

## **SECTION 7 – PRIVACY POLICIES AND PROCEDURES**

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## SECTION 7 – PRIVACY POLICIES AND PROCEDURES

### 7.01 Introduction to the Freedom of Information and Protection of Privacy Act & the Protection of Personal Information Act of BC

The *Freedom of Information and Protection Privacy Act* (FOIPPA) came into force on October 4, 1993 and deals with the collection, use and disclosure of personal information in the custody of, or under the control of, government bodies in BC. When a government body enters into a contract with an organization to provide certain services, the contract may provide that the personal information collected by the organization pursuant to the contract is under the custody and control of the government body. If so, FOIPPA applies to that personal information. FOIPPA allows access to information held by public bodies (such as ministries, universities and hospitals) and determines how public bodies may collect, use and disclose personal information.

The *Personal Information Protection Act* (PIPA) came into force in British Columbia on January 1, 2004. PIPA is the British Columbia government's response to both national and international developments in the area of private sector privacy. PIPA sets out how private organizations (including businesses, charities, associations and labour organizations) may collect, use and disclose personal information.

In Canada, the first Privacy Commissioner was established under the 1955 *Human Rights Act*, and in 1982 the first Privacy Commissioner was appointed under the new federal *Privacy Act*.

The *Office of the Information and Privacy Commissioner for British Columbia* (OIPC) was established in 1993 to provide independent review of access to information decisions made by public bodies. The OIPC is independent from government and monitors and enforces British Columbia's *Freedom of Information and Protection of Privacy Act* and *Personal Information Protection Act*. The Privacy Commissioner's mandate also includes specific authority over:

- extensions of time for organizations to respond to requests for access to personal information
- complaints against organizations
- reviews of decisions made by organizations
- inquiries relating to complaints and reviews
- authorizations to organizations to disregard requests for access to or correction of personal information

#### **What does the *Personal Information Protection Act* do?**

PIPA is about the protection of personal information in the private sector. It creates common sense rules for the collection, use and disclosure of personal information. It balances an individual's right to have his or her personal information protected with the need of organizations to collect, use and

disclose personal information for legitimate, reasonable business purposes. An organization cannot contract out of PIPA.

#### **Information Collected Prior to January 1, 2004**

PIPA applies to the personal information an organization possesses or controls, even if the information was collected prior to January 1, 2004.

However, PIPA does not apply to the *collection* of personal information by an organization prior to January 1, 2004. An organization may continue to use and disclose the personal information for the original purpose for which it was collected. If the original purpose was not disclosed to the individual at the time the information was collected, the organization will be able to use and disclose the personal information for purposes the individual providing the information would reasonably have assumed they were providing the information. If the organization wants to use or disclose the information for a new purpose unrelated to the original purpose, the organization must obtain the consent of the individual to do so.

#### **Reasonableness**

Reasonableness is the general touchstone of the Act. What is reasonable is what a reasonable person would think is appropriate in the circumstances. Being reasonable is not a right and wrong, black and white process. It may take some time and some trial and error to determine what is reasonable for an organization.

The Privacy Commissioner has made the following points about reasonableness:

- It is an objective standard;
- It requires your organization to turn its mind to the use of personal information, consider it, and have a logical reason for doing it the way it does;
- Industry standards are evidence of what is reasonable;
- Reasonableness is not perfection.

#### **What is Personal Information?**

Personal information is information about an identifiable individual. Examples of personal information include:

- Name;
- Birthdate;
- Gender;
- Ethnic origin;
- Marital status and dependents;
- Home address;
- Home phone number;
- Physical description;

- ID numbers (e.g. social insurance number, driver's licence number, employee number);
- Education qualifications and educational transcripts;
- Income;
- Credit records;
- Credit card number;
- Bank account information;
- Health and medical information;
- Resumes;
- Reference letters;
- Employment history;
- Performance evaluations;
- Disciplinary record;
- Management opinions about employees and disciplinary actions taken;
- A record of entry and exit of employees;
- Internet activity and computer monitoring;
- Video surveillance, photographs, and videos;
- Personal references of an individual; and
- Evaluations and assessments.

