



## Office of the Information and Privacy Commissioner

### ABOUT THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY (FOIP) ACT

The FOIP Act was passed by the Alberta Legislature in June 1994. It came into effect on October 1, 1995. All government departments and agencies, referred to as “public bodies,” are subject to the Act. Other public bodies subject to the FOIP Act include: the Legislative Assembly, the Auditor General, the Ombudsman, the Ethics Commissioner and the Information and Privacy Commissioner.

Local public bodies subject to the FOIP Act include: municipalities, universities, schools, hospitals and local government bodies as defined within the Act.

#### PRINCIPLES OF THE FOIP ACT

The FOIP Act legislates open and accountable government by guaranteeing applicants the right to request access to records held by the government. It is a principle of the Act that access to records be given unless the Act specifically allows the records to be withheld. The right of access is balanced by the need to protect individual privacy. The FOIP Act controls how personal information is collected, used and disclosed. It prevents another person from seeing your personal information without your consent. You can ask to see records held by the government, including personal information about you. You have the right to request that your personal information held in government files be corrected if it is not accurate. This is not an absolute right and a request to correct information may be turned down.

### ABOUT THE HEALTH INFORMATION ACT (HIA)

The *Health Information Act* came into force on April 25, 2001. The HIA sets out rules regarding the collection, use and disclosure of health information by custodians and their affiliates.

Custodians under the HIA include: the Minister of Alberta Health and Wellness, regional health authorities, provincial health boards such as the Alberta Cancer Board, pharmacies and pharmacists and health service providers paid in part or in whole by the Alberta Health Care Insurance Plan.

#### PRINCIPLES OF THE HEALTH INFORMATION ACT (HIA)

The *Health Information Act* shares many principles with the FOIP Act. For example, an individual has the right to request access to their health records from custodians. Custodians can only refuse access to records if the HIA specifically allows for those records to be withheld.

The *Health Information Act* also balances the right to access health records with the expectation that custodians protect the privacy of the individual the information is about. The HIA controls how health information is collected, used and disclosed within the publicly funded health care system. It limits situations in which health information can be used or disclosed without your consent. Another principle that the Acts share is the right to request correction of incorrect or inaccurate information. As with the FOIP Act, this is not an absolute right and may be refused. If you have requested correction of your personal information and been refused, the custodian must annotate the record or ask for a review by the Commissioner.

### ABOUT THE PERSONAL INFORMATION PROTECTION ACT (PIPA)

The *Personal Information Protection Act* was passed by the Alberta Legislature in December 2003 and became law on January 1, 2004. PIPA governs the means by which private sector organizations handle personal information in a manner that recognizes both the right of an individual to have his or her personal information protected and the need of organizations to collect, use or disclose personal information for purposes that are reasonable.

PIPA provides individuals the opportunity to access their own personal information, and includes provisions regarding the correction and care of personal information by organizations. PIPA also applies to personal employee information.

#### PRINCIPLES OF THE PERSONAL INFORMATION PROTECTION ACT (PIPA)

Personal information in the custody or control of private sector and some non-profit organizations as it relates to commercial transactions or activities is subject to the Act. Personal employee information is also covered by PIPA, except for non-profit organizations. PIPA allows individuals to request access to their own personal information, including their personal employee information, and to request that personal information be corrected if the accuracy of the information is disputed.

#### THE INFORMATION AND PRIVACY COMMISSIONER

Alberta's Information and Privacy Commissioner is an Officer of the Legislature. As such, he is independent of government. The Information and Privacy Commissioner has a broad range of responsibilities and

powers, including ensuring the access and privacy provisions of the FOIP Act, the HIA, and the PIPA.

**The Commissioner's duties include:**

- informing Albertans about the Acts
- reviewing the decisions of public bodies under the FOIP Act, custodians under the HIA, and organizations under the PIPA
- investigating how public bodies, custodians and organizations collect, use and disclose personal information
- conducting investigations of public bodies, custodians and organizations to ensure compliance with the FOIP Act, the HIA and the PIPA
- hearing comments from the public about how the Acts are being administered
- researching anything that affects the achievement of the Acts' purposes
- commenting on the privacy and information implications of proposed legislation and programs
- informing the head of a public body, the appropriate custodian, or privacy officer when applicants have not been adequately served
- giving advice and recommendations about the Acts

**HOW DOES THE SYSTEM WORK?**

For the FOIP Act the Alberta government has produced a directory to let people know what government records are kept by which department. To find out which public body has the records you are interested in, look at a copy of the Alberta Directory at any provincial government department or public library.

