 LEAMINGTON DISTRICT MEMORIAL HOSPITAL www.leamingtonhospital.com	TITLE ACCESS OF INFORMATION UNDER THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT		
	CATEGORY Administration	ISSUING AUTHORITY VP Corporate Services & CFO	EFFECTIVE DATE: 01 01 2012

A. PURPOSE


1. To allow any person a right of access to records in the custody and control of Leamington District Memorial (LDMH) subject to the limited and specific exemptions and exclusions set out in “The Freedom of Information and Protection of Privacy Act” (FIPPA).
2. To allow individuals a right of access to records containing “Personal Information” about themselves maintained by LDMH subject to FIPPA.
3. To establish a consistent and controlled process for individuals to obtain access to information in the custody and control of LDMH.
4. To ensure that routine information disclosed by LDMH does not require a formal request process under FIPPA.
5. To ensure that information requests are processed in a timely efficient manner consistent with the legislative requirements set out in FIPPA.
6. This policy is not applicable to requests for access to personal health information under the Mental Health Act or the Personal Health Information Protection Act or the Public Hospitals Act.

B. DEFINITIONS

(See Appendix A – FOI and Records Management and Related Terminology)

C. POLICY


1. LDMH will continue to provide public access to hospital records that are now released routinely in response to informal requests and do not contain confidential information, personal information, or personal health information.
2. An Applicant requesting access to a record in the custody or control of LDMH shall complete a FIPPA Requisition Form (also available for download on the internet) and submit a \$5.00 fee to the FOI office.
3. An Applicant who is unable to read or write English or has a disability preventing them from submitting a written request may make an oral request to the FOI office complete with payment of the \$5.00 fee.
4. All rights of access are subject to the full payment of the Applicant of the fees required under FIPPA and its regulations. In accordance with the Act, the Applicant will be required to pay fifty percent (50%)

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of the cost of processing the request prior to the commencement of the search for records. At the request of an applicant, all or part of the fee may be waived. At the discretion of the delegated head, the following will be considered:

- a) Is it fair and equitable to do so (in regards to the actual cost of processing, collection and copying of the record and if it varies from the estimate, whether access to the record is given, and if the amount is too small to justify requiring payment);
 - b) If the fee will cause financial hardship (the requestor must provide evidence related to income, assets, and expenses); or
 - c) If the dissemination of the record will benefit public health or safety.
5. All FIPPA requests must be submitted to the FOI office.
 6. The FIPPA request must provide enough information to enable the FOI Office to identify the record. The FOI Office will make every effort to assist the Applicant in clarifying and narrowing the request. The FOI Office will respond in accordance with the requirements of FIPPA.
 7. The FOI Office will respond to the Applicant within 30 calendar days after receiving the complete request unless the time limit for responding has been extended under the Act or the request has been forwarded to another organization that has control or custody of the record.
 8. The FOI Office will communicate the hospital's position to the Applicant in a decision letter. The decision letter must communicate one of the following decisions:
 - a) There are no relevant records or no records exist;
 - b) Grant complete access to the record;
 - c) Grant partial access to the record and refuse access to the remainder of the record based on stated exclusions or exemptions;
 - d) Refuse access to the entire record based on stated exclusions or exemptions;
 - e) Advise that the requested record cannot be disclosed under the FIPPA process because the subject matter is excluded from the Act; or
 - f) Refuse to confirm or deny the existence of a record.


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9. The Applicant must pay the prescribed fees in full prior to obtaining access to any records. (See Appendix B - Fee Schedule prescribed under FIPPA.)
10. The specific provision(s) of FIPPA under which access is refused, the reason the provision applies to the record, the name and position of the person responsible for making the decision and the fact that the Applicant may appeal the decision to the Information Privacy Commissioner (IPC) must be communicated in the decision letter.
11. All decisions made in connection with a FIPPA request will be documented and tracked by the FOI Office.

