



Business Contact Information

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INTRODUCTION

The information that typically appears on a business card – an individual’s name, title, business address, telephone and fax number, and e-mail address – is commonly referred to as “business contact information.”

The same information is routinely found on business correspondence and reports, and in contact databases. It tends to be stored electronically in different business applications, or in paper form, for example, in a Rolodex or a business card folder.

Prior to 2003, the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) did not specifically address business contact information. Public bodies could disclose business contact information only if they determined that the disclosure was not an unreasonable invasion of a third party’s personal privacy or if one of the disclosure provisions of **section 40** of the FOIP Act applied.

The *Freedom of Information and Protection of Privacy Amendment Act, 2003* amended **Part 2** of the FOIP Act to add a new provision (**section 40(1)(bb.1)**) that allows public bodies to disclose business contact information in cases where it is considered appropriate to do so.

The purpose of this Bulletin is to offer public bodies guidance on the disclosure of business contact information under **section 40(1)(bb.1)** of the Act.

This Bulletin also reviews a public body’s obligations under **Part 2** of the Act with respect to the collection, use, accuracy, protection, and retention of business contact information. Included as well is a discussion of access to business contact information under **Part 1** of the Act.

Publications produced by Access and Privacy, Service Alberta, cited in this Bulletin are available on the FOIP website at foip.alberta.ca.

Decisions, practice notes and publications issued by the Office of the Information and Privacy Commissioner of Alberta may be found on the OIPC website at www.oipc.ab.ca.

TYPES OF BUSINESS CONTACT INFORMATION

Section 40(1)(bb.1) sets out the types of business contact information that can be disclosed and the circumstances in which it may be disclosed. The provision reads:

40(1) A public body may disclose personal information only

(bb.1) if the personal information is information of a type routinely disclosed in a business or professional context and the disclosure

- (i) is limited to an individual's name and business contact information, including business title, address, telephone number, facsimile number and e-mail address, and
- (ii) does not reveal other personal information about the individual or personal information about another individual.

BUSINESS CONTACT INFORMATION IS PERSONAL INFORMATION

Business contact information is personal information. "Personal information," as defined in **section 1(n)(i)** of the FOIP Act, is recorded information about an identifiable individual, and includes an individual's name, home or business address, and home or business telephone number. Although the definition of "personal information" does not specifically refer to an individual's title, fax number or e-mail address, the list in **section 1(n)** is not intended to be exhaustive. Orders of the Information and Privacy Commissioner have determined that fax numbers and e-mail addresses, as well as titles, are personal information (*IPC Orders 2000-029* and *2001-002*).

Business contact information means information that enables an individual to be contacted at his or her place of business for purposes relating to that individual's business or employment.

Business contact information differs from an individual's daytime contact information that was provided solely to allow communication during daytime hours for purposes unrelated to the individual's employment. For example, a business telephone number provided by a parent to a school would not be business contact information when in the school's files.

Business contact information is personal information only if it is individually identifying information. For example, a list of businesses within a municipality is not personal information.

Section 40(1)(bb.1) provides for the disclosure of an individual's name and business contact information. For ease of reference in this Bulletin, the phrase "business contact information" is sometimes used to refer to an individual's name in conjunction with the individual's business address, telephone number, fax number or e-mail address. However, it should be remembered that the FOIP Act distinguishes between an individual's name and business contact information.

DISCLOSURE OF BUSINESS CONTACT INFORMATION UNDER SECTION 40(1)(bb.1)

Section 40(1)(bb.1) of the FOIP Act *permits*, but does *not require*, a public body to disclose business contact information if *all* of the following conditions apply:

1. The information is of a type routinely disclosed in a business or professional context,
2. The disclosure is limited to the individual's name and business title, business address, business telephone or fax number, business e-mail address or other similar business contact information, and
3. The disclosure would not reveal other personal information about the individual or personal information about another individual.

1. The information is of a type routinely disclosed in a business or professional context

In deciding whether to disclose business contact information, a public body must first consider whether **section 40(1)(bb.1)** applies to the information.

