTC's requirements to promote routine disclosure of information, while also ensuring privacy protection with appropriate safeguards in place for personal information collected, used, stored and disposed of by the TTC.

The purpose of this Policy is:

- To ensure that all TTC employees are aware that the public have a general right of access to all records created and held by the TTC, with limited exceptions as set out in the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).
- To ensure the TTC collects, stores, uses, protects and manages personal information in accordance with the provisions of MFIPPA, and other applicable laws and regulations.
- To ensure the TTC responds to information requests in a transparent manner while also protecting personal information in accordance with MFIPPA.
- This Policy is supported by complementary policies, standards, procedures and additional privacy codes.

3.0 SCOPE

3.1 This Policy applies to all general information and personal information managed by the TTC.

| APPROVED | REVISION NO. | SUPERSEDES | PAGE |
|---|--------------|--|--------|
| Richard J. Leary -Chief Executive Officer/TTC Board | | 3.2.0 Freedom of Information and Privacy | 1 of 6 |

Toronto Transit Commission

POLICY/INSTRUCTION

| SUBJECT | CLASSIFICATION | DATE APPROVED | P/I NUMBER |
|--|---------------------|---------------|------------|
| Access to Information and Protection of Privacy Policy | Commission Services | | |

3.2 This Policy also applies to all TTC employees and TTC contractors as well as other persons (individuals and legal entities) who are responsible for use or storage of TTC information.

3.3 The Policy reflects current legislative requirements regarding access to information and protection of privacy. If any of these legal requirements are modified, abrogated, superseded, the Policy shall be interpreted in accordance with the new legal requirements.

4.0 DEFINITIONS

Definitions to be used in the interpretation of this Policy:

| Term | Definition/Reference |
|--------------------------|---|
| Collection | The collection of personal information from or about the individual to whom the information relates including unintended or unprompted receipt. |
| Confidential information | Confidential information includes, but is not limited to, personal information, technical, financial or scientific information, proprietary information, third party information that was provided to the TTC in confidence either implicit or explicit, and any other information collected, obtained or derived for or from TTC records regardless of format, that must or may be kept confidential under the Municipal Freedom of Information and Protection of Privacy Act, the Personal Health Information Protection Act, or the City of Toronto Act, 2006. |
| Disclosure | The release of personal information by any method (e.g., sharing information by any means such as verbally, sending an email, posting online) to any body or person. |
| Information | Information is an overarching term for any type of recorded data, documents, records that have been given value through analysis, interpretation or compilation in a meaningful form. |
| Personal information | Recorded information that can uniquely identify an individual, including, but not limited to; health card number, financial bank account numbers, bank cheque numbers, debit or credit card numbers, mailing address, phone numbers and government issued identification, etc. |

| APPROVED | REVISION NO. | SUPERSEDES | PAGE |
|---|--------------|--|--------|
| Richard J. Leary -Chief Executive Officer/TTC Board | | 3.2.0 Freedom of Information and Privacy | 2 of 6 |

Toronto Transit Commission

POLICY/INSTRUCTION

| SUBJECT | CLASSIFICATION | DATE APPROVED | P/I NUMBER |
|--|---------------------|---------------|------------|
| Access to Information and Protection of Privacy Policy | Commission Services | | |

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| Personal Information Bank (PIB) | A collection of personal information that is organized and capable of being retrieved using an individual's name or an identifying number or particular assigned to the individual. (Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)). |
| Records | Information however recorded or stored, whether in printed form, on film, by electronic means or otherwise, and includes documents, financial statements, minutes, accounts, correspondence, memoranda, plans, maps, drawings, photographs and films – City of Toronto Act, 2006. |
| TTC Contractors | Any person who performs work at the TTC workplace including, but not limited to, contractors, consultants, unpaid interns or co-op students and any individual that is paid by a third party and uses TTC assets (e.g. computers) and performs work for the TTC (e.g. non-employee labour assistants) collectively referred to as "contractors". |
| TTC Employees | All employees including all full-time, part-time, temporary, student, co-op, intern, casual or term employees. |
| Use | The purpose(s) for which the information was obtained or compiled. |

5.0 ACCESS TO INFORMATION

- 5.1 All Freedom of Information requests received by TTC under MFIPPA shall be directed to the Co-ordinator Records Management/Freedom of Information for processing (Also see Privacy Code).
- 5.2 The TTC shall process all requests for information received outside MFIPPA in a manner consistent with established legislative standards and the TTC's core principles of transparency and openness.
- 5.3 The TTC shall develop and maintain formally approved procedures for responding to requests for information to ensure that legislative requirements are met and that the TTC's goals of transparency and openness are maintained.