D. PROCEDURE


1. The FOI Office will review the FIPPA request to determine whether the information is in the custody or under the control of the Hospital, whether the request is complete and clear and if necessary contact the Applicant for clarification. The Applicant may be referred to LDMH's Record Inventory posted on the intranet for assistance. There are two major categories of requests:
 - a) Request for one's own information: A request for one's own personal information (except for a request for personal health information – subject to PHIPA)
 - b) General records request: All other requests, including requests for the personal information of other individuals
2. The FOI Office will transfer the request to another hospital or government agency within seven (7) days if LDMH does not have custody and control of the requested record. Notification will be sent to the third party by courier. The Applicant will be notified of this transfer.
3. If LDMH records are in the custody of another service provider such as: CHIS or Procure, they will be notified immediately of the request.
4. The FOI Office will contact the appropriate FOI Leads in the relevant departments to determine the estimated time and resources required to search for the information (see Appendix C – FOI Lead Form – Part A). If more than three (3) hours is required for the search, a fee estimate must be provided to the Applicant. The FOI lead will return the form to the FOI office by hand delivering or via scan to email function within 2 days (return date will be indicated on the form).
5. The FOI office will provide an Interim Decision Letter with a fee estimate to the requester. Fifty percent (50%) of the fee estimate must be paid in full prior to the commencement of the search if the

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fee estimate is \$100 or more. The thirty (30) day timeline does not begin until this fee is paid to the FOI Office.

6. The FOI Office will also determine whether the request can be completed within thirty (30) days and if not, notify the Applicant of the time extension required. Extensions are permitted when:
 - a) The request is for a large number of records or requires a search of a large number of records and meeting the time limit would unreasonably interfere with the hospital's operation; or
 - b) Consultation with a person outside the hospital is necessary and cannot reasonably be completed within the time limit.
7. All FOI Leads will complete an FOI Request Department Lead Search Log form (see Appendix D – Search Log Form, Part C) documenting steps of the search and track time involved in completing the search. Any information that the FOI Lead determines is sensitive or contentious must be flagged for the FOI Office.
8. Information supporting Section B & C may be provided to the FOI Office in electronic or hard copy. Documents will be scanned to a network drive and converted to .pdf by the FOI office. No documents are to be sent in the inter office mail system. They are to be hand delivered to FOI office or scan to email.
9. The FOI Implementation/Privacy Team and as required the FOI lead/s will review the information retrieved to provide a recommendation as to whether an exclusion or exception to disclosure applies and where necessary identify information that the Applicant may not be entitled to access. Final decisions regarding requests will be determined by the officers of the Hospital that have been delegated the authority and power by the Head under FIPPA.
10. Delegation by the Head is to the Chief Privacy Officer (Officer A), or CEO(Officer B) or VP of Corporate Services & CFO (Officer C) individually. The Head is the chair of the Board as defined under the Public Hospitals Act. The Head is authorized to delegate powers and duties conferred on the head by FIPPA.
11. To ensure accountability and compliance with the Act, the FOI Office will assign cases to one officer. In the event that that officer is not reasonably available, the case will be assigned to the alternate officer. The Chief Privacy Officer (officer A) and the CEO (officer B) will serve as alternates to one another. The VP –Corporate Services & CFO (officer C) will serve as alternates to Officer A and Officer B.

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12. Issues that have been flagged as sensitive or contentious (see Appendix E – Contentious Issues Guidelines) by a Department Lead or the FOI Office must have the CEO (officer B) make a final determination of access. A recommendation by the FOI Implementation/Privacy Team will be provided.
13. The FOI Office will advise the Applicant whether access to the requested information is granted in full or in part or refused. A decision letter will be provided. All contact with the Applicant must be followed up with written confirmation.
14. The FOI office must document all decisions made in connection with the request and tracked in the FOI tracking file.
15. The Applicant will be advised of their right to make a complaint to the Information Privacy Commissioner when access is partially granted or refused.
16. Information released under an FOI request may be posted to the Internet.

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APPENDIX "A"

FOI and Records Management and Related Terminology s.2 FIPPA

Control (of a record)

Records that are not in the possession of the hospital can still be under its control. Whether records are under the control of the hospital depends on the circumstances. Records are normally considered under the control of a hospital if any of the following conditions apply:

1. The record relates to the mandate and function of the hospital;
2. The hospital has the right to take possession of the records;
3. The hospital has the authority to regulate the use of the record;
4. The hospital has the authority to dispose of the record; or
5. The record is relied on by the hospital.

Examples include:

- a) Documents that belong to the hospital but are stored in the office of the hospital's external legal counsel;
- b) Papers prepared and kept by a consultant hired by the hospital;
- c) Documents belonging to the hospital that are in a physician's office (whether on-site or off-site); or
- d) Documents that belong to the hospital by are kept at a firm providing off-site storage services.


Convenience Copy (or Record)

A copy of an original record that is kept by an individual for their own personal convenience and is not considered part of their record inventory, especially if the original record does fall under the authority, custody or control of the individual's department or area.