For the purposes of this provision, a “type” of information means a *category of personal information* (often an individual data element in a contact database, e.g. an individual’s business phone number). In cases involving a compilation of information, the “type” of information may also mean the *category of individuals* whose personal information is included (e.g. employees).

“Routinely disclosed in a business or professional context” means disclosed by members of a particular business or professional community in the regular course of business or professional activities, within the public, private or non-profit sector.

Information that is disclosed “in a business or professional context” will most commonly be disclosed to a particular group, such as public bodies, business or professional associations, or current or prospective business partners or clients. However, information may also be considered to be routinely disclosed in a business or professional context if it is made available to the general public through publication on a corporate website or in a business or professional directory.

In deciding whether **section 40(1)(bb.1)** may apply, a public body does not need to determine whether the specific information has been disclosed, or to whom it has been disclosed. The public body only needs to decide whether the information is of a type that is routinely disclosed by members of a particular business or professional community.

For example, it can reasonably be assumed that the business contact information that is printed on a letterhead or business card is information of a type that is routinely disclosed in a business or professional context. On the other hand, it cannot be assumed that information provided to a particular individual for the specific purpose of a single transaction is information of a type that is routinely disclosed (e.g. the direct

phone number or cell phone number of an individual provided by a receptionist to allow a client to contact an employee on a specific occasion).

In many cases, business contact information simply resides in a Rolodex or an e-mail address book. However, when personal information is compiled in a list or a database, it will generally fall into some *category*. Certain categories of personal information are routinely disclosed in a business or professional context, for example, the names and business contact information of members of a regulated profession or business licensees. Other categories of personal information are not routinely disclosed, for example, a professional corporation’s client list.

Generally speaking, business contact information tends to be routinely disclosed by a business or profession if it promotes a business or professional practice or facilitates business operations, or if disclosure is necessary to comply with regulatory requirements or is a condition of doing business.

Business contact information tends not to be routinely disclosed by a business or profession if disclosure could harm the competitive position of a business or expose employees to a risk of harm.

2. The disclosure is limited to the individual’s name and business contact information

The information that can be disclosed under **section 40(1)(bb.1)** is limited to the individual’s name and business contact information, including

- business title,
- business address (including the name of the business),
- business telephone number (office and cell),
- business facsimile number, and
- business e-mail address.

This list is not exhaustive. It is intended to allow for new kinds of business contact information, but not business information unrelated to the purpose of contacting an individual at his or her place of business.

Section 40(1)(bb.1) provides for the disclosure of an individual's name *and* business contact information. A public body may not rely on this provision to disclose a list of names.

The name of the employer organization can be viewed as an integral element of a business address and may be disclosed as part of the business address.

The name of the business that includes an individual's name (e.g. a sole proprietorship) is business contact information and may be disclosed under this provision (see *IPC Order 2002-006*). The business address of a sole proprietor operating a home-based business may also be disclosed under this provision.

The home address and telephone number of an *employee* working from home, rather than the employer's office, is personal information. The address and phone number would also be business contact information where the information is given to clients to contact the employee directly. However, it is more likely that clients will communicate directly with employer's office and the employer forwards the clients' communications to the employee. In this situation, the employee's home address or telephone number would not be business contact information.

Business contact information *does not include* other personal information that commonly appears on correspondence and on business cards, such as educational credentials, or business or professional designations.

Business contact information *does not include* an individual's working hours or schedule.

3. The disclosure does not reveal other personal information

- A public body cannot disclose an individual's business contact information if it would reveal other personal information *about that individual*.

For example, a post-secondary institution conducting management training may give the attendees a list of the names, business titles and phone numbers of the other attendees. The list is provided for the purpose of the course and disclosure would be permitted under more than one provision of **section 40(1)**. However, the

university could not rely on **section 40(1)(bb.1)** to disclose that same information to advertise the program. This is because disclosing the information would also reveal other personal information about the attendees, namely their educational history.

