



## Staff Report

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**Report To:** Dan Best, Chief Administrative Officer  
**From:** **Rebekah Msuya-Collison, Municipal Clerk**  
**Date:** January 7 2019  
**Report:** 3-2019  
**Subject:** Privacy Breach Protocol

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### Recommendations:

**That** South Huron Council receives the report of Rebekah Msuya-Collison Clerk re Privacy Breach Protocol.

### Purpose:

Information.

### Background and Analysis:

The *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), which imposes legal obligations upon municipalities and other institutions, establishes an access to information regime that balances public access to information with protection of privacy based on the following purposes:

1. To provide a right of public access to information under the control of the municipality, based on the following principles:
  - a. information should be made available to the public,
  - b. necessary exemptions from the right of access should be limited and specific, and
  - c. decisions on the disclosure of information should be reviewed independently of the municipality controlling the information.
2. To protect individual personal information and allow an individual access to his/her own personal information held by the municipality.

MFIPPA sets out legally binding requirements for providing public access to information under municipal control, and a process which is initiated by a Freedom of Information (FOI) request for access to a record.

A privacy breach occurs when personal information is collected, retained, used or disclosed in contravention of the Act. Privacy breaches may occur in a number of different ways. For instance, they may emerge from the intentional and deliberate actions of an individual, or the inadvertent failure of existing processes or systems.

To demonstrate, the following scenarios are some examples of situations that could each constitute a privacy breach:

- Releasing the name, address or other personal information of an individual who has submitted a complaint alleging a violation of municipal by-laws;
- Misplacing a USB drive containing tax billing information;
- Sharing with members of the public, without the consent of the individual, the educational, or employment history of an individual applying for a position on an advisory committee of Council;
- Inadvertently delivering personal and confidential correspondence to an individual to whom it is not addressed;
- Using information contained on the Voters' List to facilitate the collection of debts owed to the municipality;
- Disclosing video surveillance footage to law enforcement agencies where the footage is not required to support a law enforcement proceeding or where a law enforcement proceeding is likely to result; and
- Placing records containing personal information into the garbage or recycling.

Although the Act does not require an institution to report suspected or confirmed privacy breaches, the fact is that privacy breaches occur and have potential reputational or financial harm to organizations involved. As a best practice, the Information and Privacy Commissioner of Ontario (IPC) has recommended that institutions establish a protocol to mitigate and investigate a suspected privacy breach. In recognition that these events occur, either through the deliberate actions of an individual, or the failure of policies and procedures, it is important that South Huron has an effective process in place to respond.

The Information /Privacy commissioner has the authority to conduct investigations, issue orders and enforce fines. The proposed Privacy Breach Protocol has been developed to respond to the municipality's obligations under the Act and to provide a coordinated approach when acting in

response to an alleged privacy breach. Consistent with privacy best practices, the attached draft protocol outlines a five step process that shall guide South Huron's response to a suspected privacy breach.

Training on the South Huron Privacy Breach Protocol will be provided to Staff, Council and Volunteers on Committees of Council. In addition, the protocol will be posted on the municipal website, as outlined in the South Huron Communication Strategy. The Privacy Breach Protocol is a proactive measure that ensures that procedures are in place and when combined with education and training will form a part of Privacy Risk Management for South Huron.

### **Operational Considerations:**

The Privacy Breach protocol is implemented when an agent, contractor, volunteer, member of Council or staff member suspects that a privacy breach has occurred.

### **South Huron's Strategic Plan:**

Section 6.2.2 of the Municipality of South Huron 2015- 2019 Strategic Plan identifies Strategic Objectives. The following elements are supported by the actions outlined in this report:

- ✓ Transparent, Accountable, and Collaborative Governance

### **Financial Impact:**

There are no financial implications associated with this report or the Privacy Breach Protocol.

### **Legal Impact:**

There are legal implications with a privacy breach as municipalities are prohibited from disclosing personal information in their custody and control except in several specific circumstances. The IPC strongly recommends that municipalities develop a privacy breach protocol as part of the risk management strategy.

### **Staffing Impact:**

There are no Staffing implications associated with this report

### **Policies/Legislation:**

*Municipal Freedom of Information and Protection of Privacy Act*

Code of Conduct  
Accountability and Transparency Policy

**Consultation:**

Dan Best, CAO

**Related Documents:**

Draft Privacy Breach Protocol

Respectfully submitted,

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**Rebekah Msuya-Collison, Municipal Clerk**