



SUBJECT: Privacy and Protection of Personal Information Policy

TO: Committee of the Whole

FROM: Office of the City Clerk

Report Number: CL-01-23

Wards Affected: all

File Numbers:

Date to Committee: February 1, 2023

Date to Council: February 14, 2023

Recommendation:

Repeal the Protection of Privacy and Confidentiality of Information Policy attached as appendix A to Office of the City Clerk report CL-01-23; and

Approve the Privacy and Protection of Personal Information Policy attached as appendix B to Office of the City Clerk report CL-01-23;

PURPOSE:

The purpose of this report is to approve a new Privacy and Protection of Personal Information Policy and repeal the previous Protection of Privacy and Confidentiality of Information Policy.

Vision to Focus Alignment:

- Deliver customer centric services with a focus on efficiency and technology transformation.

Background and Discussion:

A primary purpose of The *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*, R.S.O. 1990, c. M.56, (MFIPPA), is to protect the privacy of individuals with respect to their personal information about themselves held by municipal governments and provide them with a right of access to their own information within the

City's record holdings. Part II of MFIPPA outlines the legislative requirements of protecting personal information through the information lifecycle of collection, retention, use, disclosure, and individual rights of access and correction to their personal information kept at a municipal government. An outline of these legislative requirements:

- The provision of Notice of Collection Statements which outlines a) the legislative authority to collect personal information, b) the purpose the information is collected, and c) contact information for the staff member to answer questions about the collection of the personal information.
- Parameters of the permitted use and disclosure of personal information.
- The provision of an index of a Personal Information Bank which outlines the types of personal information kept in the custody and control of the City, and that the index is accurately maintained.
- Providing the right to access or correct your own personal information.
- Report the number of privacy breaches as a part of annual freedom of information requests to the Information and Privacy Commissioner.

The new proposed Policy mandates these City responsibilities and requirements to instill privacy as a public service through the protection of personal information kept of rate payers and user groups. It defines responsibilities, authorities, and relationships to maintain protection of personal and confidential information at the City. This policy outlines how the City will maintain requirements to protect personal information as a modern, efficient public service in accordance with the legislative requirements outlined in MFIPPA.

The City adopted a Protection of Privacy and Confidentiality of Information Policy in September 2017, replacing a July 2002 policy of the same name, with a purpose to establish privacy impact assessment (PIA) usage and privacy breach investigation and reporting. The privacy program has since matured based on this 2017 policy from its original intent to establish PIA's and privacy breach reporting. Burlington Leadership Team approved the Information Management (IM) Strategy in February 2021, as reported to Council in November 2021 through staff report CL-13-21, with the IM strategy's four areas of focus to establish information governance, enhance information protection, improve the availability of information, and simplify information management.

The Information Management Policy was also approved in November 2021 and as outlined through staff report CL-27-21 served as the first policy being reviewed and revised to modernize the information management governance structure at the City, including privacy best practices.

A review with the application of the IM strategy's areas of focus as outlined through staff report CL-13-21 was conducted throughout 2022 of the City's information management program including its subsidiary privacy program, access to information services, and records management program. The privacy program was identified as the priority item to address within the IM strategy based on the problems identified, importance of protecting personal information to the public, and opportunities for improvement.

Strategy/process

Change from Organizational Policy to Corporate Policy

The Protection of Privacy and Confidentiality of Information Policy was changed to an organizational policy from a corporate policy in 2017. The approach aligned with the shift to adopt internal privacy controls of mandatory training to those who work with personal information, strengthen privacy breach response measures, and mandate privacy impact assessments be completed on projects involving personal information. A change to a corporate policy more widely includes services that have an impact to the public whereas organizational policy usually addresses internal operations.

The internal measures established in the 2017 organizational policy integrate privacy holistically with city services involving personal information. A gap that has been identified between this new policy and the current policy is that this policy protects the privacy of the public and that internal operations have a role and responsibility in protecting the public's personal information. The city's privacy policy has broader implications than just keeping information protected within the City not reflected in its current version, and served as the reason to opt having the Privacy and Protection of Personal Information policy become a corporate policy.

Policy Shift from Establishment to Maintenance

This policy shifts from establishment to maintain and strengthen the City's privacy program. The policy was scoped to fit within existing City policies and focuses on addressing the gaps of protecting personal information, committing to legislative compliance, and outlining roles and responsibilities. Office of the City Clerk is responsible for operating the privacy program. City departments are responsible for integrating privacy into their respective programs. Council, staff, and volunteers are responsible for protecting privacy in their day-to-day work.

The 2017 policy's purpose was to establish the requirements for a privacy impact assessment, privacy breach response and mandatory privacy training as a catalyst to

further develop the City's privacy program. Setting the policy requirement enabled the need for tools to be established to meet these requirements. The purpose of the 2017 privacy policy is now complete and subsequently obsolete with the establishment of these requirements. The City's privacy policy now needs a new purpose and objectives.

