

Freedom of Information and Protection of Privacy Act Policy

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1.0 Policy Statement

The Corporation of The County of Northumberland is committed to protecting the privacy and confidentiality of personal information about its employees, customers, contractors, suppliers, business partners and other identifiable individuals. Uniform practices for collecting, using, disclosing, storing, accessing, transferring or otherwise processing such information assists the County to process personal information fairly and consistently, disclosing it and/or transferring it only under appropriate circumstances.

The Corporation of The County of Northumberland is also committed to providing the right of access to government held records and information under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). All requests will be handled in a timely and efficient manner and in accordance with the Municipality’s transparency objectives.

2.0 Objectives

Specifically, this policy establishes protocols, criteria and course of actions for:

- 2.1** Protecting personal information of all parties as identified above. Personal information does not include information on an individual who has been deceased for more than 30 years or any type of business identity information (name, title, business contact info or designation).
- 2.2** Granting timely access to information (unless exempt under MFIPPA or FIPPA), as every person has the right of access to a record in the custody or control of the Corporation. Exemptions to access should be limited and specific in nature.
- 2.3** Protecting information that is subject to solicitor-client privilege including giving legal advice or in contemplation of litigation.
- 2.4** Providing notices to affected persons or third parties before granting a request for access to a record.

2.5 Providing guidelines on estimating expenses and/or fees related to the request for information in accordance with the Act.

2.6 Advising all users within the County of their responsibilities regarding Freedom of Information requests and Protection of Privacy and the management of personal information.

3.0 Scope

The following are subject to this policy:

- a) All records in custody and control of the County of Northumberland;
- b) County of Northumberland employees (regular, part-time, casual or contract);
- c) County of Northumberland members of Council;
- d) County of Northumberland Boards and Agencies;
- e) Consultants, Contractors and any custodians of County records.

4.0 Definitions

Chief Administrative Officer – means the Chief Administrative Officer (C.A.O) of the County of Northumberland.

Control (of a record) – means the power or authority to make a decision about the use or disclosure of a record.

County – means the Corporation of the County of Northumberland.

County Clerk – means the County Clerk or Deputy Clerk or their designate of the Corporation of the County of Northumberland, having all the powers and duties of the Clerk under the Municipal Act, 2001 and any other Act.

County's Website – means the official website of the County of Northumberland, www.northumberlandcounty.ca.

Custody (of a record) – means the keeping, care, watch, preservation or security of a record for a legitimate business purpose. While physical possession of a record may not always constitute custody, it is the best evidence of custody.

Director – means an employee that holds the position of Director responsible for a specified department/division.

Discretionary Exemptions – means exemptions that permit a head to disclose a record even though an exemption may exist.

Fee Estimate – means in processing a request, the institution can charge for certain costs of time, materials and services.

F.I.P.P.A. – means the Freedom of Information and Protection of Privacy Act, R.S.O.1990, Chapter F. 31.

Frivolous and Vexatious Requests – means a request meets the definition of frivolous or vexatious if it is made in bad faith, made without any reasonable grounds, is not legitimate and designed to harass, made with the purpose of revisiting an issue previously addressed, or made with contempt or for the nuisance it creates.

Grave Hazard – means serious and likely to produce great harm or danger which include grave environmental, health or safety hazard. Referred to as an override provision.

Head – means the individual or body responsible for making decisions under F.I.P.P.A./M.F.I.P.P.A. and for overseeing the administration of the Act. County Council designated the Clerk as head.

IPC – means the Information & Privacy Commissioner of Ontario an independent, oversight body for F.I.P.P.A., M.F.I.P.P.A., and P.H.I.P.A. appointed by the Lieutenant Governor. Responsible for adjudicating and issuing orders related to appeals, investigating privacy complaints, conducting research and conducting public education programs.

Institution – means the Municipality.

Legal Advice – means a legal opinion about a legal issue and a recommended course of action based on legal considerations.

Mandatory Exemptions – imposes a duty on the head of an institution to refuse to disclose a record.

MFIPPA – means the Municipal Freedom of Information and Protection of Privacy Act, R.S.O.1990, Chapter M. 56.

Municipal Act – means the Municipal Act, 2001, S.O. 2001, c.25. as amended.

