



Office of the Information
and Privacy Commissioner

Suite 2460, 801 – 6th Ave. SW
Calgary, Alberta
T2P 3W2
Phone: (403) 297-2728
Fax: (403) 297-2711
Toll Free: 1-888-878-4044
Web: www.oipc.ab.ca
Email: generalinfo@oipc.ab.ca

Personal Information Protection Act (PIPA)
PIPA ADVISORY #3
ACCESS REQUESTS UNDER PIPA: RESPONDING TO A REQUEST

This document was prepared to help organizations implement the *Personal Information Protection Act* (“PIPA” or “the Act”). This document is an administrative tool intended to assist in understanding the Act. It is not intended as, nor is it a substitute for, legal advice. For the exact wording and interpretation of PIPA, please read the Act in its entirety. This Advisory is not binding on the Information and Privacy Commissioner of Alberta (OIPC).

Contents

[Introduction](#)
[Requests for access](#)
[Receiving the request](#)
[Clarifying the request](#)
[Duty to assist](#)
[Searching for records](#)
[Reviewing and severing records](#)
[Contents of a response](#)
[Disregarding a request](#)
[Other resources](#)

Introduction

The *Personal Information Protection Act* (“PIPA” or “the Act”) provides individuals with a right to access their own personal information and request to have inaccurate personal information corrected.

This Advisory is part of a series developed by the OIPC to assist organizations in handling and responding to requests for access. It reviews the steps involved in responding to access requests in order to ensure the request is dealt with efficiently, fairly, and in compliance with the Act.

Requests for access

Section 24 of the Act states that where an individual makes a request, and taking into consideration what is reasonable, an organization must provide the individual with access to:

- the individual's personal information contained in a record in the custody or control of the organization
- the purposes for which the personal information has been and is being used by the organization
- the names of the persons to whom and circumstances in which the personal information has been and is being disclosed.

Throughout this Advisory, the individual making an access request is also referred to as the “applicant”.

TIP: Organizations may wish to develop a written procedure for handling requests. This procedure can be made available to all customers/clients and employees so that they understand the process.

Receiving the request

Organizations should identify someone to be responsible for handling requests for access to personal information or questions about how the organization collects, uses and discloses personal information. The person’s name and contact information should be well communicated throughout the organization.

The Act requires that a request for access to personal information be in writing, although an organization is not prohibited from accepting verbal or email requests as well. Organizations must ensure that the applicant is who they say they are and must be satisfied that the applicant is entitled to make the access request.

TIP: Organizations may choose to develop a standard form to be used by individuals making requests for access. Depending on its design, a form can help the applicant to clearly identify the personal information that is the subject of the request, and explain the process the organization will follow. The form can be made available electronically (on an organization’s website, for example) or in hard copy. A sample form is provided in PIPA Advisory #2 *Access Requests Under PIPA: An Overview*.

When an organization receives a written request, it should immediately be directed to the person responsible for handling it. This is important as the Act requires that an organization respond within 45

days. For more information on timelines, see PIPA Advisory #6 *Access Requests Under PIPA: Time limits*.

TIP: Organizations should put processes in place that enable them to provide individuals with access to their personal information, and answers to their questions, without the need for a formal, written access request. This should be possible in most cases where an individual's personal information is not intertwined with personal information of a third party.

Clarifying the request

Upon receiving a request for access to personal information, an organization should acknowledge receipt by contacting the applicant by phone, letter, or email. Acknowledging receipt of a request for access is NOT considered the organization's "response."

Acknowledging the request provides an opportunity for the organization to clarify the request. Organizations should assist the applicant to make the request as specific as possible. Vague and overly general requests unnecessarily increase staff workloads and may result in the release of information that is of no interest to the applicant.

Note: An organization should contact an applicant to clarify requests that are overly broad or general; however, an applicant does not have to explain why the request was made, and an organization cannot make knowing the reason for the request a condition of providing access to the information requested.

Clarifying or narrowing the request is particularly important if an organization is planning to charge the applicant a fee for access based on the number of pages provided. Refining the request allows the applicant to reconsider the scope of the request and control costs that will be payable by the applicant.

Example: Jane Doe, an employee of ABC Organization, has requested access to "all" personal information the organization has about her. In acknowledging the request, the organization asked if she wanted all personal information in her payroll

and health records, or just her personnel file. Ms. Doe indicated she was only interested in her payroll records from the last two years.

Duty to assist

Section 27 of the Act requires an organization make “every reasonable effort” in responding to a request for access to personal information. This includes assisting applicants and responding as accurately and completely as possible.

For example, on request and where reasonable to do so, the organization must provide an explanation of any term, code or abbreviation used in a record provided to the applicant.