Custody (of a record)

The keeping, care, watch, preservation or security of the record for a legitimate business purpose. While physical possession of a record may not always constitute custody, it is the best evidence of custody. Records are normally considered in the custody of a hospital if the following conditions apply:

1. The records were made in connection with the hospital's mandate or functions (i.e. were not made by individuals for personal use); and
2. The hospital has a copy of the records.

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Directory of Records

s.32, 33, 35, 45 FIPPA

Is a publication which lists, for institutions covered by FIPPA.

1. Information on the general classes or types of records and manuals maintained by institutions and
2. The personal information banks maintained by each institution.

Each MFIPPA institution is required to make available similar information for public inspection.

Ecclesiastical Records

An ecclesiastical record means the operational, administrative and theological records, including records relating to the practice of faith, of a church or other religious organization.


Exemptions: Mandatory and Discretionary

An exemption is a specific provision in the Act that may be invoked by a head as justification for denying access to information, in whole or in part. There are two types of exemptions in FIPPA/MFIPPA.

Mandatory exemptions impose a duty on the head of an institution to refuse to disclose a record. Mandatory exemptions begin with the words: "a head shall refuse to disclose...". There are three mandatory exemptions in FIPPA. They are: s.12 (Cabinet records), s.17 (third party information) and s.21 (personal privacy). The three mandatory exemptions for MFIPPA are: s.9 (relations with other governments), s.10 (third party information) and s.14 (personal privacy). In the case of mandatory exemptions the head must determine whether the facts exist or may exist which bring the record requested within the exemption.

If grounds for a mandatory exemption exist, the head must refuse access unless a compelling public interest outweighs the purpose of the exemption (e.g. s.21 FIPPA / s.14 MFIPPA). The public interest override does not apply to s.12, 14, 16, 19 and 22 FIPPA / s.6, 8, 12, and 15 MFIPPA.

All other exemptions are discretionary exemptions. They permit 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...". FIPPA/MFIPPA requires a two-stage process in determining whether a discretionary exemption is to be applied. First, the head must determine whether the facts exist or may exist which bring the record requested within the exemption. Second, the head must decide whether he/she is willing to release the record, despite the existence of grounds for the exemption. A decision by a

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head to disclose information falling within an exemption is an exercise of discretion.

Freedom of Information and Protection of Privacy Act (FIPPA)

FIPPA is provincial legislation which came into effect on January 1, 1988 for government bodies, June 10, 2006 for universities and January 1, 2012 for hospitals. The Act has two main purposes:

1. To make public bodies more open and accountable by providing the public with the right of access to records; and
2. To protect personal information from unauthorized collection, use or disclosure by public bodies.

The Act applies to records in the custody or control of the hospital. Upon request, certain records must be made available, subject to limited exemptions as provided for in the Act.


FOI/RM Department Lead

Freedom of Information & Records Management Department Lead is the FOI/RM liaison or contact for their department/area. Leads are existing departmental level employees selected and appointed by their management based on the individual's extensive knowledge about their department's activities/functions and the HDGH records, created, received, and/or maintained by their department/area.

FOI/RM Department Leads are responsible for:

1. Communicating departmental FOI/RM issues with department management and the FOI Office and/or Coordinator;
2. Developing, maintaining and (annually) updating Departmental Records Retention Schedules, which are used to update the HDGH Master Records Retention Schedule;
3. Being the FOI/RM "point person" within their department/area and coordinate FOI/RM awareness briefings for management and co-workers;
4. Overseeing decisions regarding onsite or offsite storage, retention, and maintenance of department records in all media formats, i.e. paper, electronic, and microfiche;
5. Ensuring department records are properly organized, preserved (archived) and destroyed per records management guidelines or best practices, HDGH policies/procedures, and applicable laws;
6. Initiating an annual self-audit review of all records created, received or maintained by the department, and review with department management for corrective action;

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7. Assisting the HDGH FOI Office and Coordinator with FOI requests by identifying, locating and describing the contents of applicable records/information under the department's authority, custody or control;
8. Keeping abreast of FOI/RM information, updates, policies and procedures provided by the FOI Office, and regularly attending FOI/RM continuing education sessions;
9. Assisting with annual organizational and departmental records surveys and inventories.

FOI Request

FIPPA establishes a right for every person to access information held by hospitals, and provides a formal process for people to exercise that right by making an FOI request. An FOI request is a written request for a record in the custody or control of a hospital (provided that the record was in the custody or control of the hospital on or after January 1, 2007).