PHIPA – means the Personal Health Information Protection Act, S.O. 2004, Chapter 3.

Personal Information – means recorded information about an identifiable individual, including:

- a) information relating to the race, national or ethnic origin, colour, religion, age, gender, sexual orientation or marital or family status of the individual;
- b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- c) any identifying number, symbol or other particular assigned to the individual;
- d) the address, telephone number, fingerprints or blood type of the individual;
- e) the personal opinions or views of the individual except if they relate to another individual;
- f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- g) the views or opinions of another individual about the individual; and,

- h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

Privacy Breach – means an incident involving unauthorized disclosure of personal information, including it being stolen, lost, or accessed by unauthorized persons.

Public Interest – means the interest of the general public not of any individual or group of individuals. Compelling Public Interest must clearly outweigh the purpose of the exemption. Referred to as an override provision.

Public Record – means personal information are records to which all members of the public have equal access. An example of a public record is a list of electors or assessment rolls.

Record – means all recorded information in the custody of the County, regardless of the physical form, including but not limited to paper files, microfilm, audio-visual materials including video surveillance footage, maps, electronically stored data, emails, notes, address books, draft reports, handwritten notes or annotations made by staff, diaries, etc.

Request for Records – means under the Act the request must be made in writing, state that the request is being made under M.F.I.P.P.A. and must be accompanied by the appropriate application fee.

Right of Access – means it applies to existing records, whole or in part, that fall within the custody or control of an institution.

Severability – means when certain information falls within an exemption and can reasonably be severed, the requester is provided with the remainder of the document.

Third Party – means any persons whose interests might be affected by disclosure other than the person making a request for access or the institution.

Time Limits – means the respond to requests are identified under the Act.

Unlawful Act – means a contravention of a statute or regulation or a municipal by-law.

5.0 Protection of Privacy & Personal Information Guiding Principles

The County is required to protect privacy and personal information to meet our legislative and corporate obligations. Protecting privacy, including the proper stewardship of the personal information entrusted to us, is fundamental to maintaining the public's trust and confidence.

5.1 Collecting and Maintaining Personal Information

- a) The County will collect only personal information that is relevant to and necessary for a particular purpose or to perform job duties and only by those individuals who have the authority to do so. Provide rational explanations to requester as to reasoning for collecting personal information.
- b) Ensure all personal information collected is maintained in a secure manner.
- c) The County will collect and process personal information fairly and lawfully.
- d) The County will keep personal information as accurate, complete and up-to-date as is necessary for the purpose for which it was collected.

5.2 Appropriate Measures for Availability and Access

- a) The County will make personal information available internally and externally only in appropriate circumstances (required by law or for a law enforcement purpose) or when consent by the individual has been given.
- b) The County will provide individuals with appropriate access to personal information about themselves.

5.3 Safeguarding Information and Privacy Breaches

- a) The County will implement appropriate measures to safeguard personal information and instruct third parties processing personal information on behalf of

the County, if any, to process it only in a manner that is consistent with County procedures.

- b) The County has the responsibility to identify and report all privacy breaches. The response should include responding and containing the breach, notifying affected parties, investigating and implementing change. Alert direct supervisor and Clerk of suspected privacy breach. More information on managing privacy breaches can be found on the Office of the Chief Information and Privacy Officer (O.C.I.P.O.).
- c) When writing letters, reports or other documents it is advisable to avoid names, referring to the person as the “complainant” or “caller”. Refer to residential properties by address, not owner’s name. Use facts to describe people and do not include personal information in briefing notes or public documents.
- d) Educating staff in privacy awareness reduces the risk for a breach or invasion of private information.

6.0 Freedom of Information Guiding Principles

6.1 Responsibility and Cooperation

- a) The Clerk has the responsibility for all Freedom of Information requests and will manage the process appropriately.
- b) Staff will provide their full cooperation in locating and providing requested information to the Clerk.
- c) The County is responsible for ensuring that searches are conducted by experienced employees in each location where records may exist.
- d) In most cases the Clerk will be the designate for discussions with the IPC or legal counsel. If other staff have been designated to perform this function, all contact and discussions must be documented and forwarded to the Clerk.

