

RESPONDING INTERNALLY TO A PRIVACY BREACH

Also now available on our website is the pamphlet, *Your Right of Privacy* under the *Resources* tab. The pamphlet provides more information on an individual's privacy rights and our office's process for investigating breach of privacy complaints.

If you work for a government institution, local authority, or health trustee and have learned of a possible privacy breach, we would recommend that you notify your immediate supervisor and/or Privacy Officer/FOIP Coordinator or follow the internal reporting requirements prescribed by your organization's privacy policy and procedures.

Once in the hands of the appropriate personnel, we recommend that the public body take the following action:

- Conduct an internal investigation:
 - Identify the scope of the breach;
 - Take immediately corrective action and contain damage;
 - Review existing policies, procedures, safeguards, etc. to see if adequate; and
 - Report findings and take necessary and appropriate action to prevent future breaches.
- Notify:
 - Internal personnel with 'need to know' or as necessary to conduct investigation;
 - The Information and Privacy Commissioner:
 - advise us of the breach and keep us apprised of progress of investigation and eventual findings/actions taken; and
 - Affected individual(s), if appropriate.
- Attempt to internally resolve any resultant concerns of affected individuals.

If your attempts to address the complainant's concerns to his/her satisfaction are unsuccessful, then the complainant may request that the Information and Privacy Commissioner investigate the matter. If this occurs, we will notify the Privacy Officer and/or the head of the public body. We will try to work with the complainant and the public body to resolve the matter informally, but if necessary will proceed with issuing a Report containing our findings and recommendations.

OIPC RESPONSE TO PRIVACY BREACH

Requests for Review and Breach of Privacy Complaints are two distinct and separate processes unique to the Office of the Information and Privacy Commissioner (OIPC). This article provides details on the breach of privacy complaint process.

The OIPC is a place of last resort. The complainant should exhaust all reasonable avenues in attempting to resolve the complaint with the body [government institution, local authority, or health information trustee] where the alleged breach of privacy occurred before contacting the OIPC. Normally this would involve contacting the FOIP/HIPA coordinator for that public body.

If all attempts fail, the complaint should be put in writing, with as many details as possible (date, witnesses, chronology of events, etc) and delivered in person or by mail to the Commissioner's Office. The OIPC will not normally initiate an investigation regarding a breach of privacy complaint that is communicated by phone, fax or email.

If too much time has passed since the alleged breach has occurred, it may be impractical for the Commissioner to investigate for a number of reasons including the unavailability of witnesses, or failing memories.

With the receipt of a breach of privacy complaint, the Commissioner's office will follow a standard process that includes:

1. Notifying the parties involved.
2. Gathering information to determine grounds and jurisdiction.
3. Investigating (Interviewing witnesses, site visits, reviewing records and documentation including policies, procedures or any other relevant materials)

During the investigation, mediation may be requested by any of the parties to the complaint, or suggested by the OIPC with the following results:

- If mediation is successful, then the complaint is resolved upon agreement of the parties involved and the file is closed; or
- If parties are dissatisfied with the results of mediation, then the Commissioner may prepare a report summarizing the details of the complaint and the Commissioner's recommendations.

If the issuing of a Report is necessary, it will be available on the OIPC website: www.oipc.sk.ca. The complainant will not be identified in the Report. The public body may or may not adopt the recommendations listed in the Commissioner's Report. There is no avenue for appeal if the complainant is dissatisfied after this point.