



Staff Report

Report To: Dan Best, Chief Administrative Officer
From: Genevieve Scharback, Corporate Services
Manager/Clerk
Date: April 18, 2017
Report: 07-2016
Subject: Municipal Freedom of Information and Protection of
Privacy Act (MFIPPA)

Recommendations:

That South Huron Council receives the report from G. Scharback, Corporate Services Manager/Clerk re: Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) for information.

Purpose:

To provide Council with information regarding the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) and Freedom of Information procedures, as directed.

Background and Analysis:

Council requested information regarding MFIPPA and the Freedom of Information request process at the April 3, 2017 meeting.

MFIPPA

An individual's right to access government-held information forms an important part of a democracy and reflects a more open and transparent government.

MFIPPA provides that an individual can request access to their own personal information or general information held by municipal government institutions.

Freedom of Information (FOI) Requests

Individuals have the right to request access to government-held information,

which may be in paper or electronic format and may include items such as photographs, videos and maps.

The first step in accessing government-held information is to contact the appropriate institution directly to see if the information can be obtained informally. A formal freedom of information request in writing may be required, if so an individual must complete the FOI Request form, or provide a letter detailing the request. The forms are available on the municipal website, at the municipal office and also on the Information and Privacy Commissioner's website, ipc.on.ca. The form or letter, with the \$5.00 fee needs to be submitted to the FOI coordinator / Head under MFIPPA.

Institutions have 30 days to respond to request for access, and must do so in writing.

There are two types of exemptions in MFIPPA. Mandatory exemptions require the head of an institution to refuse to disclose the record. Mandatory exemptions begin with the words: "a head shall refuse to disclose..." Discretionary exemptions allow the head to disclose a record, despite the existence of the exemption. Discretionary exemptions are introduced by the words: "(A) head may refuse to disclose..."

Requesters may appeal institutions' decisions by writing or by filling out the appeal form and sending it to the IPC Registrar at the address on the form. Examples of exclusions and exemptions include:

- records containing certain law enforcement information
- records that could prejudice intergovernmental relations
- personal information that could invade the privacy of an individual
- certain records supplied in confidence by a third party
- most labour relations records

Institutions must charge the mandatory \$5.00 application fee for each freedom of information request. Additional fees may be charged for services, such as photocopying and shipping, in accordance with the fees prescribed by regulation.

Appeals

Individuals have the right to file an appeal to the Information and Privacy Commissioner (IPC) of Ontario if they are unsatisfied with a decision made in answer to their freedom of information request.

An appeal is a way to ask the IPC office to review a government institution's decision regarding a request. There are a number of reasons why an individual might decide to appeal, including:

- you have been denied access to some or all of the information you requested
- you do not agree with the amount of the fee being charged

- you did not receive a decision regarding your request for information (deemed refusal)
- you have been advised that an extension of the 30-day time period is necessary and you do not agree with the extension
- your request for a correction of your personal information has been denied
- someone is requesting your personal information (or other information in which you have an interest) from a public institution; the institution has decided to release the information and you disagree with the decision

There are the three steps to filing an appeal with the IPC office:

1. Send a letter or completed form within 30 days after receiving the institution's decision. Note why the appeal is being made, explain their concerns and how they feel it should be resolved. Include contact details, the institution's name and the file number of the decision.
2. Include a copy of the institution's decision and a copy of the original request. Enclose the fee. The fee for personal information requests is \$10.00 and for all other requests is \$25.00. Include a cheque or money order payable to "Minister of Finance".
3. Mail the appeal to the IPC office.

Information and Privacy Commissioner

The role of the Information and Privacy Commissioner is set out in three privacy and access laws: the Freedom of Information and Protection of Privacy Act (FIPPA), the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) and the Personal Health Information Protection Act (PHIPA). The IPC acts independently of government to uphold and promote open government and the protection of personal privacy.

The IPC Registrar receives appeals to FOI decisions and attempts to resolve the appeal informally, dismiss the appeal or prepare the appeal file for the Mediation or Adjudication stage.

The mediation stage involves an investigation of the circumstances of an appeal and attempts to effect a settlement of some or all the issues.

At the adjudication stage an Adjudicator conducts an inquiry disposing of all of the remaining issues in an appeal.

The appeal might be resolved in the following ways:

- Settled - where the issues have been resolved to the satisfaction of the parties involved.
- Not Settled - when all of the issues have not been resolved to the satisfaction of the parties.
- Order - a decision by an Adjudicator disposing of the issues in an appeal.

Operational Considerations:

N/A

South Huron's Strategic Plan:

Section 6.2.2 of the Municipality of South Huron 2015- 2019 Strategic Plan identifies transparent, accountable and collaborative governance as a strategic objective.

Financial Impact:

N/A

Legal Impact:

N/A

Staffing Impact:

N/A

Policies/Legislation:

Municipal Freedom of Information and Protection of Privacy Act

Consultation:

N/A

Related Documents:

Freedom of Information Request Form, attached.

Respectfully submitted,



Genevieve Scharback
Corporate Services Manager/Clerk

I concur with this report.

Dan Best MPA, BA
Chief Administrative Officer