6.2 Confidentiality

- a) All Freedom of Information requests are confidential and are not to be discussed at any time with persons not directly involved with the request. The identity of the

requester must be kept confidential and removed from any documents prior to circulating a request unless it is absolutely necessary to perform the search. This will ensure that the identity of the requester will not influence the processing of the request.

6.3 Information on Public Domain

- a) If requested information is available on a public domain such as the County website, direct the requester to that source to obtain the records.

6.4 Time Frame and Formal Response

- a) All legitimate requests for information or records under M.F.I.P.P.A. will be responded:
 - i. Within 30 calendar days from receipt of the request and fee;
 - ii. Records that are subject to third party consent have an additional 30 days to respond;
 - iii. The third party has 20 calendar days to submit representations; and,
 - iv. The County has 10 calendar days to review and make its decision once third party response received.

- b) Time extensions are allowed under two special circumstances:
 - i. High volume of records; or,
 - ii. Consultation with outside organizations.

- c) Formal written decision letter is prepared by the Clerk within 30 calendar days from receipt of the request, unless a time extension has been granted. This letter should contain;
 - i. All locations that were searched;
 - ii. Name and position of decision maker, appeal information, fee waiver information, and an index

- iii. Description of the records, the number of pages, the records where access has been granted; and,
- iv. Records that where exemptions have been applied, quoting the applicable sections of the Act, and including detailed explanations as to the reasons the exemptions apply.

6.5 Fees

- a) Fees can be charged for responding to a request but are not meant to be cost recovery. If the fee is:
 - i. Over \$25.00 but less than \$100.00, notification to the requester is required;
 - ii. Cost is estimated to be over \$100.00 then a deposit of 50% may be requested by the County;
 - iii. The time clock stops until the deposit or total fee has been received;
 - iv. All fee estimates should be provided to the requester as soon as possible from the date the request was received;
 - v. Recommended to send fee estimates at the same time as time extension notification; and,
 - vi. The requester does have the right to appeal the fee estimate under the Act.

- b) See Appendix "A" for more information.

6.6 Review and Clarifying Request

- a) The request must provide sufficient detail to enable an experienced employee of the institution to identify the requested record(s).

When reviewing the request:

- i. Thoroughly review the request;
- ii. Only provide the information requested;
- iii. Do not provide more records than are asked for and ensure check the date range of records on the request;

- iv. If the requester wants records outside of the date range or additional records, it is the responsibility of the requester to submit another request for the information.

- b) The County has the obligation to contact the requester to ask for clarification if necessary. Should be noted that:
 - i. The clock does not start until the request has been clarified;
 - ii. Broad request that need narrowing, the time clock continues while the requester is contacted to see what it is they actually want; and,
 - iii. Let the requester direct the narrowing to sharpen the focus of the request.

6.7 Frivolous or Vexatious Request

- a) If the Clerk is of the opinion on reasonable grounds that the request for access is frivolous or vexatious as defined under MFIPPA, the County does not have to proceed with the request or provide the requested records. The County shall respond and issue a decision letter providing the reasons for declaring the request frivolous and vexatious.

6.8 Forwarding Request to Another Institution and Third Party

- a) The County must forward a request to another institution if:
 - i. Believes another institution may have custody or control over records identified in the request;
 - ii. The County may hold some records but additional records may be held by another institution (i.e. agent on our behalf); and,
 - iii. The County believes that another institution has a greater interest in the request (the County only played a small part) then the County can transfer the request including any records in our custody.

Transfer of a request must take place within 15 calendar days after the request was received and the clock does not re-set. The County must provide written notification to the requester informing them of either of these actions.

b) If the Clerk believes the record may contain information on any persons (third party) whose interests might be affected by disclosure (other than the requestor or the County) then written notice must be given to that party and the record may be exempt from disclosure. For the third party exemption to apply, all of the following three tests must be met:

- i. The information must fit within one of the specified categories of third party information as identified in section 10 of MFIPPA;
- ii. The information must have been supplied by the third party in confidence, implicitly or explicitly; and,
- iii. The disclosure of the information could reasonably be expected to cause certain harms as identified in section 10 of MFIPPA.

The notice shall contain:

- i. Description of the record;
- ii. Notice that the third party has 20 calendar days to respond (make representation); and,
- iii. Identity of the requester must remain confidential but the County may indicate the category the requester falls into (i.e. competitor, media, and law firm).

