

For Information

DATE: November 11, 2011

REPORT TITLE: **ACCESS TO INFORMATION AND PROTECTION OF PRIVACY  
PROGRAM DELIVERY AT THE REGION OF PEEL - 2011 UPDATE**

FROM: Norma Trim, Chief Financial Officer and Commissioner of Corporate Services

**OBJECTIVE**

To provide an overview of the Access to Information and Protection of Privacy program activities at the Region of Peel, including requirements set out under federal and provincial privacy legislation.

**REPORT HIGHLIGHTS**

- Regional Council delegated responsibility to the Regional Clerk to act as the “Head” for purposes of administering all duties and responsibilities under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) as set out in By-law 32-97.
- The number of requests to access information, the total volume of information released and the complexity of the requests have steadily increased since the introduction of MFIPPA (see Appendix I); the process is now familiar and routinely utilized by the media, business, legal professionals and the general public.
- The number of access to information requests for both Personal and General records rise during economic downturns.
- The Region of Peel must process formal access to information requests in accordance with timelines established by the Information and Privacy Commissioner of Ontario (IPC), Municipal statistics are publicly reported annually by the IPC.
- The Clerk’s Office is frequently called upon to provide advice regarding the protection of privacy, access to information, routine disclosure and the evolution of privacy policies and procedures within the corporation.

**DISCUSSION****1. Background**

Since the Region of Peel processed its first formal access to information request in the early 1990’s under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), much has changed. The Office of the Information and Privacy Commissioner of Ontario (IPC) has issued over 5,000 Orders over the past 20 years under legislation within its purview. These Orders function similar to precedents in common law and provide interpretation of privacy legislation in Ontario. As a result of these decisions the extent of privacy legislation has evolved through the application of the Act over time. There has been no review or revision of privacy legislation in Ontario since legislation was first introduced in the 1990’s.

November 11, 2011

## ACCESS TO INFORMATION AND PROTECTION OF PRIVACY PROGRAM DELIVERY AT THE REGION OF PEEL - 2011 UPDATE

The Regional Municipality of Peel accesses, collects and utilizes necessary personal, financial and health information for the delivery of a broad range of programs and services. As an organization that is in custody and control of personal information we are required under the MFIPPA to safeguard against inappropriate use, collection or disclosure of information. The Region is also bound under contractual arrangements to adhere to privacy requirements in the access and use of information collected and controlled by other levels of government or organizations for the authorized purposes of program delivery, eligibility determination or for research purposes. The Region of Peel is committed to earning and maintaining the trust and confidence of our residents, clients, vendors and stakeholders at all levels, demonstrating our capability to protect and promote open and transparent government while steadfastly ensuring the protection of privacy.

Regional Council under By-law 32-97 delegated responsibility to the Regional Clerk as "Head" under MFIPPA for purposes of administering formal access to information requests. The function resides in the Regulatory Compliance section of the Clerk's division, Corporate Services department, where the equivalent of 1.5 full time employees (FTE) is dedicated to program delivery. The focus of the program area has been on meeting legislated requirements regarding formal access to information requests under MFIPPA. Access to information requests are routinely utilized by the media, business, legal professionals and by the general public to access information on a broad range of matters. The legislation is designed to ensure that information is available upon request, unless an appropriate exception can be applied under the Act. The Region of Peel must respond to any formal access request within timelines specified under provincial regulation. Generally, once the request is formalized, the Region has 30 days to issue a decision. The Region of Peel, like all municipalities in Ontario, is required to report annually to the IPC of Ontario on a range of performance indicators. The full report is published annually and made available on the IPC website ([ipc.on.ca](http://ipc.on.ca)).

## 2. Findings

The number of formal access to information requests, the volume of information released annually and the complexity of the requests has steadily increased (see Appendix I). In an effort to achieve efficiencies the program area has implemented many strategies, including:

- electronic file management and electronic redaction of files (black line/withheld information);
- creation of a database that tracks all legislated deadlines on a multitude of access requests simultaneously and generates the performance indicators required by the IPC annually;
- extensive use of templates;
- staff training and the promotion of routine disclosure of information where possible;
- direct requests to routine disclosure options where appropriate;
- encouraging only the collection and use of necessary and authorized information by staff;
- working with requestors to help define and narrow requests to ensure efficient and effective request processing; and
- shifting privacy work to other staff in the Regulatory Compliance section and utilizing other departmental staff to prepare files for review during high demand periods to achieve deadlines.

