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To: Toronto Public Library Board – January 16, 2006

From: City Librarian

Subject: **Access to Information and Protection of Privacy Policy**

Purpose:

To establish an Access to Information and Protection of Information Policy for the Toronto Public Library.

Funding Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendation:

It is recommended that:

- (1) the Toronto Public Library Board approve the Access to Information and Protection of Privacy Policy;
- (2) the Board designate the Chair of the Board as Head of the Institution for the purposes of the Municipal Freedom of Information and Protection of Privacy Act, and that this comes into force and effect on December 12, 2005; and
- (3) the Head of the Institution for the purposes of MFIPPA delegates all its powers and duties under MFIPPA, as per section 49 (1), to the City Librarian, and that this comes into force and effect on December 12, 2005.

Background:

The Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) has been in effect since 1990. MFIPPA is made up of two distinct purpose areas. Part I sets out the first purpose of the Act that is to provide a general right of access to information under the custody or control of municipal government institutions. This right is based on three fundamental principles:

- information should be available to the public;
- limitations to the general right of access should be limited and specific;

- decisions by government institutions about whether to disclose information may be reviewed independently by the Information and Privacy Commissioner of Ontario.

Part II relates to the protection of privacy of individuals by safeguarding personal information about them held by municipal government institutions and by giving them a right of access to that information. Part II sets out a strict privacy regime that governs the collection, use, disclosure and retention of personal information.

All predecessor library systems had practices and procedures in place to comply with the provisions of the Act. Since amalgamation, the Toronto Public Library has continued to comply with the provisions of the Act. Systems and procedures are in place that provide the means for compliance with the Act. TPL also continues to report on an annual basis to the Ontario Information and Privacy Commission on requests for information received by TPL. This policy formalizes and confirms the systems and procedures currently in place and does not replace the provisions of the Act but rather clarifies TPL's specific obligations and activities under the Act.

The adoption of this policy will ensure that Library users have access to information about the operations of the Library and to their own personal information held by the Library and that the privacy of individuals' personal information is protected in compliance with the access and privacy provisions of MFIPPA.

Comments:

The Library is committed to the principles of accountability and integrity as part of its value system. These values speak to the need for openness, and responsibility in all operations.

The Library's mandate is to provide library services and programs to the community. The continuing rise in Internet use has generated increasing public concerns about privacy and the security of personal information that is provided during on-line transactions. It is essential that the Library continue to build trust and confidence in its users, and continue to encourage their use of its services and programs. The Library recognizes that users' choices of what materials they borrow and what websites they visit is a private matter. The Library therefore needs to make every reasonable effort to ensure that information about its users and their use of library materials, services and programs remains confidential.

The Toronto Public Library Board has also endorsed the Canadian Library Association's Position Statement on Intellectual Freedom. This statement affirms the fundamental right of all Canadians to have access to all expressions of knowledge, creativity and intellectual activity, and to express their thoughts publicly.

Access to Information

Sections 4 – 26 of MFIPPA deal specifically with the publics' right to access information held by a municipality or any body considered to be part of it. These sections deal with the publics' right to access information, any exemptions, and procedures to be followed in accessing information.

In addition to the MFIPPA provisions relating to access to information, the Public Libraries Act, the legislation under which TPL operates, has clearly defined the right of any person to inspect

any records, accounts and documents in the possession or control of a board's secretary (Section 28).

Over and above these legal requirements TPL routinely makes available information to the public via its website and through Library publications including Board agendas, minutes, reports, policies and strategic plans.

The proposed policy commits the Library to providing access to information held by it, subject to the exemptions as outlined in MFIPPA sections 6 through 16. The Library also commits itself to ensuring that the public understands the process to be followed in requesting information either about the organization in general or their own personal information.

Protection of Privacy

Sections 27 – 38 of MFIPPA deal specifically with the collection, use, disclosure and retention of personal information. It also deals with Personal Information Banks and the right of individuals to whom personal information relates to access and correction.

The very nature of the operations of a public library demands that personal information is gathered from the users of the service. This results in large banks of personal information. The fundamental point of departure for TPL's policy with respect to privacy is that the Library will protect the privacy of all individuals' personal information in its custody or control in keeping with the provisions of MFIPPA and other applicable legislation.

Only personal information that is necessary for the provision of library services and programs and for the proper administration of the Library is collected. A standard Notice Of Collection is provided so that Library users are reminded of the legal authority for the collection, the purpose for which the personal information is being collected, and the title, address and business telephone number of an officer in the employ of the Library who can answer the individual's questions about the collection.

MFIPPA details the conditions under which personal information may be disclosed to third parties. One of the conditions includes disclosure where such disclosure is consistent with the purpose for which the information was collected. The proposed policy details situations where TPL may disclose personal information that is in its custody, and which are considered to be consistent with the original purpose for which the information was initially collected, i.e. the provision of library services and programs and the proper administration of a lawful authorized activity (MFIPPA S28 (2)). These are: to a collection agency that acts on behalf of the Library to collect outstanding fines and charges; to third party service providers who require access to the personal information in providing a service to the Library; and to the Toronto Public Library Foundation in cases where users have given approval for such disclosure.

Currently there is concern surrounding privacy and the use of surveillance cameras in public places. The City of Toronto is in the process of formulating both policy and procedures surrounding the use of surveillance cameras. Once these are in place TPL will review and amend this policy as required, and develop relevant procedures.

Designated Head

MFIPPA provides for members elected or appointed to a board or commission to designate in writing from among them an individual or committee to act as head of the institution for the purposes of the Act. This head may then delegate part or all of its powers and duties to an officer or officers of the institution.

To date there has been no designation by the Toronto Public Library Board. By default all members of the Board are deemed to be the head when no designation is made. However, the responsibilities and the duties as detailed in the Act have been, and continue to be, carried out by the Library. The City Librarian's office has performed this function to date. It is proposed that the Chairperson of the Board be designated as the Head for the purposes of the Act and that all powers and duties under MFIPPA be delegated to the City Librarian. This recommendation has been reviewed with the City's Legal Department.

Conclusion:

The Library is committed to the principles of accountability and integrity as part of its value system. These values speak to the need for openness, and responsibility in all operations. The proposed policy will provide the structure for ensuring that MFIPPA provisions are met by TPL.

It is therefore recommended that: (1) the Toronto Public Library Board approve the Access to Information and Protection of Privacy Policy; (2) the Board designate the Chair of the Board as Head of the Institution for the purposes of the Municipal Freedom of Information and Protection of Privacy Act and that this comes into force and effect on December 12, 2005; and (3) the Head of the Institution for the purposes of MFIPPA delegates all its powers and duties under MFIPPA, as per section 49 (1), to the City Librarian and that this comes into force and effect on December 12, 2005.

Contact:

Jane Pyper; Director, Policy, Planning and City-wide Services; Tel: 416-395-5602; Fax: 416-393-7229; E-mail: jpyper@torontopubliclibrary.ca

Barry Short; Policy Analyst; Tel: 416-395-0820; Fax: 416-395-5826; E-mail: barryshort@torontopubliclibrary.ca

Josephine Bryant
City Librarian

List of Attachments:

Attachment 1: Access to Information and Protection of Privacy Policy