It is recommended to contact the third party by telephone to explain the process.

- c) The third party needs to be aware that:
- i. They need to provide evidence that harm would come to their business if the information were released;
 - ii. The right to appeal to the IPC if the County decides to disclose information;

- iii. Has 30 days in which to file an appeal with the IPC;
 - iv. Any records that are not included in the appeal can be disclosed to the requester; and,
 - v. Representations can be shared with the requester if they are not of a confidential nature or reveal information about a record being withheld.
- d) If the third party consents to the disclosure, ask for the consent in writing. If a third party does not respond to the notice, the County will make the decision with no input from them.

6.9 Exemptions, Excluded Records under MFIPPA, and Removing Information

a) Mandatory – must not disclose:

- i. Relations with Other Governments (s.9);
- ii. Third Party Information (s.10); and,
- iii. Personal Privacy (s.14).

b) Discretionary – may disclose even though an exemption exists:

- i. Advice or recommendations;
- ii. Interference with a law enforcement matter;
- iii. Defense of Canada;
- iv. Economic and competitive interests;
- v. Solicitor – client privilege;
- vi. Danger to health or safety;
- vii. Fish and wildlife species at risk; and,
- viii. Publicly available information.

c) Records excluded from MFIPPA include:

- i. Most employment and labour relations related records in which the County has an interest. This includes records relating to court or tribunal hearings, negotiations, meetings, consultations and/or communications about labour relations related matters;

- ii. Records that are covered by the Act are agreements (such as those between the County and a trade union); and,
 - iii. Employee expense accounts.
- d) Records that include information that falls within an exemption and it can be reasonably severed then the information needs to be “removed” from the document allowing for the remainder of the record to be released. The most common method of severing is to “black out” or “white out” the parts of the document to be severed, then take a photocopy to provide to the requester. A photocopy is taken to ensure that the text beneath the black out or white out cannot be read. This applies to all records, even those that did not originate with the County.

6.10 Obligation to Disclose

- a) The Clerk has an obligation to disclose information or records where there is a grave environmental, health or safety hazard or if there is a compelling public interest to do so. This is called an override provision and the record must be disclosed as soon as possible. There is no requirement that a request must be made under that Act prior to releasing the record. The Clerk must give notice to any persons whose interests may be affected by the disclosure. Due to the urgency of the circumstances, the prescribed wait period does not apply.

For compelling public interest, if the disclosure clearly outweighs the purpose of the exemption, then the record must be disclosed. This provision applies to the following exemptions:

- i. Advice or recommendations;
- ii. Relations with governments;
- iii. Third party information;
- iv. Economic and other interests;
- v. Danger to health & safety of an individual; and,

- vi. Personal privacy.

This does not apply to exemptions dealing with records of closed meetings, law enforcement, solicitor-client privilege or published information. In these cases, the Clerk and the IPC will determine if the compelling public interest provision will be applied to the disclosure of the record.

6.11 Appeals

- a) If the requester files an appeal with the IPC on any aspect of the decision letter including the fee and is not dismissed by the IPC, the file will proceed to mediation. If an agreement between the two parties cannot be reached at the mediation stage, the appeal will go to adjudication. The benefits of settling at the mediation stage versus the adjudication stage are:
 - i. Both parties are given the opportunity to explain their respective positions;
 - ii. Opportunity for clarification, options, negotiations and discussion;
 - iii. Builds trust and open communication;
 - iv. Quicker results and less costly;
 - v. Win/win situation; and,
 - vi. The outcome is controlled by us.

6.12 Reports

- a) All staff must track their hours in regards to searching for records, the locations they searched, and provide a summary report to the Clerk.
- b) The Clerk must submit an annual statistical compliance report to the IPC summarizing:
 - i. The number of requests;
 - ii. Processing time;
 - iii. Number of times information was withheld or denied and what exemptions were applied;

- iv. Fees collected; and,
- v. Number of personal information correction requests.