Despite all of these efforts to increase efficiency the number of requests continues to grow and outstrip the capacity of the available staff.

**November 11, 2011****ACCESS TO INFORMATION AND PROTECTION OF PRIVACY PROGRAM DELIVERY AT THE REGION OF PEEL - 2011 UPDATE**

The staff in the program area that process all formal access requests under MFIPPA for the Regional Corporation represent an effective and efficient delivery model. At the Region of Peel there are 1.5 FTE program staff in the office of the Regional Clerk who are the primary resource that review and administer formal access requests. Legal Counsel is only involved in consultation on a small percentage of the requests handled every year. Experienced program staff quickly assess and process requests within legislated timelines and have demonstrated innovation and flexibility in ensuring compliance, despite sustained year-over-year increasing trend in the number of access requests and the volume of information released. Like many frontline service delivery programs management of workload is a challenge as the number of access requests and the number of responsive documents is dependent on external drivers.

General awareness of privacy issues continues to grow as society becomes increasingly dependent upon technology. Traditionally attention has been focused on preventing access to information from persons with malicious intent through the implementation of strong security measures such as network firewalls or encryption. In recent years it has become clear that some of the most significant privacy breaches in Ontario, and elsewhere for that matter, have resulted from lost and not from stolen information. Human error in the access, use or mismanagement of information is a significant risk to all organizations and can have long lasting reputational repercussions where the public as a result of a privacy incident lost trust and confidence in the organization. While a relatively new development it is also important to note that the enforcement of privacy legislation by government and by the traditional legal system is resulting in the imposition of more substantial and complex remedies to address information breaches; such as the IPC order HO-007 that called for encryption on all portable devices after the H1N1 health records information breach. Courts are also beginning to levy larger penalties and civil cases are also increasing in instances of significant and negligent loss of personal information that is held by organizations or individuals. For example in the same H1N1 incident mention above the Court has certified a \$40 million class action lawsuit that is currently making its way through the legal system.

**3. Proposed Direction**

The Region of Peel has done a good job at achieving our legislated deliverables under MFIPPA and other applicable legislation up to this point in time. Additional resources would allow the program to continue to achieve legislated requirements and to meet the increasing demand for service in both the number of requests and the volume of information released. Additional capacity would also permit staff the opportunity to seek out further opportunities to make information available via routine disclosure and thus avoid the time consuming and costly formal access to information process. Routine disclosure allows the Region to gain full cost recovery on the release of information whereas formal access to information request fees are stipulated by the IPC based on the number of pages released and only in limited circumstances can labour costs be recovered.

It is also important that the Regional Corporation take steps to further mitigate risk and prevent privacy incidents that are potentially costly in both reputation and remediation. The Access and Privacy program would utilize additional capacity to conduct Privacy Impact Assessments on new and existing programs and services to ensure the initiative is designed with privacy in mind. A more proactive approach to privacy will decrease the potential of opportunity for lost, stolen, improperly used or mismanaged information within the organization. Further capacity within the program would also support timely policy updates to ensure evolving privacy best practices are continually incorporated within corporate processes and procedures. The program is frequently consulted or sought out for opinion on

**November 11, 2011****ACCESS TO INFORMATION AND PROTECTION OF PRIVACY PROGRAM DELIVERY AT THE REGION OF PEEL - 2011 UPDATE**

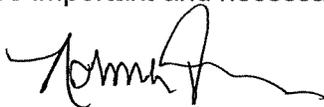
specific privacy matters by staff from across the organization; additional capacity for such services is required in the organization to address a current service gap. Staff at the Region is attuned to the importance of privacy involving the information of our clients, residents and stakeholders. Regional staff have requested that access and privacy training be provided to them, and additional resources would allow the program to provide training on a regular basis for the organization. Finally it is important to note that *Service Excellence* is a Term of Council Priority. Efforts to provide Integrated Customer Service present many privacy challenges given the diverse range of programs and services provided by the Region under a multitude of Regulations and Legislation each with unique and complex privacy requirements.

**FINANCIAL IMPLICATIONS**

The Access and Privacy Program in the Regulatory Compliance section within the Regional Clerk's division of the Corporate Services department will be making a request for one additional FTE in the upcoming 2012 Regional Budget process. The cost of one additional FTE represents a cost effective option to address needs in the organization as a centralized resource in the Corporate Services department which assists all Regional programs and services.