- A public body cannot disclose an individual's business contact information if it would reveal personal information *about another individual*.

For example, the business contact information of foster parents is likely to consist of their home address and telephone number. This information could not be disclosed under **section 40(1)(bb.1)** as it would reveal personal information about foster children residing in these homes.

Included at the end of this Bulletin are some factors that a public body might take into consideration when deciding whether to disclose business contact information, what information to disclose and how to disclose it.

COLLECTION OF BUSINESS CONTACT INFORMATION

Before a public body can collect, use or disclose personal information, including business contact information, it must have authority to collect the information under **section 33** of the FOIP Act.

Outside of law enforcement purposes, a public body can collect business contact information only if there is express legislative authority for the collection or if the information relates directly to and is necessary for an operating program or activity of the public body.

Collection may be authorized because the information is *central* to a specific program or service provided by a public body. For example, a public body may compile a list of business contacts for the purpose of regulating businesses through a licensing or inspection program. A public body may also maintain a list of business contacts for the purpose of consulting stakeholders on amendments to legislation.

Collection may also be authorized because the information is directly related to and necessary for the purpose of *administering* a program or service. For example, a public body may compile a directory

of service providers or consultants for the use of its employees or clients.

Collection of business contact information may be a *formal* process, for example, the regular updating of a directory. It may also be more *informal*, involving the exchange of business cards at conferences, meetings, trade shows or other business encounters.

The FOIP Act permits the collection of business contact information under these informal circumstances. For example, an employee of a public body can accept a business card in order to contact an individual at a later date for any of a number of common business purposes – to discuss an issue or answer a question, to respond to a request to add the individual’s information to a list of consultants or a business mailing list.

Indirect collection of business contact information

Section 34(1) of the FOIP Act provides for circumstances in which business contact information may be collected indirectly. By virtue of **section 34(1)(b)**, one public body may collect business contact information indirectly from another public body if the business contact information can be disclosed under **section 40(1)(bb.1)** (or any other provision under **section 40(1)**).

For example, public body “A” provides IT services, such as e-mail, for several other public bodies, including their business partners and business stakeholders. Public body “A” compiles a common directory for all individuals served by the system, so that security procedures (e.g. authentication of users), can be performed only once, even if an individual is a partner of more than one of the public bodies served by the system. **Section 40(1)(bb.1)** would allow the public bodies to disclose the information to public body “A” and **section 34(1)(b)** would allow public body “A” to collect the information.

Notice of collection

When a public body is required to collect personal information *directly* from an individual, **section 34(2)** requires the public body to inform the individual of the purpose of, and legal authority for, the collection, and to provide contact information for

someone in the public body who can answer questions about the collection.

Notification for the collection of business contact information may be given in many ways. For instance, a public body that intends to publish the names and business titles of individuals who provide responses to a consultation paper may print a notice in the questionnaire. A public body collecting business contact information for the purpose of publication on its website may include notification about the collection in a privacy statement on the website.

Other forms of notice may be appropriate in other circumstances. For example, a public body may intend to collect business contact information for a directory at a conference or trade show, and may have a business card “draw” as an incentive. The public body could provide notice on the container used to collect the business cards.

The form of notice should be appropriate to the purposes for which the information is to be used and disclosed.

USE OF BUSINESS CONTACT INFORMATION

A public body is most likely to use business contact information for the purpose for which it was collected or for a consistent purpose, or for a purpose for which the information may be disclosed under **section 40(1)**. These are authorized uses under **section 39(1)** of the FOIP Act.

For example, a public body that operates a recreational facility may maintain a sign-in sheet for employees of a business that sponsors the memberships as part of a corporate wellness program. This may include the employee’s name and business telephone number. The public body may use the sign-in information for the purpose of administering or evaluating the service. The public body could not use the business contact information for the purpose of marketing a different program or service.