7.0 Roles & Responsibilities

7.1 County Clerk

- a) Clerk has responsibility for all Freedom of Information and Protection of Privacy activities and has been designated the Freedom of Information Coordinator by Head of Council (delegation of authority). This role requires a good working knowledge of MFIPPA. The Clerk will receive all FOI requests and manage the process appropriately, as well as provide advice and guidance on:
 - i. Developing and monitoring policies and procedures for administering the Act including tracking requests, statistical reporting, and adherence to legislative requirements;
 - ii. Adhering to time limits and notification requirements;
 - iii. Considering representation from third parties;
 - iv. Providing a response to access requests;
 - v. Determining the method of disclosure;
 - vi. Responding to requests for correction of personal information;
 - vii. Calculating and collecting fees;
 - viii. Providing public access to manuals and guidelines prepared by the County;
 - ix. Where necessary, defending decisions made under the Act at an appeal;
 - x. Administering the privacy protection provisions of the Act;
 - xi. Identifying and reporting all privacy breaches. The response should include responding and containing the breach, notifying affected parties, investigating and implementing change; and,
 - xii. Staff training and orientation including Council.

7.2 Records Manager

- a) Records Manager will assist staff with any of the Freedom of Information or Protection of Privacy activities listed above and as required. The Records Manager will ensure that:
- i. All records are retained or disposed of in accordance with the approved retention schedule;
 - ii. All records that are subject to disclosure under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) will be properly retained (legal hold) until no longer required;
 - iii. Records management systems are properly maintained to allow for the easy retrieval of records; and,
 - iv. All personal information is protected against unauthorized access.

7.3 Directors and Managers

- a) Directors and Managers shall be responsible for:
- i. Becoming familiar with this policy and guidelines;
 - ii. Assist in the FOI request process as required;
 - iii. Shall enhance accountability and transparency by ensuring sound records management practices are implemented and maintained;
 - iv. Ensure all their staff is aware of their responsibilities and obligations in regards to Freedom of Information, the Protection of Privacy, and collection of personal information; and,
 - v. Shall ensure compliance with this policy, address non-compliance and report any suspected privacy breaches to the Clerk; and,
 - vi. Designate their authority, under this policy, to an applicable staff member, as required.

7.4 Employees

- a) Employees either full-time, part-time or contract shall:
- i. Collect only personal information that is relevant to and necessary for a particular purpose

- ii. Familiarize and comply with this policy, any related policies, and procedures;
- iii. Particular purpose and/or in order to perform their job duties;
- iv. Only individuals who have the authority to do so will collect personal information.
- v. Will assist with any FOI requests as required ensuring confidentiality is maintained at all times;
- vi. Contact supervisor if unsure of FOI request or collection of personal information;
- vii. Alert supervisor and Clerk of suspected privacy breach; and,
- viii. Calculate all necessary fees to be approved.

8.0 Access & Security

8.1 Protection

- a) Personal information shall at all times be protected against unauthorized access, loss, theft, inadvertent destruction or damage. Security measures should include administrative, technical, and physical safeguards. Safeguards include:
 - i. Clean desk practices;
 - ii. Desks with locks are locked if unattended;
 - iii. Lock computers when away from desk;
 - iv. Lock filing cabinets or drawers;
 - v. Utilize central filing systems;
 - vi. Coded file labels rather than descriptive text;
 - vii. Limit circulation of records of a personal nature to staff on a need-to-know basis;
 - viii. Restrictions on the making of copies;
 - ix. Log out and log in procedures for files;
 - x. Instruction on what types of information should not be faxed or sent electronically; and,

- xi. Security provisions in contract with outside providers of storage or disposal services.

8.2 Removal of Records, Providing, and Disclosing Personal Information

- a) No employee shall remove records that are not available in the public domain from the premises of the County without the explicit permission of their Director, the Clerk and/or CAO.
- b) No employee shall provide information and records that are not in the public domain to the public without explicit permission from the Clerk, and/or CAO.
- c) No employee shall disclose personal information of any County employee or customer, associate or any other person whatsoever. Be aware of your surroundings when discussing confidential matters.

8.5 Destruction of Records

- a) Personal information must be disposed of in a secure manner and a record kept of the destruction. See RM1. RM Program Policy and RM2. Records Retention Program Policy.

