



North Vancouver Recreation & Culture Commission

POLICY MANUAL

Policy No. 116

Section:	Administration
Title	Freedom of Information and Protection of Privacy

REASON FOR POLICY

To provide direction regarding the Freedom of Information and Protection of Privacy Act and its application to the records in the custody of the North Vancouver Recreation and Culture Commission (NVRC).

POLICY

1. The NVRC will comply at all times with the provisions of the Freedom of Information and Protection of Privacy Act of British Columbia.
2. Requests for release of information will be processed in accordance with the guidelines set out in the Freedom of Information and Protection of Privacy Overview (Attachment 1).

DEFINITION

For the purposes of this policy, the following definition shall apply:

Head – Director of Recreation & Culture or delegate.

AUTHORITY TO ACT

Authority to act and revise this policy is delegated to the Director of Recreation & Culture.

Approval Date:	June 18, 2009	Approved by:	Commission
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North Vancouver Recreation Commission

**Freedom of Information
and
Protection of Privacy**

**Guidelines Relative to
Policy 116**

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Introduction

These guidelines are designed to provide both staff and the public with an overview of the Freedom of Information and Protection of Privacy (FOI/POP) Act and its application to the records in the custody of the North Vancouver Recreation and Culture Commission (NVRC).

Any questions regarding the Act or NVRC policies with respect to the release of information may be directed to the FOI/POP Coordinator.

I. The Freedom of Information/Protection of Privacy Act

The FOI/POP Act (the Act) represents the government's legislative commitment to make British Columbia ministries and agencies, local governments, provincial crown corporations, hospitals, school boards, and some self-governing professional organizations more accountable to the public and to protect personal privacy. The Act has applied to local governments since November 1994.

The Act, which has been drafted in plain language, codifies the information management practices of "public bodies". In some cases, the Act dictates a new approach to the collection, use, and disclosure of information.

The Act is applicable to all sections of the Provincial government, local government and governing bodies of professions or occupations. "Local government," according to the Act, includes all municipalities, regional districts, improvement districts, boards of variance, municipal police boards, library boards, and school boards.

The Act gives individuals rights to access information held by local government and protects their privacy by placing restrictions on local governments when collecting or disclosing personal information. This means that there is a legislated set of rules governing what information can and cannot be released.

Information currently released should continue to be made available except if the information is personal information. The Act does not replace other procedures for access or limit access to information – other than personal information – that is currently available to the public. Staff are expected to incorporate the concepts and procedures of the Act into their normal office service delivery.

What is “Freedom of Information”?

The Act establishes a process by which any person may request access to information contained in records held by the NVRC. An individual may also review information of a personal nature directly pertaining to that individual.

The general right of access to information is restricted by certain *specified and limited exceptions* necessary to protect a variety of needs of confidentiality and the right of individuals to privacy.

The Act also creates a review mechanism whereby decisions relating to the disclosure or non-disclosure of information and other related issues, may be reviewed by the Information and Privacy Commissioner.

What is Protection of Privacy?

The Act protects the personal privacy of individuals by restricting the collection, use and disclosure of personal information.

The NVRC may only collect personal information that it is expressly authorized to do so, where collection is related directly to and is necessary for an operating program, or is collected for the purposes of employment. The information can be used only for the reasons it was obtained. The Act restricts multiple, inconsistent uses of information collected only once. **If personal information is not needed, do not collect it.** The individual from whom the information is collected is entitled to know what the information will be used for and under what authority.

Disclosure of personal information, even to other public bodies, is strictly limited under the Act.

Personal Information

Personal information is recorded information about an identifiable individual including but not limited to the following:

1. The individual’s name, address or telephone number
2. The individual’s race, national or ethnic origin, colour or religious or political beliefs or associations
3. The individual’s age, sex, sexual orientation, marital status or family status
4. An identifying number, symbol or other particular assigned to the individual
5. The individual’s fingerprints, blood type or inheritable characteristic
6. Information about the individual’s health care history, including a physical or mental disability

7. Information about the individual's education, financial, criminal or employment history
8. Anyone else's opinion about the individual (but not the identity of the opinion holder)
9. The individual's personal view or opinion, except if they are about someone else (you can know what was said about you but you can't necessarily know who said it)

Requests for Personal Information

The Act guarantees an individual the right to see his/her own personal information held by the NVRC. The Act also generally prevents persons from getting access to personal information about another individual without the individual's consent.