In essence, almost any information, in any form, that can be attributed to an identifiable individual is personal information. PIPA applies to personal information whether it is recorded or not. Only individuals have personal information; companies and societies do not possess personal information.

#### **What type of information is not Personal Information?**

1. **Contact Information**  
PIPA does not apply to contact information, which is information enabling an individual to be contacted at a place of business. Contact information includes an individual's name, position or title, business telephone number, business address, business fax number and business email address.
2. **Aggregate Information**  
PIPA does not apply to non-identifiable or aggregate information such as statistical information about groups of individuals. For example, a report stating that 100 individuals participated in a specific program would not be considered personal information because the individuals could not be identified.
3. **Work Product Information**  
PIPA does not apply to work product information, which is information prepared or collected by an individual group as a part of their responsibilities or activities related to their employment or business. For example, a performance review of an employee is the personal information of the subject of the review, but is work product information of the reviewer.

#### **Situations in which PIPA does not apply**

PIPA does not apply to the following:

- Any personal information that is in the custody of, or under the control of, a public body such as a government department, municipality, university, public college, public school board or regional health authority;
- Personal information to which the *Freedom of Information and Protection of Privacy Act (BC)* or the *Personal Information Protection and Electronic Documents Act* applies;
- Personal information collected, used, or disclosed for personal or domestic purposes of an individual and for no other purpose (i.e. Christmas card mailing list);
- Personal information collected, used, or disclosed for journalistic, artistic, or literary purposes and for no other purpose;
- Personal information collected, used, or disclosed by a member or officer of the Legislature, if the collection, use, or disclosure relates to the exercise of that member or officer's functions;
- Personal information contained in a court file; a document of a judge of the BC Court of Appeal, Supreme Court or Provincial court; a document of a Master; a judicial administration record; or a record relating to support services provided to the judges of any of the courts referred to above;
- Personal information contained in a note, communication or draft decision of the decision maker in an administrative proceeding; and
- A document related to a prosecution if all proceedings are not completed.

## Penalties and Offences under PIPA

### *Offences*

It is an offence under PIPA to:

- Use deception or coercion to collect personal information in contravention of the Act;
- Dispose of personal information with an intent to evade a request for access to personal information;
- Obstruct the Information and Privacy Commissioner or his or her delegates in performing their duties under Act;
- Knowingly make a false statement to the Information and Privacy Commissioner or knowingly mislead or attempt to mislead the Information and Privacy Commissioner in the performance of his or her duties; and
- Dismiss, suspend or otherwise disadvantage an employee who whistleblows, as defined in PIPA, or who the employer believes will whistleblow.

An act is done willfully if it is done voluntarily and deliberately with the intention of doing something which is prohibited.

### *Penalties*

- Individuals convicted of an offence are liable to a fine of up to \$10,000.00

- Organizations convicted of an offence are liable to a fine of up to \$100,000.00

### ***Damages***

If the Information and Privacy Commissioner has issued an order finding that an organization has breached PIPA or if an organization has been found guilty of an offence under PIPA, the individual affected can sue the organization for damages for loss or injury the individual has suffered as a result of the organization's breach of PIPA.

### ***Protection for Employees***

An employee who, in good faith, reasonably believes that PIPA is being breached by his or her employer can inform the Information and Privacy Commissioner. The employer cannot take any negative action against the employee as a result of the employee informing the Information and Privacy Commissioner.

Furthermore, an employee may refuse to do something he or she believes is contrary to PIPA and an employer cannot take negative action against an employee for the refusal.

## **7.02 CFDC of Peace Liard's Responsibility to PIPA and FOIPPA**

Disregard to the principles of PIPA and FOIPPA can result in penalties and offences to individuals and organizations. CFDC of Peace Liard recognizes the importance of compliance with PIPA and FOIPPA, and thus has implemented privacy policies and procedures in order to follow the guidelines of the Act. The preceding pages contain information for your understanding of PIPA and FOIPPA, as well as policies that have been approved by the CFDC of Peace Liard's Board of Directors. All employees and board members of CFDC of Peace Liard are responsible to adhere to these policies and procedures. A staff member of CFDC of Peace Liard has been designated as "Privacy Officer" and any questions regarding these policies and procedures can be directed to him/her.