Example: Jane Doe has requested copies of her personal information. On reviewing the records, the organization’s privacy officer notes that industry specific codes are used, and some of the records are illegibly handwritten.

In responding to Jane’s request, the organization provides a listing of industry codes and their meaning, as well as a transcript of those portions of the record that are difficult to read.

Section 27 of the Act requires an organization to create a record for an applicant from a record in electronic form, if it can be done using the organization’s normal computer hardware, software and technical expertise, and where doing so would not unreasonably interfere with the operations of the organization.

Example: An individual requests access to his personal information. Many of the responsive records are only available on microfiche, and as the microfiche reader is malfunctioning, the organization is not able to print copies.

The organization informs the applicant that it cannot provide a copy of all the requested records, but invites the individual to visit the organization’s office to view the documents on the microfiche reader.

The duty to assist set out in the PIPA obliges an organization to document any narrowing of a request, provide written notice of changes in the scope of the request to the applicant, and advise the applicant of any other procedures for obtaining access to the information, as well as providing legible copies of requested information. However, an organization is not required to make unreasonable efforts to satisfy an applicant's request for information.

Searching for records

Once a request is made and the organization has confirmed the scope with the applicant, the organization must identify and retrieve all responsive records. "Responsive records" are the total of all records that have been requested, including those that will be released, as well as any to which exceptions to access might apply.

Hard copy records may include correspondence via regular mail and faxes, as well as handwritten or typed notes about conversations, meetings and opinions. An organization may also be required to search for historic or archived records stored off-site or in a different medium such as microfilm.

Electronic records may include information in data bases as well as email communications and related documentation (such as attachments).

In many organizations, staff keep both printed and electronic copies of documents and emails in their personal directories or files in their office for their own review and comments. An applicant's personal information in these personal directories and "shadow files" is also subject to PIPA and may be responsive to a request for access.

<p>TIP: Organizations may find it easier to locate all responsive records if they have completed an inventory of the types of personal information collected and where the information is stored.</p>
--

EXAMPLE: A property management company receives a request from Clark Kent, a tenant, for access to all his personal information held by the organization.

The organization searches the customer service department's electronic and hard copy files, and provides printouts of email exchanges with Mr. Kent.

On reviewing the organization's response, the OIPC determines that the organization did not make an adequate search as it had not included records held by staff in other departments, or email records exchanged internally between staff.

TIP: If included in the scope of the request, an organization may be required to search for records from each department or staff member identified in email correspondence, including those who received blind carbon copies.

Organizations should carefully document and track where they searched for responsive records, and what records were retrieved from each location (i.e. database, department or staff member's files).

Reviewing and severing records

While individuals have a right to access personal information about themselves under the PIPA, this right is not unqualified. Sections 24(2) and (3) of the Act may authorize or require an organization to refuse access to some or all of certain records containing the applicant's personal information.

Once an organization has identified and retrieved all records responsive to a request for access, the records must be reviewed to determine whether any exceptions to access apply. For more information on applying exceptions to access, see PIPA Advisory #7 *Access Requests Under PIPA: Exceptions to Access*.

If the organization decides to apply certain exceptions to access, the organization may be required to sever the information it plans to withhold and to provide access to the remainder of the record containing the applicant's personal information.

TIP: Organizations may wish to develop a written procedure for severing personal information from a record. This procedure might include steps such as the following:

1. Make a copy of all responsive records
2. Number the copied pages to uniquely identify each record (e.g. 0001, 0002, etc.)
3. If a record consists of more than one page or is two sided, each side should be uniquely marked (e.g. record 0005, page 1 of 3)
4. Once each record has been uniquely identified, make another copy. This second copy becomes the organization's working copy. The original responsive records should never be altered.
5. Discuss with each department, database controller, or staff member that provided records whether there is any reasonable grounds for not providing personal information in the record to the applicant
6. Determine if any of these reasons fall within the authorized or required exceptions to access as set out in sections 24(2) and 24(3) of the Act
7. On the working copy of the records, obscure information that will not be provided to the applicant. This may be done using severing tape, white out, or by using an opaque black marker
8. In the margin of the page, or the space left once the information has been obliterated, write the section of the Act that authorizes or requires the organization to refuse access
9. On a separate page, note the document's unique identifier and any sections of the Act that have been applied to personal information on that page
10. Always list all sections of the Act that may authorize or require the organization to refuse access
11. Make a copy of the severed records for release to the applicant

An organization should keep a copy of the original responsive records, as well as a copy of the records as released to the applicant for a long enough period of time to be able to respond to any questions the

applicant may have, or in case the applicant requests the OIPC review the organization's response.

Contents of a response

Having reviewed and severed the records where required, section 29 of the Act sets out an organization's responsibilities in providing a response to the applicant.