| APPROVED | REVISION NO. | SUPERSEDES | PAGE |
|---|--------------|--|--------|
| Richard J. Leary -Chief Executive Officer/TTC Board | | 3.2.0 Freedom of Information and Privacy | 3 of 6 |

Toronto Transit Commission

POLICY/INSTRUCTION

| SUBJECT | CLASSIFICATION | DATE APPROVED | P/I NUMBER |
|--|---------------------|---------------|------------|
| Access to Information and Protection of Privacy Policy | Commission Services | | |

6.0 PROTECTION OF PRIVACY

- 6.1 The TTC shall maintain and post on the TTC website for public viewing the Privacy Code for the TTC.
- 6.2 The Privacy Code shall outline the TTC's commitment to respecting and protecting the privacy and confidentiality of all personal information collected, used and managed by the TTC. The Privacy Code shall contain the following information:
- Procedure for transmitting requests for information pursuant to MFIPPA;
 - Principles for handling personal information to legislative standards;
 - Principles for ensuring privacy in the management of personal information; and
 - Procedures for the collection, use, disclosure and retention of personal information collected by /or on behalf of the TTC.
- 6.3 The TTC Record Retention By-Law shall contain identification of those record series which contain personal information as defined in MFIPPA.
- 6.4 The TTC shall maintain an Index of Personal Information Banks (PIB's) that shall be made available on the TTC website for public inspection as required by MFIPPA.
- 6.5 The TTC shall ensure that access to information and protection of privacy training is mandatory for all TTC employees.
- 6.6 The TTC shall ensure that privacy protection requirements are captured in TTC programs, processes, projects and technology.
- 6.7 The TTC shall follow a documented protocol when a privacy breach occurs. (See Privacy Breach Protocol).

| APPROVED | REVISION NO. | SUPERSEDES | PAGE |
|---|--------------|--|--------|
| Richard J. Leary -Chief Executive Officer/TTC Board | | 3.2.0 Freedom of Information and Privacy | 4 of 6 |

Toronto Transit Commission

POLICY/INSTRUCTION

| SUBJECT | CLASSIFICATION | DATE APPROVED | P/I NUMBER |
|--|---------------------|---------------|------------|
| Access to Information and Protection of Privacy Policy | Commission Services | | |

7.0 SPECIFIC ROLES AND RESPONSIBILITIES

7.1 Head of Commission Services

Delegation of Authority: The TTC Board delegates responsibility to the Head of Commission Services for the purpose of compliance with MFIPPA. The Head of Commission Services further delegates to the Co-ordinator Records Management/Freedom of Information who is authorized to approve access and privacy decisions. (See Internal Delegation of Authority).

7.2 TTC Executive Members and their direct reports

All TTC Executive members and their direct reports are responsible for ensuring compliance with this Policy and related information management policies.

7.3 TTC Employees and TTC Contractors

All TTC employees and TTC contractors are responsible for handling requests for information in a manner that promotes transparency and openness while also maintaining the confidentiality of restricted general information and personal information they are handling.

8.0 COMPLIANCE

8.1 Any breach of this Policy by TTC employees may result in disciplinary action, up to and including dismissal.

8.2 All TTC Contractors and persons (individuals and legal entities) will be advised of the applicable provisions of this Policy and will be expected to adhere to and enforce these requirements for their employees, sub-contractors and agents, as applicable.

8.3 Any TTC Contractor or any employee, subcontractor or agent of the TTC Contractor found to be in breach of this Policy may have its contract with the TTC terminated or the TTC Contractor may be required to remove or replace its employee, subcontractor or agent, as applicable.

| APPROVED | REVISION NO. | SUPERSEDES | PAGE |
|---|--------------|--|--------|
| Richard J. Leary -Chief Executive Officer/TTC Board | | 3.2.0 Freedom of Information and Privacy | 5 of 6 |

Toronto Transit Commission

POLICY/INSTRUCTION

| SUBJECT | CLASSIFICATION | DATE APPROVED | P/I NUMBER |
|--|---------------------|---------------|------------|
| Access to Information and Protection of Privacy Policy | Commission Services | | |

9.0 POLICY REVIEW

This Policy shall be reviewed every three years or sooner, if necessary.

10.0 AUTHORITY

- Municipal Freedom of Information and Protection of Privacy Act
- TTC Records Retention By-law ([City of Toronto By-Law 1002-2015](#))
- City of Toronto Act 2006

11.0 REFERENCES

- TTC Information Management Policy
- Internal Delegation of Authority
- Privacy Breach Protocol
- TTC Privacy Code
- Personal Information Bank Directory
- Procedure for Managing Access to Information Requests

| APPROVED | REVISION NO. | SUPERSEDES | PAGE |
|---|--------------|--|--------|
| Richard J. Leary -Chief Executive Officer/TTC Board | | 3.2.0 Freedom of Information and Privacy | 6 of 6 |