An FOI request supplement, and does not replace, other methods that patients, employees, news media, and members of the public may currently use to obtain information from a hospital. Hospitals should maintain those other methods of access where it is appropriate to do so, and should not require that all requests for information be made through a formal FOI request.

Frivolous and Vexatious (exemptions/requests)

s.27.1 FIPPA


An institution is not required to proceed with a request it views as frivolous or vexatious. If a requester appeals this decision, the institution is required to present evidence that the request is frivolous and/or vexatious and the IPC will determine if the institution's decision is reasonable.

Under the regulations, a frivolous or vexatious request occurs where the request is part of a pattern of conduct that amounts to an abuse of the right of access or where responding to the request would interfere with the operations of the institution. Examples of the meaning of "abuse" in the legal context include:

1. Proceedings instituted without any reasonable ground;
2. Proceedings whose purpose is not legitimate, but is rather designed to harass, or to accomplish some other objective unrelated to the process being used;
3. Situations where a process is used more than once, for the purpose of revisiting an issue previously addressed.

In addition, the regulations provide that a request meets the definition of frivolous or vexatious if it is made in bad faith. Bad faith is not simply bad judgment or

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negligence, but rather it implies the conscious doing of a wrong because of dishonest purpose. It contemplates a state of mind which views the access process with contempt and for the nuisance it creates, rather than a valid means of obtaining information.


Head

Head is defined as the Chair of the Board of the hospital, for public hospitals, and the superintendent for private hospitals.

Health Information Custodian

“Health information custodian” is defined as a person or organization described in one of the following paragraphs who has custody or control of personal health information as a result of or in connection with performing the person’s or organization’s powers or duties or the work described in the paragraph, if any:

1. A health care practitioner or a person who operates a group practice of health care practitioners.
2. A service provider within the meaning of the Home Care and Community Services Act, 1994 who provides a community service to which that Act applies.
3. A community care access corporation within the meaning of the Community Care Access Corporations Act, 2001.
4. A person who operates one of the following facilities, programs or services:
 - a) A hospital within the meaning of the Public Hospitals Act, a private hospital within the meaning of the Private Hospitals Act, a psychiatric facility within the meaning of the Mental Health Act or an independent health facility within the meaning of the Independent Health Facilities Act.
 - b) A long-term care home within the meaning of the Long-Term Care Homes Act, 2007, a placement coordinator described in subsection 40 (1) of that Act, or a care home within the meaning of the Residential Tenancies Act, 2006, or a retirement home within the meaning of the Retirement Homes Act, 2010.
 - c) A pharmacy within the meaning of Part VI of the Drug and Pharmacies Regulation Act.
 - d) A laboratory or a specimen collection centre as defined in section 5 of the Laboratory and Specimen Collection Centre Licensing Act.
 - e) An ambulance service within the meaning of the Ambulance Act.

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- f) A home for special care within the meaning of the Homes for Special Care Act.
- g) A centre, program or service for community health or mental health whose primary purpose is the provision of health care.
5. An evaluator within the meaning of the Health Care Consent Act, 1996, or an assessor within the meaning of the Substitute Decisions Act, 1992.
6. A medical officer of health of a board of health within the meaning of the Health Protection and Promotion Act.
7. The Minister, together with the Ministry of the Minister if the context so requires.
8. Any other person prescribed as a health information custodian if the person has custody or control of personal health information as a result of or in connection with performing prescribed powers, duties or work or any prescribed class of such person. 2004, c. 3, Sched. A, s. 3 (1); 2006, c. 17, s. 253; 2007, c. 8, s. 224 (2-4); 2007, c. 10, Sched. H, s. 1; 2009, c. 33, Sched. 18, s. 25 (1).

Please refer to actual Act for information on “health information custodian” exceptions.

Identifying Information

"Identifying Information" means information that identifies an individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual. 2004, c. 3, Sched. A, s. 4 (2).

Information and Privacy Commissioner of Ontario

s.4, 5, 6, 7, 8, 9, 50, 51, 52, 54, 55, 56, 58, 59, 61 FIPPA


The Commissioner is appointed by the Lieutenant Governor in Council. The Commissioner is an officer of the Legislature and is independent of the government.

The IPC hears appeals of decisions made by heads of institutions, issues binding orders, conducts privacy investigations, and has certain powers relating to the protection of personal privacy.

Machine Readable Record

s.2, 60 FIPPA

In cases where a request is for information that can not currently be extracted in a way that is useful to a requester, but is capable of being produced from a machine readable record, the Act gives the requester the right (subject to the regulations) to the information which would answer all or part of a request.