9.0 Compliance & Violations

9.1 Compliance

Compliance with this policy will ensure that County information is shared in an appropriate manner, protected as required, and in compliance with the Municipal Act, 2001, the Municipal Freedom of Information, and Protection of Privacy Act, all other applicable legislation and the County's By-laws, Policies, and Procedures.

9.2 Acting in Contravention

Employees found to be acting in contravention to this policy shall be dealt with in accordance with the HR4.3.1. HR Code of Conduct Policy.

10.0 Related Documents

- a) HR4.3.1 Code of Conduct Policy
- b) RM1. RM Program Policy
- c) RM2. Records Retention Program Policy
- d) Corporate 2015-02 Routine Disclosure & Active Dissemination Policy

Appendix A - Time Extensions and Fees:

Time Extensions:

For 250 pages to 500 pages there will be an additional 30 days added to the timeline.

For 501 pages to 1000 pages there will be an additional 60 days added to the timeline.

For 1001 to 1500 pages there will be an additional 90 days added to the timeline.

For 1501 to 2000 pages there will be an additional 120 days added to the timeline.

For 2001 to 5000 pages there will be an additional 150 days added to the timeline.

For 5001 to 10,000 pages there will be an additional 150 days added to the timeline.

For over 10,001 pages there will be an additional 270 days added to the timeline.

Fees:

The fees charged for responding to a request are not meant to be cost recovery. If the fee is over \$25.00 but less than \$100.00, notification to the requester is required. If the cost is estimated to be over \$100.00, then a deposit of 50% may be requested by the County. All fee estimates must be provided within 30 calendar days of receiving the request. The purpose of the fee estimate is to provide the requester with sufficient information so they can make an informed decision on proceeding with the request and to prevent the institution from investing too much time and effort on a request that may be abandoned.

Fees chargeable are as follows:

- Examining file indices, file plans or listing of records
- Key word searches of computer databases including email accounts
- Locating files in storage or archives
- Examining contents of records of files to identify records that meet search criteria

Fees not chargeable:

- Time spent photocopying the record
- Preparing a decision letter
- Identifying records that require severing or third party notice
- Reviewing records to determine access decisions
- Removing staples or paperclips or re-filing records
- Travel time to visit off-site storage
- Calling the courier

Fees can be waived if, in the head's opinion, it is fair and equitable to do so after considering;

- the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required;
- payment will cause a financial hardship for the person requesting the record. This does not include the \$5.00 Application Fee;
- dissemination of the record will benefit public health or safety; and
- any other matter prescribed in the regulations.

Fee Descriptions:

Non-Refundable Application Fees are \$5.00 per request.

The first 30 minutes of search time is free, thereafter it is \$30.00 an hour.

Photocopies are \$0.25 per copy. DVDs and CDs are \$5.00 per disk.

Computer Programming is \$15.00 per 15 minute interval or \$60.00 per hour.

Preparation time is \$7.50 per 15 minute interval or \$30.00 per hour.

Chargeback Fees and Delivery by Courier are as billed.

For amounts over \$100.00, a deposit of 50% of estimate must be paid.

Note: Fee estimates can be appealed by the requester.

Appendix B – Checklist for Processing a Request (for internal use)**1) A request is received**

- a) Is the request in writing?

- b) Does it mention MFIPPA/FIPPA?
- c) Does it include the \$5.00 application fee?
- d) Does it provide sufficient detail to enable an experienced employee to identify the requested record(s)?
- e) Date stamp the request
- f) Open a file, assign it a number and prepare a tracking/recording form for all dates (received, responded, sent to 3rd party etc.)
- g) Provide a form for individuals/departments to track where they looked for records and how long it took them (forward to Clerk)

2) Do the Requested Records Exist?

- a) Check to verify the requested records exist, if not notify the requester that the records do not exist.
- b) Do we have custody or control of the records? If not, make reasonable inquiries to determine where to forward the request and forward it within 15 calendar days of receipt. Notify the requester that the request was forwarded.
- c) If you do not know where to forward the request, notify the requester that the records do not exist and that the requester can appeal to the IPC.
- d) If the County and another institution both have copies of the records, determine which institution has a greater interest in the record and if appropriate, transfer the request to the other institution within 15 days of receipt of the request. Notify the requester of the transfer.