In another example, a professional agent (e.g. a tax preparer or an immigration adviser) may provide his or her business contact information on a form submitted to a public body on behalf of a client. The public body may use the business contact information to contact

the agent regarding the specific form or to provide updates on filing rules for future transactions. The public body could not use the business contact information to develop a mailing list for a survey on an unrelated program.

ACCURACY AND RETENTION

The accuracy and retention provisions of **section 35** apply to business contact information only if the information is being used to make a particular decision affecting an individual.

Business contact information is typically used for contacting an individual rather than for making a decision affecting that individual. Nevertheless, good business practice suggests that, if a public body is using or disclosing business contact information, the public body should have a process in place to ensure that the information is accurate and current.

The onus on the public body is greatest if the public body is disclosing the information to the general public, for example, on a website. In these cases, the information should be updated regularly and marked with the date on which it was last updated.

A public body should dispose of any business contact information that is not being used or that is outdated, subject to **section 35** and any requirements of the public body's records retention and disposition schedules.

CORRECTION OF BUSINESS CONTACT INFORMATION

It should not normally be necessary for an individual to submit a request under **section 36** of the FOIP Act for a correction of the individual's business contact information. A routine request for a correction can be made in accordance with a public body's day-to-day processes for updating this type of information.

Public bodies should bear in mind that a request for correction under **section 36** must be processed within thirty days of receipt. To avoid requests under this provision, public bodies should ensure that any routine request for correction is processed in a timely way.

PROTECTION OF BUSINESS CONTACT INFORMATION

Section 38 requires a public body to protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or destruction.

The level of protection given to all personal information, including business contact information, should be appropriate to the level of sensitivity of the information.

For example, if the information is simply a directory of names and business addresses and phone numbers, it can be likened to the "white pages" of a phone book. The most significant risk to this type of information is corruption of the data (e.g. as a result of an intentional or unintentional system failure).

If business contact information is stored in combination with other information, such as an employee identification number or a home phone number, the risks and the appropriate security measures will be different.

FOIP ACCESS REQUESTS

Public bodies commonly receive requests under **Part 1** of the FOIP Act for access to records that include an individual's name and business contact information. For example, requested records may include

- an individual's name and business title on business correspondence,
- an individual's name and business title in the minutes of a business meeting, or
- an individual's name, title and business address in a report submitted on behalf of a business.

The provisions of **Part 1** continue to apply in the same way as they previously did to an access request for records that include business contact information. Business contact information can be disclosed if disclosure would not be an unreasonable invasion of a third party's privacy under **section 17** and if no other exception to disclosure applies.

If a public body receives a request for a record that contains business contact information, the public body

must first determine whether the information would identify an individual. As discussed on page 3, the name of a sole proprietorship that includes an individual's name is not considered personal information (e.g. John Doe Services).

If the information is personal information, then the public body must apply **section 17**. If **section 17(2)** applies, i.e. disclosure is *not* an unreasonable invasion of personal privacy, the information may be disclosed unless an exception to disclosure other than **section 17** applies. For example, the exception to disclosure for third party business interests (**section 16**) may apply to certain records containing the names and titles of key personnel of contractors (*IPC Order F2003-004*).

If **section 17(2)** does not apply, a public body must consider whether disclosure would be presumed to be an unreasonable invasion of a third party's personal privacy under **section 17(4)**. In most cases of business contact information, one or more provisions may apply, for example, **section 17(4)(g)** if an individual's name appears with other personal information about the individual (i.e. title, business address, phone number, etc.).

The public body must then consider other relevant circumstances under **section 17(5)**. It may, for example, be relevant to consider whether

- the disclosure is desirable for the purpose of subjecting the activities of the Government or a public body to public scrutiny (**section 17(5)(a)**),
- the third party will be exposed unfairly to financial or other harm (**section 17(5)(e)**),
- the personal information is likely to be inaccurate or unreliable (**section 17(5)(g)**), or
- the only personal information contained in the records is business contact information (*IPC Orders F2003-005 and F2004-015*).