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If the process of producing a record from a machine readable format would unreasonably interfere with the operations of an institution, the machine readable record would not be included in the definition of a record as outlined above. Unreasonable interference with operations could include instances where normal business activities would have to stop or change in order to produce the record. It may also include instances where the cost of producing the record would result in the inability of an institution to meet its other obligations.

See the regulations for further information.

Non-Record

A non-record is an item that is not usually included within the scope of official records. It is a document not required to be retained and therefore not appearing on a records inventory or records retention schedule. In other words, it's a document, device or item (regardless of format) created or received which does not serve to document the institution, functions, policies, decisions, procedures, operations, or other business activities.

Examples include:

1. Personal Files	5. Blank forms
2. Personal papers	6. Personal correspondence
3. Day files	7. June mail/email & spam
4. Reference material	

Person

The term refers to an individual and to organizations such as business entities and associations.


Personal Files

Material belonging to an individual that was not created or received in the conduct of business while in the employ of an organization.

Personal Health Information (PHI) (pertains to PHIPA)

According to PHIPA (see below), "personal health information" means identifying information about an individual in oral or recorded form, if the information,

1. Relates to the physical or mental health of the individual, including information that consists of the health history of the individual's family,
2. Relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual,
3. Is a plan of service within the meaning of the Home Care and Community Services Act, 1994 for the individual,

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4. Relates to payments or eligibility for health care, or eligibility for coverage for health care, in respect of the individual,
5. Relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance,
6. Is the individual's health number, or
7. Identifies an individual's substitute decision-maker. 2004, c. 3, Sched. A, s. 4 (1); 2007, c. 8, s. 224 (6); 2007, c. 10, Sched. H, s. 2.

Personal Health Information Protection Act (PHIPA)


PHIPA was enacted on November 1, 2004 to address the privacy policies and practices for health care providers and/or health information custodians in Ontario. The Act provides appropriate legislative provisions to ensure the privacy of (patient) personal health information in a way which is consistent with effective health care services. The purpose of this Act is,

1. To establish rules for the collection, use and disclosure of personal health information about individuals that protect the confidentiality of that information and the privacy of individuals with respect to that information, while facilitating the effective provision of health care;
2. To provide individuals with a right of access to personal health information about themselves, subject to limited and specific exceptions set out in this Act;
3. To provide individuals with a right to require the correction or amendment of personal health information about themselves, subject to limited and specific exceptions set out in this Act;
4. To provide for independent review and resolution of complaints with respect to personal health information; and
5. To provide effective remedies for contraventions of this Act. 2004, c. 3, Sched. A, s. 1.

For further information see "personal health information" and "health information custodian" definitions. It should be noted that personal health information is not the same as "personal information," please see definitions. Also, records with PHI (which fall under PHIPA) are excluded from FIPPA, unless that information can be adequately severed from the records.

Personal Information

Personal information (different from Personal Health Information) means recorded information about an identifiable individual, including:

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1. Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
2. Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
3. Any identifying number, symbol or other particular assigned to the individual;
4. The address, telephone number, fingerprints or blood type of the individual;
5. The personal opinions or views of the individual except if they relate to another individual;
6. Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
7. The views or opinions of another individual about the individual; and
8. The individual's name if it appears with other personal information relating to the individual or where disclosure of the name would reveal other personal information about the individual.


Personal information must be about an identifiable individual. However, an individual's name need not be attached to the information to qualify as personal information. A physical description or a photograph of a person attached to other personal information about that person is personal information although no name is ever indicated. This individual is "identifiable" and all of the kinds of information described above are his/her personal information.

Generally, information about a property or a specific municipal address, such as market value assessment or building permit information, is not personal information. However, records containing such property-related information may also contain an individual's name and personal information such as a home telephone number. Care should be taken to ensure that any disclosure of that personal information complies with the privacy protection provisions of the Act.

An individual's name on its own is not personal information. To be personal information within the meaning of the Act, the name must be associated with other personal information as defined in s.2.

For example: An individual's name kept by a social services department would be personal information because the fact that the name was on a record at the

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department might indicate that the person was, or is, in receipt of public assistance.

The term "person" when used in legislation may refer to both individuals and to organizations such as business entities and associations. However, an "individual", which is the term related to privacy rights in the context of FIPPA, does not include sole proprietorships, partnerships, unincorporated associations, corporations, trade unions or law firms or the names of officers of a corporation writing in their official capacity.