The response must inform the applicant:

- whether access to all or part of the personal information will be given
- when access will be given
- if access to all or part of the personal information is refused, the reasons for the refusal and the provision(s) of the Act on which the refusal is based
- the name of someone who can answer the applicant's questions about the refusal
- that the applicant can ask the OIPC to review the organization's decision regarding access

A [sample response letter](#) is provided as an attachment to this Advisory.

TIP: In responding to an applicant, organizations may also wish to inform the applicant that under section 47(2)(a) of the PIPA, they have 30 days from receiving the organization's response to submit a written request for the OIPC to review the organization's decision regarding access.

Organizations may also choose to provide copies of sections 24(2) through (4) of the Act to assist the applicant in understanding the organization's decision to refuse access.

Disregarding a request

Section 37 of the PIPA allows an organization to apply to the Information and Privacy Commissioner for authorization to disregard one or more requests made by an individual to access or correct personal information if:

- the requests are repetitious or systematic and responding would unreasonably interfere with the operations of the organization, or

- one or more of the requests are frivolous or vexatious

Organizations may apply to the Commissioner in writing to request permission to disregard a request(s). The organization should also provide information to support its application, such as:

- evidence that the organization has made every effort to assist the applicant
- an explanation of how the request is repetitious or systematic such as the number of requests received, frequency and evidence of repetitiveness
- an explanation and evidence showing that responding to the request would unreasonably interfere with the operation of the organization, including demands on resources
- evidence that the applicant is using the Act as retaliation for past action, or as a tool for harassment
- an explanation as to how the applicant is not acting in good faith, including any of the applicant's own statements that demonstrate his or her intentions are an abuse of the right to make a request.

TIP: The Commissioner rarely grants requests of this nature because the situation the organization faces must be extraordinary. Organizations should ensure they have thoroughly documented the circumstances supporting any request to the Commissioner in order to prove the applicant has abused the request process.

The Commissioner may provide a copy of the organization's request for permission to disregard the request to the applicant and any other parties that could be affected by the request.

For more information regarding this provision of the Act, see Investigation Reports under the *Freedom of Information and Protection of Privacy* (FOIP) Act released in [2002](#) and [2003](#), and dealing with section 55 of the FOIP Act. These reports are available online at www.oipc.ab.ca.

**Other
resources**

For an overview of the Act with examples and tips for incorporating good privacy practices, see [*A Guide for Businesses and Organizations on the Personal Information Protection Act.*](#)

[*The Personal Information Protection Act, A Summary for Organizations*](#) summarizes the key obligations of organizations.

[*Ten Steps to Implement PIPA*](#) is a quick reference for organizations preparing for the Act.

Publications are available at the website of the Office of the Information and Privacy Commissioner (www.oipc.ab.ca).

Publications are also available online at the Alberta Government Services, Access and Privacy Branch website (www.pipa.gov.ab.ca).

Visit the Queen's Printer website to view an online version of the Act (www.qp.gov.ab.ca).

ATTACHMENT 1: Sample Response Letter

<Date>

<Applicant's name and address>

Dear <Applicant's name>:

**Re.: Request for access to personal information <Request Number>
under the Personal Information Protection Act (PIPA)**

I am responding to your request of <date> for access to your personal information. We are pleased to provide access to <specify subject and records generally>.

Option 1

Records containing the personal information you requested are enclosed.

Option 2

I am pleased to inform you that access is being provided to <specify particular records>

However, access to all other records has been denied under section(s) <give detailed sections> of the *Personal Information Protection Act*.

Or

Some of the personal information you requested is excepted from disclosure under the *Personal Information Protection Act*. We have severed the excepted information so that we could disclose to you the remaining information in the records.

The severed information is excepted from disclosure under section(s) <provide section numbers and descriptors> of the Act. The detailed sections supporting our refusal to provide access to particular information are <provided in the attached list or indicated on the face of each record>.

Option 3

You have requested an opportunity to examine the original records rather than receive copies of them. We invite you to examine the record(s) at <place and address> on <date> at <time>. If you are unable to

examine the record(s) at that time, please contact *<name and telephone number>* to make alternate arrangements.

Option 4

Unfortunately, access to all the information which you requested is denied under section(s) *<put in explanation, including the detailed sections on which denial is based>*.

Conclusion for Option 2 and 4:

Under section 46 of the Act, you are entitled to ask the Information and Privacy Commissioner to review our decision not to provide access to personal information that you requested. You have 30 days from the date this notice was sent request a review by writing to The Office of the Information and Privacy Commissioner at Suite 500, 640-5th Avenue SW, Calgary, Alberta, T2P 3G4.

If you have any questions about our response to your request, please write or call *<provide name of someone the applicant call, and contact information>*.

Yours truly,

<Name>

<Title>