**CONCLUSION**

Additional capacity in the Access and Privacy program will continue to ensure the Region of Peel achieves legislated requirements under the formal MFIPPA access to information process and to better meet our requirements regarding the protection of privacy. Staffing resources in this program area have not been increased since the program was established in the early 1990's, yet over this elapsed time the volume of information processed and the number of access requests have steadily increased. Many efficiencies have been employed over the years but despite these efforts service demands continue to outstrip capacity. The additional FTE sought as part of the 2012 budget process will also aid in shifting the focus of the program from reactive to proactive. Having the capacity to promote and participate in Privacy Impact Assessments for programs and services; provide staff training related to access to information and privacy; provide internal privacy consultative services; and the ability to seek out further cost neutral routine disclosure opportunities are important and necessary services deliverables in the area of privacy for the Region of Peel.



Norma Trim  
Chief Financial Officer  
and Commissioner of Corporate Services

**Approved for Submission:**

D. Szwarc, Chief Administrative Officer

*For further information regarding this report, please contact Carol Reid, Regional Clerk and Director of the Clerk's Division at extension 4545 or via email at [carol.reid@peelregion.ca](mailto:carol.reid@peelregion.ca)*

*Authored By: Jeff Payne, Manager, Regulatory Compliance*

c. Legislative Services

November 11, 2011

ACCESS TO INFORMATION AND PROTECTION OF PRIVACY PROGRAM DELIVERY AT THE REGION OF PEEL - 2011 UPDATE

APPENDIX I

Figure 1: Total Pages Reviewed (Years: 2003-2010).

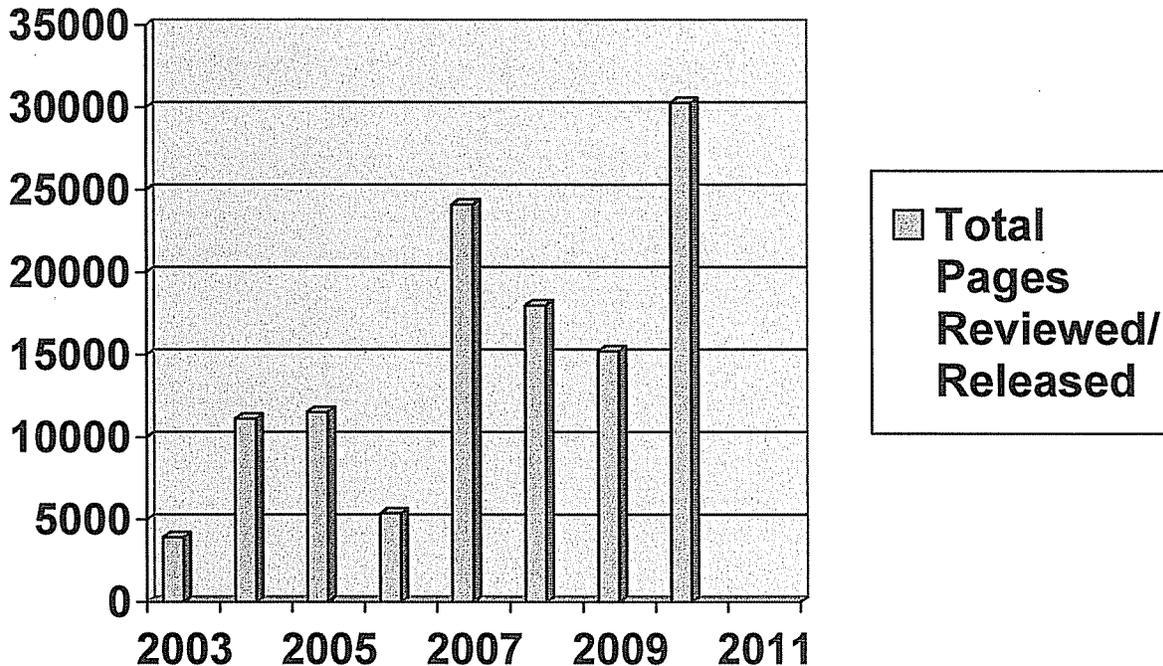


Figure 2: Number of Access Requests (Years: 2003-2010).