Correspondence submitted to an institution by a representative of a group or association is not the personal information of the author of the correspondence if:

1. The correspondence submitted to an institution is on the letterhead of the organization and
2. It is signed by an individual in his/her capacity as a spokesperson of the organization.

However, the information about individuals acting in their business or official capacities becomes personal information when they are affected as private individuals.

For example: The witness statements of by-law enforcement officers who were physically assaulted while acting in their official capacity would contain their personal information.

Personal information also includes opinions and views.

For example: If A expresses an opinion about B, that opinion is part B's personal information. Other views or opinions, which are not about an individual, are the personal information of the individual who has expressed the opinion.

Personal information does not include information about an individual who has been dead for more than thirty years (s.2 (2)).


The definition of personal information under the Act refers to recorded information about an identifiable individual. For the purpose of regulating the collection of personal information under the privacy protection provisions of the Act, personal information includes personal information collected orally on behalf of an institution.

Personal Information Bank (PIB)

s.44, 45 FIPPA / s.34 MFIPPA

A Personal Information Bank (PIB) is a collection of personal information that is organized and capable of being retrieved by an individual's name or other individual identifier.

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A collection of personal information in the custody or control of an institution would be a personal information bank if it has the following characteristics:

1. It must contain personal information;
2. Information contained in the bank must be a collection of like or similar information about individuals;
3. Information must be linked to an identifiable individual; and
4. The information must be capable of being retrieved by the individual's name or identifying symbol (such as a client identification number).

For example: A public library's circulation records that contain the names, addresses and borrowing records of patrons is a personal information bank.

Usually a personal information bank serves an important administrative or operational function and is used in reaching decisions that affect the individuals in the bank. A number of personal information banks can support one function.

Institutions will often have collections of records containing some personal information, but these do not meet the criteria for the definition of a personal information bank (e.g., records of purchase orders or general correspondence). The Act does not require an institution to rearrange its personal information into personal information banks.

Collections of personal information that meet the characteristics of a personal information bank (as set out above) must be identified and described by the institution. Generally, individuals have a right to information about themselves contained in an institution's personal information banks. These descriptions must be made available to assist the public in exercising privacy rights.


Other examples include:

- a) Job Competitions
- b) Travel Expense Accounts
- c) Hospital Admissions and Discharge Files
- d) NSF Cheques
- e) Claims Files
- f) Ontario Tax Grant Program Files

Public Interest

Means the interest of the public in general, not of any individual or group of individuals.

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The interest may be a pecuniary one or one by which legal rights or liabilities are affected. It may be an interest in public health or safety or an interest in the maintenance of confidence in the conduct of the hospital or in the administration of an institution.

For example: A breach of security occurring within a sensitive hospital function, might raise serious questions about how and why the breach happened. If information contained in a record could inform the public in some way about the incident by adding to the information they have to express opinion, it could be considered in the public interest to release it.

Personal Papers

Material which is unrelated to the conduct of an organization's business or to an employee's duties and may pertain to an employee's professional affiliations, volunteer activities, personal interests or other matters.

Quality of Care Committee (pertains to QCIPA)

"Quality of care committee" means a body of one or more individuals,


1. That is established, appointed or approved,
 - a) by a health facility,
 - b) by an entity that is prescribed by the regulations and that provides health care, or
 - c) by an entity that is prescribed by the regulations and that carries on activities for the purpose of improving or maintaining the quality of care provided by a health facility, a health care provider or a class of health facility or health care provider,
2. That meets the prescribed criteria, if any, and
3. Whose functions are to carry on activities for the purpose of studying, assessing or evaluating the provision of health care with a view to improving or maintaining the quality of the health care or the level of skill, knowledge and competence of the persons who provide the health care.

Quality of Care Information (pertains to QCIPA)

"Quality of care information" means information that,

1. Is collected by or prepared for a quality of care committee for the sole or primary purpose of assisting the committee in carrying out its functions, or
2. Relates solely or primarily to any activity that a quality of care committee carries on as part of its functions,
but does not include,
3. Information contained in a record that is maintained for the purpose of providing health care to an individual,

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4. Information contained in a record that is required by law to be created or to be maintained,
5. Facts contained in a records of an incident involving the provision of health care to an individual, except if the facts involving the incident are also fully recorded in a record mentioned in clause (c) relating to the individual, or
6. Information that a regulation specifies is not quality of care information and that a quality of care committee receives after the day on which that regulation is made.

