
Elected Officials Records

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Purpose statement

This procedure defines the process for managing and accessing corporate, personal and constituency records held by elected officials of the Corporation of the Town of Oakville (town).

Scope

This procedure applies to all records created, received and maintained by elected officials in the course of Council business. Records for the purpose of this procedure includes any record of information however recorded, whether in printed form, on film, by electronic means, or otherwise.

Procedure

1. Requests for access to elected official records may be subject to disclosure under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).
2. Records generated by elected officials in the course of Council business will be kept in accordance with the Records Retention By-law and may be subject to disclosure under MFIPPA.
3. Personal and constituency records of an elected official are not considered a corporate record and therefore remain the property of the elected official. Elected officials are solely responsible for managing their personal and constituency records, and such records should be maintained and stored separately from the record keeping or filing system of the town.

4. Constituency records belonging to an elected official may come within the custody and/or control of the town if these records are integrated with other files held by the town. When no steps are taken to separate the maintenance and storage of personal and constituency records from the town's records or filing system, and an employee of the town has responsibility for their care, these records are subject to the access provisions of the MFIPPA.
5. Where a record in the custody or control of an elected official is communicated to an employee of the town, the record may be considered to be in the custody and/or control of the town.
6. Records related to official Council business, not within the custody and/or control of the town or on the town information systems may be subject to disclosure under MFIPPA.

References and related documents

Municipal Act, 2001;
Municipal Freedom of Information and Protection of Privacy Act;
Access to Records and Information Policy;
Records Retention By-law;
Access to Records Procedure;
Request for Information from Staff by Individual Member of Council procedure
Record of Council and Committee Proceedings procedure
Use of Corporate Resources During an Election Period procedure
Access Procedures Manual, Access and Privacy Office, Ministry of Government Services
Ontario. |

Definitions

Record: Any record of information however recorded, whether in printed form, on film, by electronic means or otherwise.

Personal Records: Any record not considered official Council records, such as personal correspondence from ratepayers and responses to them.

Constituency Records: a record that deals with the political activities of an elected official including campaigning and campaign issues. Contents of such records do not relate to the discharge of the elected officials responsibilities as a Member of Council or to any aspect of the Council's mandate and are not in the custody and control of the town.

Council Records: Consists of administrative records generated by the Office of the Mayor & Council and as such are to be inventoried and scheduled for disposition according to the town's Records Retention By-law.

Custody and Control: The following questions may be used to determine who has custody or control of a record: *(This is not an exhaustive list of possible considerations.)*

- What was the intended use of the record?
- Does the town have possession of the record either because it has been voluntarily provided by the creator or pursuant to a mandatory statutory or employment requirement?
- If the town does not have possession of the record, is it being held by an officer or employee of the town for the purpose of his/her duties as an officer or employee?
- Does the town have a right to possession of the record?
- Does the content of the record relate to the town's mandate and functions?
- Does the town have the authority to regulate the use of the record?
- To what extent has the record been relied upon by the town?
- How closely is the record integrated with other records of the town?
- Does the town have the authority to dispose of the record?

Responsibilities

Members of Council are individually responsible for managing all ~~corporate~~, personal, and constituency records in accordance with all relevant legislation.

The town is responsible for managing and retaining all corporate records in accordance with the town's Records Retention By-law and all relevant legislation.