

GUIDANCE DOCUMENT

DISCLOSURE OF PERSONAL INFORMATION OF INDIVIDUALS IN CRISIS

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PURPOSE OF THIS GUIDANCE DOCUMENT

In emergency situations, privacy laws in BC authorize public bodies or private organizations to responsibly disclose an individual’s personal information, including information about their mental, emotional, or other health conditions, to third parties who may be able to help in a crisis. Privacy legislation in BC accommodates the disclosure of personal information in the event it could prevent a tragedy.

BC’s [Freedom of Information and Protection of Privacy Act](#) (FIPPA) sets out how public bodies can collect, use, and disclose personal information. BC’s [Personal Information Protection Act](#) (PIPA) sets out how private sector organizations can collect, use, and disclose personal information.

This guidance document informs public bodies and private sector organizations about the circumstances under which they can disclose personal information of an individual to a third party without the individual’s consent in emergency situations.

DISCLOSURE

Discretionary disclosure under FIPPA

FIPPA authorizes public bodies to disclose personal information in order to prevent harm to individuals or when disclosure is in the best interests of the individual.

FIPPA allows for the disclosure of personal information if “compelling circumstances exist that affect anyone’s health or safety,”¹ as well as disclosure “so that the next of kin or a friend of an injured, ill or deceased individual may be contacted.”² FIPPA also allows for the disclosure of personal information “for the purpose of reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonable likely to occur.”³

Example: Disclosure of personal information by a public body (hospital)

An emergency doctor treats an individual for a severe panic attack. In the process of treating the patient, the doctor notices marks on the individual’s arm that appear to suggest a recent suicide attempt. Upon inquiry, the individual refuses to discuss the injury and simply states that school has been very stressful lately. The individual leaves the hospital abruptly after treatment. Section 33.1(1)(m) of FIPPA allows the health authority to disclose information about the patient to a third party (for example, a family member, their school, or a social worker) because compelling circumstances exist that affect the individual’s health or safety.

Example: Disclosure of personal information by a public body (university)⁴

A university counsellor treats a student patient who expresses wanting to “get even” with his classmates. The individual discusses visiting websites with instructions on how to build explosive devices. The counsellor’s professional opinion is that the individual is on the verge of a breakdown and is concerned that he will harm himself or others. The counsellor determines that it may be necessary for the head of the public body to disclose the individual’s personal information to the university and law enforcement in order to prevent significant harm to the individual, students, or the public. Section 33.1(1)(m) of FIPPA allows for the disclosure of the individual’s personal information by the head of the public body to a third party, because compelling circumstances exist that affect the health or safety of the student’s classmates.

Example: Disclosure of personal information by a public body (government)

A government worker notices their colleague has ongoing injuries. Due to the nature of the injuries, the government worker believes they are the result of ongoing domestic abuse. Section 33.1(1)(m.1) of FIPPA allows the government worker to disclose the individual’s personal information inside or outside of Canada, for example to law enforcement authorities, for the purpose of reducing the risk that an individual will be a victim of domestic abuse.

¹ FIPPA s.33.1(1)(m)

² FIPPA s.33.1(1)(n)

³ FIPPA s. 33.1(1)(m.1)

⁴ Please see OIPC Guidance Document [Emergency Disclosure of Personal Information by Universities, Colleges and other Educational Institutions](#) for more information on exercising discretion to disclose personal information during or before emergencies in educational settings.

Mandatory disclosure under FIPPA

FIPPA also contains emergency disclosure provisions that require a public body to disclose personal information when disclosure is clearly in the public interest. This includes situations where there is a risk of significant harm to the environment or to the health or safety of the public or to a group of people and could include serious mental health concerns or threats of violence. This requirement in FIPPA applies even if no one has requested the information. Please see OIPC Guidance Document [Section 25: The Duty to Warn and Disclose](#).

Disclosure under PIPA

While PIPA generally requires consent in order to disclose personal information, it allows disclosure *without consent* where there are reasonable grounds to believe that compelling circumstances exist that affect the health or safety of any individual.⁵ It also authorizes disclosure without consent where disclosure is clearly in the interests of the individual and consent cannot be obtained in a timely way.⁶ PIPA also authorizes an organization to disclose personal information if the disclosure is for the purpose of contacting next of kin or a friend of an injured, ill, or deceased individual.⁷

Example: Disclosure of personal information by a private organization

A physician in a clinic treats an individual with severe depression and suspects a dependency on prescription drugs. The physician believes that there is an imminent risk of suicide or overdose. Under s. 18(1)(k) of PIPA the physician may disclose the individual's personal information to a third party, such as a parent or a social worker, without consent, because there are compelling circumstances that affect the individual's health or safety.

Notification of disclosure under FIPPA

If a public body discloses an individual's personal information because the head of the public body determines that compelling circumstances exist that affect anyone's health or safety, the public body is required to give notice of the disclosure to the individual unless "the head of the public body considers that giving this notice could harm someone's health or safety."⁸

Notification of disclosure under PIPA

If an organization discloses an individual's personal information because there are reasonable grounds to believe that compelling circumstances exist that affect the health

⁵ PIPA s. 18(1)(k)

⁶ PIPA s. 18(1)(a)

⁷ PIPA s. 18(1)(l)

⁸ FIPPA s. 33.1(1)(m)(ii)

or safety of any individual, PIPA requires notice to be mailed to the last known address of the individual whose personal information is being disclosed.⁹

Who can disclose under FIPPA

Some disclosure provisions in FIPPA require the head of the public body to be responsible for the decision about whether or not to disclose personal information under FIPPA.¹⁰ Schedule 1 of FIPPA defines the “head” of a public body.¹¹

A public body may delegate this responsibility.¹² We recommend that each public body delegate this responsibility to a person or the available person in a designated position who is always readily available and trained to make that determination to ensure there is always someone available who can make these decisions on behalf of the public body.

The individuals in this position should then be trained on how to meet the requirements of ss. 33.1(1)(m) and 33.1(1)(n) of FIPPA. The public bodies should also train their staff to know that the individuals in this position have the delegated authority from the head of the public body to exercise discretion to disclose personal information in certain circumstances.

Who can disclose under PIPA

If there is a disclosure authority under PIPA, anyone in an organization may make the decision to disclose personal information. Disclosure of personal information can only occur for purposes that a reasonable person would consider are appropriate in the circumstances that PIPA permits.¹³

Organizations should train their staff to know that they can disclose personal information in circumstances authorized by PIPA.

ADVICE FROM THE COMMISSIONER

Public bodies and private organizations should have clear policies and procedures in place well in advance of any disclosure to provide guidance about how staff should respond.

All staff should receive regular education and training on relevant policies and procedures and on the basics of the privacy laws that permit public bodies and organizations to disclose personal information in emergency situations.

⁹ PIPA s. 18(1)(k)

¹⁰ FIPPA ss. 33.1(1)(m) or (n), for example.

¹¹ Note that s. 77 of FIPPA requires local public bodies to designate the “head” by bylaw or other legal instrument by which the local public body acts.

¹² FIPPA s. 66

¹³ PIPA s. 17(c)



These guidelines are for information purposes only and do not constitute legal advice or a decision or finding by the Office of the Information and Privacy Commissioner for British Columbia. These guidelines do not affect the powers, duties, or functions of the Information and Privacy Commissioner regarding any complaint, investigation, or other matter under FIPPA or PIPA.

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