Quality of Care Information Protection Act (QCIPA)

The Quality of Care Information Protection Act, 2004 (QCIPA) came into force on November 1, 2004. Under the legislation, information provided to hospital quality of care committees and other designated quality of care committees that deal with quality improvement would be shielded from disclosure in legal proceedings. The legal protections for quality of care information cannot be used as a shield to prevent the disclosure to the patient of facts of any adverse medical event related to the patient. However, the protections do not apply to such facts unless they are recorded in the patient's file, which is accessible to the patient. The Act promotes the sharing of information and open discussions among health professionals, which can lead to improved patient care and safety. For example, more openness about errors can result in potential solutions to ensure they do not recur. QCIPA is a key component of the Ministry's patient safety agenda.


According to QCIPA, FIPPA does not apply to “quality of care information.” For further information, about exceptions and definitions, please refer to the Act itself. Also see “quality of care information” and “quality of care committee” definitions in this document.

Record

s.2 FIPPA

A record is any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes:

1. Correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine-readable record, any other documentary material regardless of physical form or characteristics, and any copy thereof; and
2. Subject to the regulations, any record that is capable of being produced from a machine-readable record under the control of an institution by means of computer hardware and software or any other information

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storage equipment and technical expertise normally used by the institution.

The definition of record is very broad and includes virtually every form of information held in some recorded form by an institution. The definition is not restricted to actual physical documents, but includes records that can be created from existing data in a computer bank. Even documents such as electronic mail are considered to be records. For further information on computer records, see the definition of "machine readable records" immediately below.

Handwritten notes or other notations on records form a part of the records. Working copies and drafts of reports and letters are also records.

Records Series

A group of related records filed/used together as a unit and evaluated as a unit for retention purposes, e.g., a personnel file consisting of an application, reference letters, benefit forms, etc.

Third Party

Any person whose interests might be affected by disclosure other than the person making a request for access or the institution. Where the third party is an individual, his/her rights may in some cases be exercised by another person. See the definition of "individual" above.

Transient/Transitory Record


A record that has little or no documentary or evidential value and that need not be set aside for future use. Many of the documents handled on a regular basis are considered transient/transitory and either have very short retention periods or no retention requirements whatsoever. Only transient/transitory records with retention requirements need be on records inventories and retention schedules.

Examples include:

1. Memoranda pertaining to scheduling an event
2. Documents designated as superseded or as updated
3. User copies (not original documents)
4. Routing slips
5. Voice-mail
6. Preliminary drafts (when superseded, although still FOIable)

All definitions and information was either obtained from Ontario Hospital Association FIPPA/FOI material or from the Acts themselves via the Ministry of Ontario's e-Laws website:


(<http://www.e-laws.gov.on.ca/navigation?file=home&lang=en>).

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APPENDIX "B"

Freedom of Information (FOI) Fee Schedule

Fees for a General Record Request	Amount / Rate
<i>s. 57(1) FIPPA, s. 6 Reg. 460</i>	
Application Fee	\$5.00 each
Photocopies and computer printouts	\$0.20 per page
Records provided on CD-ROMs	\$10.00 for each CD-ROM
Manually searching a record	\$7.50 for each 15 minutes spent by any person
Preparing a record for disclosure, including severing a part of the record	\$7.50 for each 15 minutes spent by any person
Developing a computer program or other method of producing a record from a machine readable record	\$15.00 for each 15 minutes spent by any person
Costs, including computer costs, incurred in locating, retrieving, processing and copying the record(s) if those costs are specified in an invoice received by the hospital	Actual costs incurred


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Freedom of Information (FOI) Fee Schedule (cont'd)

Fees for a Personal Information Request	Amount / Rate
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s. 57(1) FIPPA, s. 6.1 Reg. 460

Application Fee	\$5.00 each
Photocopies and computer printouts	\$0.20 per page
Records provided on CD-ROMs	\$10.00 for each CD-ROM
Developing a computer program or other method of producing a record from a machine readable record	\$15.00 for each 15 minutes spent by any person
Costs, including computer costs, incurred in locating, retrieving, processing and copying the record(s) if those costs are specified in an invoice received by the hospital	Actual costs incurred
Fee deposit: Hospitals may require the requestor to pay 50% of the total estimated fee if it is \$100.00 or more.	
Fee refund: Hospitals will refund any fee deposit paid that is subsequently waived.	