3) Locating and Reviewing the Records

- a) Gather the records or a sample of the records and review them. Remember to search all locations and media types.
- b) Will some of the exemptions apply?
- c) Do you need more time to process the request?
- d) Will there be a cost for processing the request? Notify the requester.
- e) Is a time extension required? If so, notify the requester.
- f) Do the records affect the interests of third parties? If it appears you will be granting access to these records, send notices and give third parties an opportunity to make representations about the disclosure of records that affect them. This will affect the deadline for responding to the request.
- g) Will there be a cost for processing the request? If the cost will be greater than \$25.00, the requester must be given a fee estimate. If over \$100.00 then a 50% deposit may be requested.
- h) Notify the requester of the fee estimate, any time extensions or 3rd party as soon as possible after receiving the request. In some cases the requester may decide not to proceed. Note in your letter that if the requester does not respond within 30 days, the file will be closed.

4) Processing the Request

- a) Retrieve the records.
- b) Determine what exemptions apply.
- c) Determine if the override provisions apply.
- d) If required, sever exempt material from the records.

- e) Determine what the final fee will be and if the fees will be waived.

5) Granting or Denying Access to the Records

- a) If access to a record or part of a record is granted, determine method of access (copy or original).
- b) If access is granted, give the requester notice regarding access.
- c) If an affected third party is involved, give notice regarding access to third party and requester.
- d) Collect fee where applicable and provide record. Use the Index of Records form to list records and access decision and/or exemptions where applicable.

or

- e) Give the requester a notice of refusal if (1) the records do not exist, (2) all or part of the record is exempt from disclosure, or (3) the County is refusing to confirm or deny the existence of the record.
- f) Use the Index of Records to list the records and access decisions including records exempt for disclosure outlining what exemption applies. Ensure the section in the Act(s) are referenced.

6) Correcting Personal Information

- a) If an individual requests the correction of personal information, verify the information to be corrected, correct the personal information or permit a statement of disagreement to be filed.
- b) If requested, notify recent users of the personal information of the correction or statement of disagreement.

7) Complete the File

- a) Document the request and all actions taken.
- b) Close the file, unless an appeal is commenced.

Tips for a Successful Appeal at Mediation

- a) Commit to the process;
- b) Respond to the mediator in a timely fashion;
- c) Be open minded, creative and innovative;
- d) Make an effort to really understand the request;
- e) Recognize the power imbalance;
- f) Be prepared to discuss the reasons the records are being withheld; and,
- g) Remember that mediation gives the parties the ability to control the outcome.

Appendix C – Freedom of Information Search/Time Log (for internal use)

Note: Please remember to search all media types and locations where information could exist (i.e. paper, electronic, photos, on computers, laptops, cell phones, in shared directories, email, “P” drives, in file cabinets, boxes, etc.)

Staff are to record the following details in a search/time log:

1. File Number
2. Date Request Received
3. Department
4. Contact Person
5. Return to Clerk deadline
6. Date and Start and End times of search, Minutes/Hours Worked
7. Name of Staff conducting search
8. Details, actions and locations of search
9. Chargeable time
10. The Totals of all the above details

Appendix D – Index of Records (for internal use)

Staff are to record the details of each document search; description, number of pages, if released, sections applied and explanation in relation to the F.O.I. Request received.

Appendix E – Municipal Freedom of Information Affidavit

In the matter of an F.O.I. Appeal an Affidavit can be sworn before the Commissioner of Taking Affidavits at The Corporation of The County of Northumberland for the purpose of supporting the County's decision. For Affidavit please contact the Clerk's office.

Appendix F – Municipal Freedom of Information Time and Volume Estimate Log (for internal use)

Staff will use an estimate log to record an estimate of the time it will take to retrieve the applicable records and an estimate on the volume of records required. Information to be recorded in the estimate is the type of file: physical files, directories, databases, boxes and consultations with staff. Additional information to be included in this estimate is the number of each of those file types and the hours estimated to search them. Estimated volume is to be recorded by inches of paper, sizes of directories, databases, drawings, maps and photos with the assumption that 1 inch of papers can equal 250 pages. To view all internal use log sheet templates for F.O.I. request processing please contact the Clerk's office.

Please note that this policy is subject to any specific provisions of the Municipal Act, or other relevant legislation or Union agreement.