You may be able to get the information you want without making a formal request under the FOIP Act or the HIA. It is hoped

that if government and custodians routinely releases information, most people will not need to use the access provisions of the Acts.

For example, a great deal of government information is routinely released as are some hospital summaries. A phone call or personal visit may get the help or referral you need. If the information you want is not available as a matter of routine, a formal request for access to information under the FOIP Act or the HIA may be necessary. At this point, you can speak to the Freedom of Information and Protection of Privacy (FOIP) Coordinator for the public body if you are requesting information under the FOIP Act or the Responsible Affiliate if you are requesting access to health records under the HIA. The FOIP Coordinator or Responsible Affiliate may suggest an alternate information source. If the formal process is the only option available to you, the FOIP Coordinator or Responsible Affiliate can help you complete a request form.

The more specific your request, the more quickly and accurately it can be answered. The law generally requires a response within 30 calendar days of receiving your request. \*When making a request under the PIPA, you need to write to the organization's Privacy Officer. Organizations have 45 days to respond to your request.

**WHAT IF I HAVE CONCERNS?**

The Information and Privacy Commissioner does not become involved until a request has been made to a public body, custodian or organization. Requests may only be refused for specific reasons outlined in the applicable Acts. If your request is refused, partially refused or not answered in time you may then ask the Commissioner to review the matter.

**WHAT ARE INVESTIGATIONS AND REVIEWS?**

The Commissioner has extensive powers to investigate and can require that any record be produced for his examination. If you are not satisfied with the response you have received to your request, you have the right to request a review by the Commissioner who will either uphold or overrule the decision of the public body, custodian or organization involved.

Request for Review forms are available from libraries and from the Commissioner's office or you may simply write, fax or phone the Office of the Information and Privacy Commissioner. If you ask the Commissioner for a review, a copy of your request for review will be provided to the appropriate head of the public body, custodian or organization and to anyone else the Commissioner believes to be affected by the request.

The Commissioner may assign someone from his office to facilitate an agreement between you and the public body, custodian or organization. This person will work on your behalf to try to obtain the information or will satisfy himself or herself that the FOIP Act, the HIA or the PIPA permit withholding the information. If you do not reach an agreement, the Commissioner may hold an inquiry.

**WHAT IS AN INQUIRY?**

An inquiry is the ultimate conclusion to a review. This formal proceeding allows the Commissioner to hear from everyone involved in the matter and then to make a decision. The Commissioner's decision is final and his Orders are binding.

If you have questions or want more information about the Commissioner's office, please contact:

**The Office of the Information and Privacy Commissioner**

410, 9925 – 109 Street  
Edmonton, Alberta T5K 2J8  
Telephone: (780) 422-6860  
Toll Free: 1-888-878-4044  
Facsimile: (780) 422-5682  
Email: [generalinfo@oipc.ab.ca](mailto:generalinfo@oipc.ab.ca)  
Website: [www.oipc.ab.ca](http://www.oipc.ab.ca)

PIPA Issues (Please note that it is not possible to access our Calgary office without an appointment)

**Office of the Information and Privacy Commissioner (Calgary)**

Suite 500, 640 – 5th Avenue SW  
Calgary, AB  
T2P 3G4  
Phone: (403) 297-2728  
Fax: (403) 297-2711  
Toll Free: 1-888-878-4044  
Email: [generalinfo@oipc.ab.ca](mailto:generalinfo@oipc.ab.ca)

The Commissioner's Edmonton office maintains a small library, which the public is welcome to use between 8:15 a.m. and 4:30 p.m., Monday through Friday.

**For more information about the administration or operation of the Freedom of Information and Protection of Privacy Act and the Personal Information Protection Act, contact:**

**Access and Privacy Branch  
(Alberta Government Services)**  
Telephone: (780) 422-2657  
Facsimile: (780) 427-1120

**For more information about the administration or operation of the Health Information Act, contact:**

**Alberta Health and Wellness  
(HIA Implementation Helpdesk)**  
Telephone: (780) 427-8089  
Facsimile: (780) 422-1960