## **7.03 Resolution of the Board of Directors of CFDC of Peace Liard**

**REGARDING** the:

Client Privacy Policy, Board of Directors Privacy Policy, Employee Privacy Policy, Client Internet Use Policy, Employee Email and Internet Use Policy, Records Retention and Destruction Policy & Summary, Employee Oath of Confidentiality & Acknowledgement of Privacy Obligations, Board of Directors Oath of Confidentiality

**WHEREAS** the Board of Directors of the Corporation deems it advisable to approve the adoption of the above listed policies and forms, a copy of which is attached hereto.

**IT IS HEREBY RESOLVED THAT:**

1. Client Privacy Policy
2. Board of Directors Privacy Policy
3. Employee Privacy Policy
4. Client Internet Use Policy
5. Employee Email and Internet Use Policy
6. Records Retention and Destruction Policy & Summary
7. Employee Oath of Confidentiality & Acknowledgement of Privacy Obligations
8. Board of Directors Oath of Confidentiality

**BE APPROVED AND ADOPTED BY THE CORPORATION.**

**DATED** effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Board Chairperson

\_\_\_\_\_  
Board Member

\_\_\_\_\_  
Board Member

\_\_\_\_\_  
Board Member

## **7.04 Client Privacy Policy**

The following policy pertains to the privacy of CFDC of Peace Liard clients. For the information of our clients, this policy is available as a hand-out. Please contact the CFDC of Peace Liard Privacy Officer for a copy.

### Client Privacy Policy

Community Futures Development Corporation of Peace Liard is committed to protecting client privacy and the confidentiality of client personal information. Our commitment to respecting and protecting the privacy and confidentiality of personal information is addressed in this Client Privacy Policy. CFDC of Peace Liard's Client Privacy Policy and any applicable government privacy legislation is applied to protect the collection, use and disclosure of client personal information. We want our clients to know:

- a. Why we collect client personal information'
- b. How we use and disclose client personal information in establishing and maintaining the client relationship with us;
- c. How we keep client personal information confidential; and

- d. How our client can inquire about the personal information we hold about him/her. This Client Privacy Policy is designed to comply with BC's *Personal Information Act*.

### **What is Personal Information?**

We collect personal information about our client in order to provide him/her with the services and programs he/she has requested. Personal information is any information that identifies someone as an individual. It includes information that our client provides to us or that we collect from other sources with the client's permission. For example, personal information includes our clients: name and address, age and gender, personal financial records, identification numbers including Social Insurance Numbers, personal references, and employment records. It does not include contact information, which is information that enables us to contact our client at his/her place of business.

### **What Personal Information Do We Collect?**

The better we know our client, the better we are able to meet his/her needs. The personal information we collect about our client depends on the nature of the relationship with us. Examples of the types of personal information we may collect include your name, contact information (such as address and phone number), date of birth, social insurance number, information about clients' dependents, life insurance, credit and financial history, employment history, references, and previous programs or services the client has obtained from us or our affiliates.

### **Credit or Financial History**

If our client is obtaining credit from us, we may collect financial information including client credit and financial history and employment history in order to determine credit worthiness. We also ask for references that we may use to verify the information provided on our client's application form. We may obtain this information from the client application, references the client has provided, our records, credit reporting agencies, and other financial institutions.

We collect only the personal information we need in order to provide the program or service our client has requested. When we request personal information, our client may opt-out of providing us with information that is not essential to his/her relationship with us or our ability to provide the program or service to our client.

### **Our Client's Social Insurance Number**

If our client is applying for credit, we will ask for his/her Social Insurance Number ("SIN") to ensure an accurate match between client personal information and client credit information. The client is not legally obliged to provide us with his/her SIN for these purposes and doing so is optional. We can ask a credit reporting agency to match our client's personal information with his/her credit information without a SIN, but the matching process is less accurate and we may not obtain the correct (or any) credit information for the client. In such a case, we may be unable to render a decision on the credit application and may ask again for the client's SIN so that we can respond to the application. In general, we will not refuse to consider a client application solely because he/she did not provide us with a SIN.