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APPENDIX C

Part A - This portion of the form is to provide an estimate of the work required to fulfill FOI request



FOI REQUEST #2012-_____

**LDMH Internal FOI Request
Part A – Estimate of Search Requirements**

Completed by FOI Office:

Date requested: _____ Department Lead: _____

Details of Information Requested:	Departments Request Sent To:
	1) 2) 3) 4) 5) 6) 7)

Must be returned to the FOI Office by: _____
(Hand-deliver to FOI Office or scan and send to lwest@ldmh.org)

Completed by FOI Dept Lead:

Date received: _____

Is the requested information available? Yes No

Potentially qualifies as contentious issue? Yes No

Complexity of search requirements: Low Medium High Very High

Primary source of information: Electronic Paper Both


Estimated time required to complete search request: _____ hours

Comments:

Name: _____ Date: _____

Signature: _____

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**LDMH Internal FOI Request
Part B – Estimate of Search Requirements**

Part B - This portion of the form confirms that the FOI request must be fulfilled.

Completed by FOI Office:

Date request confirmed: _____ Department Lead: _____

Further Details of Information Requested:
 Same as listed in Part A

Search results must be received by the FOI Office by: _____

(Hand-deliver to FOI Office or scan and send to lwest@ldmh.org)

Completed by FOI Dept Lead:

Date received: _____

Date completed: _____

Name: _____


Date: _____ Signature: _____

Ensure that the Search Log Form is completed, along with copies of all relevant documents, attached and returned to FOI Office before deadline.

Deadline date: _____

The following documents are included:

- Request Form (Part B)
- Search Log (Part C)
- Copies of relevant documents

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APPENDIX D



FOI REQUEST #2012 _____

**LDMH Internal FOI Request
Part C - FOI Request Department Lead Search Log**

Department:		Department Lead:			Contact Number:			
Deadline for Return to FOI Office:			Search Start Date:		Search End Date:			
<ul style="list-style-type: none"> The pages of each information title listed should be stapled and numbered to correspond with the entries in the log 								
Item Number	Information Title / Name	Location of Search	Paper or Electronic (P or E)	Results (Yes / No)	Time in Minutes to complete search	Number of pages	Consider Contentious (Yes / No)	Additional Comments
Name of Person Conducting Search (please print)					Signature			
Page 24 of					FOI Office Ext. 4118			

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APPENDIX “E”

Contentious Issues Guidelines

APPENDIX “E”

Contentious Issues Guidelines

Contentious issues must still be handled, process-wise, in the same manner as any other FOI request. Contentious issues will be flagged on the FOI checklist by the FOI department lead and forwarded to the FOI office. FOI requests may be contentious if:


- 1) The request includes a sensitive matter and/or
- 2) The request was submitted by a media outlet or other organization that may disseminate the record(s) and/or publish a story based on the record(s)
- 3) The information may unduly prejudice the reputation of the organization or an employee or affiliate of Leamington District Memorial Hospital or requires notification to an individual.
- 4) They are issues that have had media attention

The hospital will ensure that:

- 1) A consultation process is established that will enable the FOI and Privacy Office to quickly consult with the senior management lead regarding potentially contentious requests; all flagged issues must be discussed within 2 days of notification to Contentious issues team ; and
- 2) The senior management lead is aware of the types of matters that the hospital considers to be contentious and , if necessary , must quickly consult with other hospital executives and/or departments to determine whether a given matter is contentious. All personnel must make themselves available when a contentious issue requires discussion.
- 3) Key personnel or departments take steps to manage any consequences arising from the release of the records.

A contentious request is subject to the same requirements under FIPPA as routine requests. The process involves:

- 1) A “head’s up” in which the following hospital personnel, advisors or other persons are given notice of the handling of an FOI request. This will be referred to as a “Contentious Issue Huddle”. It is not to be confused with a

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“sign-off” process in which personnel who have not been delegated authority by the Head are able to affect the manner in which the request is processed.

The personnel or departments required to be notified may include:

- The Head;
 - The President and CEO;
 - Senior management lead;
 - Other members of the hospital executive team;
 - The hospital’s Chief Privacy Officer and Risk Manager
 - The hospital’s legal counsel
- 2) It must run parallel to the FOI request process. It must not interfere with or delay the normal processing of records under FIPPA, or result in the requester’s or the FOI’s request being treated in a manner that conflicts with the hospital’s obligations under FIPPA, including the administration of access requests within the time limits specified in the request.
- 3) It must protect the identity of the requester. The requester must only be identified to the personnel outside the FOI and Privacy Office if the identification is required to process the request.

APPROVAL PROCESS

Care Team and/or Committee:

Date: