



NRH Notice

NUMBER: 05-10
DATE: December 19, 2005

Mandatory
 For Information

Applicable to:

NIAGARA
REGIONAL
HOUSING



- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Municipal & Private Non Profit |
| <input checked="" type="checkbox"/> | Co-operatives |
| <input checked="" type="checkbox"/> | Federal Non-Profits |
| <input checked="" type="checkbox"/> | OCHAP/CSHP |
| <input checked="" type="checkbox"/> | Rent Supplement |

Subject: Personal Information and Electronic Documents Act, S.C. 2000 c.5

Background:

The Personal Information Protection and Electronic Documents Act (PIPEDA) was enacted by the Federal government on January 1, 2004. PIPEDA applies in all provinces unless there is equivalent provincial legislation in place. Ontario does not have equivalent legislation. The Act applies to all private sector organizations and all organizations involved in commercial activity or regular activities that are commercial in nature. Whether providing housing on a non-profit basis is considered a commercial activity is still in debate. This report is recommending that the best approach to ensure the highest protection of all personal information is to have all housing providers (provincial non-profits and co-operatives and federal non-profit housing providers) as well as Niagara Regional Housing (NRH) comply with the requirements of PIPEDA.

Housing providers are governed under various Legislative Acts related to the protection of personal information as follows:

- Freedom of Information/Protection of Privacy Act (FIPPA);
- Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) (through RGI Service Agreement); and,
- Social Housing Reform Act, 2000 (SHRA).

Although the principles of PIPEDA are similar to other Legislative Acts regarding the protection of personal information, there are some differences that need to be incorporated into existing personal information policies.

Under PIPEDA, personal information includes any information that could identify an individual. The principles that form the basis of PIPEDA and the Code of Practice include:

Principle	Code of Practice
Accountability	Personal information can only be collected if there is a reasonable need for that information.
Identifying the purpose for collecting the information	When collecting information it must be stated why the information is being collected, how it will be used and who it will be shared with.
Obtaining consent	Meaningful consent must be obtained to use and share personal information.
Limiting collection and disclosure	Personal information must be kept secure.
Limiting use and specifying retention periods	<p>Personal information must be destroyed when an organization no longer has a reasonable need for it.</p> <p><i>Note: The SHRA 2000 requires providers to keep household records for five years after move-out and records of refusals for seven years. In this case, the SHRA, 2000 and federal operating agreement requirements take precedence.</i></p>
Openness and challenging compliance	<p>Providers must be accountable for the way they deal with personal information by:</p> <ul style="list-style-type: none"> ▪ making policies and practices public; ▪ appointing a Privacy Officer, responsible for ensuring compliance with the Act; (<i>Note: The Privacy Officer does not have to be the same person identified to handle questions and complaints as required under the SHRA, 2000</i>); and, ▪ establishing a clear complaint procedure.
Individual Access	Individuals have the right to see personal information about them and to insist that wrong information is corrected.

Many providers have already set standards for the protection of personal information in their by-laws and policies. The new legislation provides an opportunity to improve these policies in some areas.

Implementation:

Service Manager's Role

- ❖ NRH will make all housing providers aware of the PIPEDA requirements through the issuance of this NRH Notice. NRH will also recommend that housing providers put policies and procedures in place regarding PIPEDA through the Operational Review Process.

Housing Provider's Role

- ❖ In order to ensure compliance with PIPEDA, all housing providers should ensure that the following policies and practices are put in place:
 - Appoint someone to act as the Privacy Officer (does not have to be the same person identified for handling questions and complaints);
 - Develop a personal information protection policy;
 - Check the forms used to ensure that providers are only collecting information that is needed (PIPEDA applies to all forms; SHRA 2000 applies to RGI income eligibility and special needs eligibility forms);
 - Prepare a statement of consent to use with their forms;
 - Advise tenants/members in writing on what type of personal information is on file, how it will be used and with whom it will be shared;
 - Ensure that all files containing personal information are kept in a secure location with limited access; and,
 - Educate staff and board members on the responsibilities under PIPEDA.

Both the Ontario Non-Profit Housing Association (ONPHA) and Co-operative Housing Federal (CHF) have sample policies, consent forms and provide training courses on PIPEDA.

Complaints regarding non-compliance can be filed with the Federal Privacy Commissioner who is responsible for enforcement of the PIPEDA legislation. The Commissioner investigates every complaint received through various means including compliance audits, and can initiate criminal and/or civil proceedings against organizations for non-compliance. The Federal Privacy Commissioner publicly reports the results of its investigations and those reports are grounds to apply to the Federal Court.

Any questions or concerns regarding this legislation should be directed the Federal Privacy Commissioner. For a copy of the *Personal Information and Electronic Documents Act, S.C. 2000 c.5* go to www.parl.gc.ca/PDF/36/2/parlbus/chambus/house/bills/government/C-6_4.pdf

(Original signed by Lora Beckwith)

Lora Beckwith, General Manager