A shift in strategy was made for privacy program initiatives to be developed ahead of the policy update. The privacy program's maturity intends to be matched with the current state of the program. The following privacy program initiatives were completed in 2022:

- A privacy impact assessment standard operating procedure was completed.
- Mandatory corporate privacy training and recommended technical privacy training e-learning modules launch this winter, developed to deliver efficient and effective compliance with the policy's requirements. The individual roles and responsibilities are outlined in the Corporate Privacy Training session, while departmental responsibilities are covered in Technical Privacy Training session.
- Privacy breach protocol includes a stronger focus on remediation and providing recommendations for future prevention of similar breaches. These measures equip the privacy policy for implementation and adherence upon approval.

New Policy Enhancements

A fulsome review of the privacy policy was completed to provide supplemental updates along with the primary policy change requirements. The policy is formulated to outline a commitment to maintaining the protection of personal information, continued compliance with legislation requirements in MFIPPA, and advance the privacy program into embedding privacy into everyday business practices.

The proposed Policy also provides minor updates including renaming the Policy to a more accurate title and proper scoping to reduce overlap in other existing information management or technology affiliated Policy. This Policy specifically focuses on the privacy and protection of personal information.

The proposed Policy integrates the Information Management strategy areas of focus through:

- Establishing information governance practices with a commitment to maintaining legislative requirements through defining responsibilities at the individual, department, and program level.

- Enhancing information protection by integrating privacy by design principles into everyday business practices and a renewed focus of privacy breach prevention tactics into each privacy breach protocol remediation strategy.
- Improving the availability of information by making this proposed Policy a public, corporate policy and committing to maintaining Personal Information Banks and Notice of Collection Statements which provide the public with information of how the City maintains personal information protection through the information lifecycle.
- Simplifying information management by aligning the Policy requirements with principles introduced in privacy training and itemizing in the policy simple privacy measures for everyday business practices.

Next steps and Implementation

The next step and implementation of this policy is to maintain the protection of personal information. The proposed policy outlines this maintenance requirement with specific, itemized responsibilities and roles at the individual, department, and program level. These responsibilities are aligned with the available privacy training and have been modernized for hybrid workforce business practice privacy considerations.

Privacy by design principles is the practice of embedding privacy into everyday business practices. The proposed Policy implements privacy by design into the City's business practices by outlining in detail the tangible ways to do it, reiterated through the privacy training. This integration of privacy by design principles into this Policy advances and provides an opportunity for maturity of the privacy program.

Office of the City Clerk now provides more services in privacy program implementation through offering the option for conducting internal privacy impact assessments for minor projects containing personal information and providing recommendations to prevent future breaches as a component of a remediation strategy to a privacy breach. Personal Information Bank and Notice of Collection Statement development support by the Office of the City Clerk have a renewed focus which ensures appropriate maintenance and accuracy of these legislative requirements.

Options Considered

This Policy was developed to align with the approved IM strategy specific to advancing the City's information management program maturity. It was opted for that reason to apply principles from the Information and Privacy Commissioner of Ontario (IPC) guidelines rather than adopt or integrate a privacy policy from another municipality with a different program maturity than that of Burlington's program. Using the best practices

and guidelines publicly available from the IPC enables the City's privacy program to progress at its own maturity rate rather than stagnate or unsustainably try to attain a future goal it cannot presently meet.

Privacy and protection of personal information within the City impacts every rate payer and user group as it's their personal information that is protected and kept. It was opted to replace the current organizational policy with a corporate policy since privacy is subsequently a component of public services that the City provides to residents. Revising the organizational policy as an alternative to replacing it with a corporate policy provides less opportunity to progress the program and align with the IM strategy's areas of focus.

Financial Matters:

Not applicable.

Total Financial Impact

Not applicable.

Source of Funding

Not Applicable.

Other Resource Impacts

Continued compliance with legislative requirements in MFIPPA requires dedicated resourcing and attention by the Office of the City Clerk into maintaining the privacy program.

Climate Implications

Not applicable.

Engagement Matters:

Members of Burlington Leadership Team were notified of this proposed Policy repeal and replace, provided the opportunity to review in advance of introducing for approval, and responsible for sharing the proposed policy within their respective areas for impact.

Suggested reviews were taken into consideration and applied in the development of the policy.

Conclusion:

The proposed Privacy and Protection of Personal Information Policy updates the City's privacy program through moving from establishing privacy protection measures to maintaining them and providing a framework to meet legislative requirements. The Policy recognizes privacy as a component of public service through replacing an internal organizational policy with a corporate policy that accurately reflects the public impacts to the City's privacy program. The Policy provides opportunities for moving into integrating privacy by design principles into the City's everyday business practices and aligns with the City's information management strategy.

Respectfully submitted,

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Appendices:

- A. Protection of Privacy and Confidentiality of Information Policy
- B. Privacy and Protection of Personal Information Policy

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.