

ACCESS TO INFORMATION

INTRODUCTION

The [Freedom of Information and Protection of Privacy Act](#) (RSA 2000, c.F-25) applies to the Labour Relations Board. The two major aspects of FOIPP are access to information and the protection of personal privacy. This policy deals with the former while Chapter 5(c) deals with the latter. Specifically, this policy covers:

- FOIPP provisions for access;
- an overview of exclusions under FOIPP; and
- advice on how to ensure your behaviour is FOIPP compliant.

FOIPP PROVISIONS FOR ACCESS

The purposes of the [FOIPP Act](#) include:

2(a) to allow any person a right of access to the records in the custody or under the control of a public body subject to limited and specific exceptions as set out in this Act,

(c) to all individuals, subject to limited and specific exceptions as set out in this Act, a right of access to personal information about themselves that is held by a public body,

In many cases, public bodies like the Board already allow broad access to records (especially when an individual desires to see their personal records) and have policies in place to address the matter. See: [[Third-Party Information Requests, Chapter 5\(a\)](#)]. FOIPP is not meant to replace such processes. Rather, it creates an avenue of last resort for individuals to access information.

When a FOIPP request comes in, forward it immediately to the FOIPP coordinator for action. FOIPP requests must be responded to within 30 days. The coordinator then begins a process of responding, including:

- clarifying (and potentially narrowing) the request;
- identifying records responsive to the application;
- creating (where necessary) a preliminary assessment of the cost involved;
- notifying any affected third parties and seeking their consent for disclosure;
- applying mandatory and discretionary exclusions to records; and
- providing access to the material.

As this checklist indicates, responding to a FOIPP request of any size or complexity can be a significant undertaking. Further, the response is subject to review by the Information and Privacy

Commissioner. It is frequently less costly to simply provide access to records (where appropriate) when an informal request is made. See: [[Third-Party Information Requests, Chapter 5\(a\)](#)].

EXCLUSIONS

When a FOIPP request is received and responsive records are identified, the FOIPP coordinator applies a series of exclusions to the records. The exclusions can be mandatory (i.e., the record cannot be disclosed) or discretionary (i.e., the coordinator must decide whether or not to disclose the record and be prepared to defend any exclusions). These exclusions are outlined in Sections 16-29 of the Act. Exclusions most likely of interest to Board staff include:

- **Harmful to law enforcement:** Some of the Board's work relating to applications falls within the FOIPP Act's definition of law enforcement. Specifically, Section 20 indicates some circumstances when the Board may choose not to reveal information relating to an administrative investigation and proceedings that could lead to a penalty or sanction (e.g., information relating to unfair labour practice complaints).
- **Harmful to personal privacy:** Section 17 requires the Board to not disclose information that would result in an unreasonable invasion of a third party's personal privacy without consent. This could include information (particularly employment information) we receive regarding individual employees. Section 40(1)(e) allows the release of information for the purposes of complying with the [Labour Relations Code](#) and includes public-sector employers providing information to the Board and the Board publishing documents such as a voters list.
- **Harmful to business interest of a third party:** Section 16 requires the Board to not disclose information harmful to the business interests of third parties including revealing information about labour relations. This includes information that was supplied in confidence and which could reasonably be expected to reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

Direct questions about releasing information to the FOIPP Coordinator.

FOIPP COMPLIANT BEHAVIOUR FOR BOARD STAFF

The Board has taken several steps that allow the public access to information in a manner consistent with the FOIPP Act. These include:

- **Matters before the Board:** A listing of applications before the Board is available on our website. When third parties request information about matters before the Board, Board staff confirm an application has been made and direct the caller to the parties for more information. See: [[Third-Party Information Requests, Chapter 5\(a\)](#)]. This allows the parties to decide how much information they wish to release.

- **Information about certificates:** A listing of current certificates is available on our website.

Board processes: The Board makes available information about our process to the public. A full disclosure and explanation of our processes increases our credibility and improves parties' decision making.

- **Releasing standard documents:** In some circumstances, the Board will release copies of standard letters to other parties with an interest in an application. For example, the Board might release a Notice to Employees to a union with an interest in an application that they are not a party to in order to demonstrate the Board complied with its own processes. Discuss matters such as this with the Director of Settlement.
- **Access to personal information:** When an individual desires access to information contained in a Board file about them, the Board will (after reviewing the file) normally provide a copy of the relevant information.

Board staff are also conscious of personal privacy. See: [\[Protection of Privacy, Chapter 5\(c\)\]](#).