In addition, a public body may consider whether the information is routinely disclosed by that type of business or profession in the regular course of its business or professional activities. Evidence of routine disclosure of the information in a business or professional context could be a relevant factor in determining whether a disclosure is an unreasonable invasion of privacy (see *IPC Order F2004-026*).

CONSIDERATIONS IN THE HANDLING OF BUSINESS CONTACT INFORMATION

Determining whether business contact information is of a type that is routinely disclosed

Public bodies will generally be familiar with the business and professional practices of their stakeholders.

If further evidence is considered necessary, a public body may find it helpful to review the disclosure practices of businesses or professions in publicly available sources of business or professional information. What business contact information, if any, is published in professional directories or telephone directories? What business contact information, if any, is posted on typical business websites or on the websites of professional associations?

Limiting disclosure to a specific purpose

A decision on disclosure of personal information under **Part 1** of the FOIP Act cannot normally take into consideration the purpose of the request or be subject to conditions on use and subsequent disclosure of the information. This is not the case with disclosure by a public body under **Part 2** of the Act.

Although **section 40(1)(bb.1)** does not specify a purpose for the disclosure of business contact information, a public body may disclose for a specific purpose under this provision, establishing restrictions on secondary use and disclosure.

In some cases, business contact information may be disclosed under more than one provision of **section 40(1)**, including provisions that limit the purposes for which the information may be used. Public bodies should consider whether disclosure under a provision that limits the use of the business contact information is more appropriate in the circumstances than disclosure under **section 40(1)(bb.1)**. For example, if the information is necessary for the performance of the duties of an employee of a public body, it may be preferable to disclose the information under **section 40(1)(h)**.

Limiting the amount of information disclosed

A public body may decide to disclose only as much of the business contact information as is required for the purpose of the disclosure. If an individual's business address will suffice, a public body does not have to disclose the telephone and fax numbers or e-mail address.

This could be critical in the case of a business or profession where there is a health, safety or security risk; for example, in law enforcement agencies, collection agencies and security firms. In these cases, it may be appropriate to withhold an individual's business title or position, as well as certain other contact information.

Determining whether to disclose e-mail addresses

The disclosure of an e-mail address on a website can result in an influx of unwanted, unsolicited e-mail messages or "spam," so careful consideration should be given to the public disclosure of this category of information. Although business representatives may not object to their e-mail addresses being used and disclosed for the purpose of communications with public bodies, they may not want to have their e-mail addresses placed in a directory on a public body's website (especially an e-mail address that is used at work and at home).

Choosing an appropriate form of disclosure

A public body should consider how the form of the disclosure may affect its subsequent use and

disclosure. For example, if a public body discloses business contact information in a word-processing format on a public website, the public body cannot exercise any control over who may have access to the information or how the information may be manipulated, used or disclosed. Disclosure in a format that limits editing and searching may be preferable in some cases.

Approval to make business contact information publicly available

Section 88 of the FOIP Act permits the head of a public body to specify categories of records in its custody or under its control that may be made available to the public without a FOIP request.

Disclosure of business contact information under **section 40(1)(bb.1)** does not require a decision by the head. However, a public body that plans to publish business contact information may wish to consider **section 88** when deciding who in the public body should approve the publication.

Responding to requests concerning business contact information published on a website

Before publishing a database of business contact information, a public body should develop a privacy statement for the website (including a notice to meet the requirements of **section 34(2)** if this is not provided separately). The public body should also put policies and procedures in place to update the information regularly, to respond to requests for correction, and to respond to requests for the addition or deletion of an entry, or addition or deletion of specific data (e.g. an e-mail address).

Currency

This Bulletin takes into consideration decisions issued by the Office of the Information and Privacy Commissioner of Alberta up to December 31, 2008.

Purpose

FOIP Bulletins are intended to provide FOIP Coordinators with more detailed information for interpreting the *Freedom of Information and Protection of Privacy Act*. They supply information concerning procedures and practices to assist in the effective and consistent implementation of the FOIP Act across public bodies. FOIP Bulletins are not a substitute for legal advice.

Further Information

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