

Privacy rules continued...

4. **Disclosure of councillor-related information:**

As a councillor, the municipality will hold records that contain your personal information. Where this is the case, this information is subject to the access and privacy provisions of the *MGA*. Certain kinds of personal information about councillors is not considered to be private and will be disclosed to the public, either proactively or upon request. These kinds of information include:

- expense claims incurred while travelling at the expense of the municipality,
- salary (remuneration) amounts, and
- position or functions assigned.

Access & Privacy Questions

Who can you talk to?

Under the *MGA*, the Chief Administrative Officer or the Clerk is responsible for ensuring that the municipality complies with Nova Scotia's access and privacy rules. If you have any questions about your access and privacy obligations you should speak to one of these two people. You can also call the Office of the Information and Privacy Commissioner for Nova Scotia at 902-424-4684 or visit us at www.foipop.ns.ca.

Notice to users

This document is intended to provide general information only. It is not intended nor can it be relied upon as legal advice. As an independent agency mandated to oversee compliance with *FOIPOP*, *MGA* and *PHIA* the Office of the Information and Privacy Commissioner for Nova Scotia cannot approve in advance any proposal from a public body, municipal body or health custodian. We must maintain our ability to investigate any complaints and to provide recommendations in response to those complaints. The contents of this document do not fetter or bind this office with respect to any matter, including any

Notice to users continued...

complaint investigation or other matter respecting which the Information and Privacy Commissioner for Nova Scotia will keep an open mind. It remains the responsibility of each public body, municipal body and health custodian to ensure that they comply with their responsibilities under the relevant legislation. Visit us at www.foipop.ns.ca or call 902-424-4684.

Where can I get more information?

For more information please visit our website:
www.foipop.ns.ca

To speak to somebody at the Office of the Information and Privacy Commissioner for Nova Scotia:

Phone 902-424-4684
Toll Free 1-866-243-1564
TDD/TTY 1-800-855-0511
(Deaf or Hearing Impaired)

Email: oipecns@novascotia.ca

**Information and Privacy
Commissioner for Nova Scotia**
PO Box 181
Halifax, NS B3J 2M4

or by fax to:
902-424-8303



Office of the Information
& Privacy Commissioner
Nova Scotia



Access & Privacy Rules A Councillor's Guide

Introduction

As a municipal councillor, it is important that you have a working understanding of the rules that govern the collection, use and disclosure of information by your municipal government.

Part XX of the Municipal Government Act (MGA) sets out the access to information and protection of privacy rules that municipalities must follow. These rules are intended to promote public accountability, facilitate informed public participation in policy formulation and ensure fairness in government decision-making. These same rules also limit a municipality's authority to collect, use and disclose personal information.

Upon request, municipalities must disclose all records in their custody or control unless there is information that falls within the limited and specific exemptions that are set out in the law. The opposite holds true for personal information. Each municipality must protect the privacy of those whose personal information appears in its records. To this end, there are specific rules in the *MGA* for when municipalities may collect, use and disclose personal information.

As a councillor you will need to have a clear understanding of what these rules are to ensure that you abide by them, and further, so that you do not create a liability for your municipality.

Access rules you should know

1. Records subject to the access rules:

The *MGA* applies to all records in the custody or under the control of municipal governments such as:

- your correspondence with municipal officers and employees,
- all correspondence and records which concern council business including minutes, budgets and reports,
- your correspondence with non-municipal government officials and employees where you have copied municipal officials and employees or where you are carrying out the business of council.

Access rules continued...

The *MGA* may not apply to all of your constituency records. Your emails to constituents, for example, are likely not to be subject to the access and privacy provisions of the *MGA* unless they are forwarded to or shared with a municipal employee or official.

2. Responsible officer and disclosure of information:

The municipality is responsible for all access to information requests. Each municipality has a responsible officer who has the authority to decide whether information in municipal records must be disclosed under the *MGA* or may be withheld.

It is important to know what municipal records can and cannot be shared (disclosed) by you. Certain reports, minutes and correspondence may be protected from disclosure, e.g. legal advice, personal information and confidential business or government information. Consult with the responsible officer for your municipality before sharing any information you obtained in your role as councillor.

3. Records storage and retention:

In order for access rights to work well the municipality must have access to all of its records. This means that you have a duty to ensure that any information you collect or create in the course of your duties is stored in the municipality's official storage system. This includes electronic records such as emails or text messages if they relate to the mandate of the municipality.

Information created or stored on your personal devices and email accounts is subject to the access rules if the information relates to the mandate of the municipality. Follow the records creation, storage and retention policy of your municipality.



Privacy rules you should know

1. Limited access to personal information:

In the course of your work on council, municipal officials and staff may provide you with access to the personal information of employees, other councillors or citizens. This personal information is subject to the privacy rules in the *MGA*. You are only entitled to receive personal information in three main circumstances:

- because the individual consented,
- because the information is necessary for the performance of your duties as a councillor, or
- because compelling health or safety circumstances exist that require disclosure of the information.

2. Limit disclosures of personal information:

Once you have been entrusted with personal information, you may only use it and/or disclose this personal information for the reason it was shared with you, or with council. A disclosure of personal information by you could result in a privacy breach. For this reason, if you have any doubts about whether you can discuss or share the personal information, it is important that you seek direction from the municipality's responsible officer.

3. Secure personal information:

You are responsible to ensure that the personal information you receive from the municipality is accounted for and secured, ideally at the municipal offices. Some practical measures that will help you avoid a privacy breach include using the municipality's secure email system when conducting municipal business and employing strong passwords which are changed regularly and not shared with others.

If you must travel with portable storage devices such as laptops or cell phones, ensure that they are encrypted and never leave them unattended. Never leave records containing personal information in vehicles or otherwise unsecured when you leave your office.