### Using and Disclosing Client Personal Information

We need certain personal information in order to conduct business with and provide services to our client. We may use client personal information for the following purposes:

- To process our client's request for a program or service offered by us;
- To determine the suitability of programs and services for our client;
- To determine our client's eligibility for certain programs and services;
- To deliver the programs and services to our client; and
- To comply with legal requirements.

If our client is obtaining credit from us we may also use personal information for the following purposes:

- To process our client's application for a loan;
- To investigate our client's credit and financial history;
- To assess and update our client's credit worthiness; and
- To monitor, service, process, maintain and collect on our client's loan.

We will ensure our client is aware of the purposes for which we collect his/her personal information and to whom we may disclose the personal information when he/she applies for a program or service. Where we rely on implied consent, the purpose will be clear. However, if the client has any questions, please ask. If a new purpose for using our client's personal information develops, we will ask for his/her consent prior to using his/her personal information.

### Government Programs

Some of the programs and services we offer are in cooperation with the federal government, provincial government or municipalities. In such cases, our contract with that government body usually requires that we share with them the personal information we collect with respect to that particular program or service.

Personal information we collect with respect to programs and services we offer in cooperation with the BC Government and municipalities may be under the custody and control of the BC Government and would therefore be governed by the *Freedom of Information and Protection of Privacy Act* ("FOIPPA"). Our Privacy Officer will direct our client to the appropriate government official to contact if he/she wish to access his/her personal information governed by FOIPPA.

### Other Communications

Occasionally we may send our client communications with information which may be of use to him/her, including information about future seminars and other services. If our client does not wish to receive such communications, please inform us by contacting our Privacy Officer at CFDC of Peace Liard in writing, and we will ensure our client does not receive such communications in the future.

### **Limiting or Withdrawing Your Consent**

In general, our client can choose not to provide us with some or all of his/her personal information. Our client can also withdraw his/her consent to our use of his/her personal information provided he/she give us at least thirty (30) days written notice, and the following does not apply:

- Our client's consent does not relate to credit we have granted to him/her, where we are required to collect and exchange personal information on an ongoing basis with a credit reporting agency, credit insurers and other lenders, in order to maintain the integrity of the credit-granting system and the completeness of information held by the credit reporting agency;
- Withdrawing our client's consent does not result in our inability to fulfill the contract with us;
- There are no regulatory or legal requirements for the use of his/her personal information; and
- The personal information has not been used in the past year to make a decision about our client.

### **Client Access to His/Her Personal Information**

If our client would like to verify his/her personal information or find out whom we have disclosed it, please contact our Privacy Officer. Our Privacy Officer will forward an access request form that will provide us with the information we need in order to search for and provide our client with the personal information we hold about him/her. We may charge a minimal fee for the request; however, we will provide an estimate in advance. We do not charge for access to employee personal information.

There are a few instances where we will not be able to provide some of the personal information we hold. These include, but are not limited to, situations where client personal information includes personal information of other persons, the information is subject to solicitor-client or litigation privilege, the information is no longer retained by us, or the information cannot be disclosed for legal reasons. If we are unable to provide our client with access to his/her personal information, we will explain the reason why.

Our client has the right to access and verify the personal information held about him/her by a credit reporting agency. We can give our client the name and location of any credit reporting agency that provided us with a credit report on him/her.

### **Keeping Client Personal Information Accurate**

We are committed to maintaining the accuracy of client personal information for as long as it is being used for the purposes we have identified. To help keep client personal information up-to-date, we encourage our clients to notify us of any changes. Notification of changes to address and telephone numbers will help us provide the best possible service. If, upon review of personal information, our client discovers any inaccuracies, please contact us. We may ask that our client put his/her request for a correction in writing. Our Privacy Officer will provide you with the appropriate form. We will make the proper changes and provide our client with a copy of the correct information, upon request. We will also use our best efforts to inform third parties to whom we have disclosed the information in a prior

year of any relevant corrections. If we do not agree to make the corrections that our client has requested, we will record that the request was made for the information to be corrected.