Requests for Correction of Personal Information

Incorrect information can have serious consequences for an individual. For example, incorrect personal information could result in the denial of benefits or government services or the refusal of employment.

Public bodies must make every reasonable effort to ensure that personal information in their custody is accurate and complete. If someone's personal information changes, they may make a request to the public body to correct the information in their files. A public body must notify any individual or company to whom recorded information was disclosed within the preceding year of the corrected personal information. This means that a careful record must be kept of individuals to whom recorded personal information is disclosed. **If the information is not needed, don't collect it.**

Applicants may request the correction of their personal information, either verbally or in writing.

What is a record?

A "record" by definition in the Act includes:

"...books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records."

This includes, therefore, all memos, letters, reports, e-mails, maps, calendars, post-it notes, annotations, doodles, etc. Any recorded information is a record, and may be subject to release. Embarrassment is not a valid reason for withholding disclosure. The information contained in records could be produced by a public body or from other sources, such as third parties, service providers, or other public bodies.

Making a Request

Before a formal written request for a record is made it should be established that the record being searched for is not "routinely available".

- Routine requests – this is information that is commonly available. A fee may be charged for this information, as determined by NVRC policy or practice. The request can be verbal and does not require the involvement of the FOI/POP Coordinator
- Information requests – this information is generally routinely available but requires an information review of the records, usually by a departmental supervisor. This can also be a request for records that are not readily at hand, e.g. records stored in semi-active or archive files. As with routine requests, applicable fees may be charged. These requests should be responded to within a time frame that is reasonable for the size of the request or the location of the records
- Formal requests – are requests for records that are neither routinely available nor available through more informal procedures. Formal requests under FOI/POP must be made in writing (letter, fax or e-mail are acceptable). When necessary, front-line staff should assist an applicant in preparing a written request. Assistance may include helping an applicant to define requests as specifically as possible. Formal requests are to be directed to the FOI/POP Coordinator as soon as received, as there is a deadline for responding
- Duty to Assist – Section 6(1) of the Act states "the head of a public body must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely."

Note: Just because an applicant provides a request in writing, or states a wish to make a request for records pursuant to the FOI/POP Act, does not make it a formal request. If the information is generally routinely provided, provide it!

Timelines

The FOI/POP Act requires generally that a response to the applicant be provided within thirty (30) business days of receipt of the request. Under certain specified circumstances, this deadline may be extended to up to an additional thirty business (30) days. The time limit for responding may be extended depending upon the volume of records requested or if more time is needed to consult with a third party.

II. Routinely Available Information

The following is a list of types of records routinely available. There may be a fee associated with providing these documents. Additional information regarding fees should be directed to the FOI/POP Coordinator.

All "non-confidential" Commission material is available to the public only after it has been circulated to the Chair and Commissioners.

Examples of Routinely Available Information:

- Commission and Commission Standing Committee agendas, reports and minutes from Open meetings
- Staff reports supporting items on Commission agendas (except from Closed meetings)
- Agreements
- Brochures
- Approved budgets
- Building plans (except interiors)
- Policies
- Information on programs and services which is readily available through our website or Leisure Guide
- Staff titles and work telephone numbers

III. Fees

Section 75 of the FOI/POP Act provides for fees to be charged for providing certain specified services. Regulation 323/93 section 7 sets maximum fees that public bodies can charge applicants for access to records through the Act. The regulation permits public bodies to charge fees to applicants for access to information but distinguishes between commercial and non-commercial applicants. A commercial applicant is defined as a person who makes a request for access to a record to obtain information for use in connection with a trade, business, profession or other venture for profit. The Act prohibits public bodies from charging applicants for access to his or her own personal information.

Section 75(1) of the Act stipulates that an applicant pay a public body for the following services:

- locating, retrieving and producing the record
- preparing the record for disclosure

- shipping and handling the record
- providing a copy of the record

Section 75(2) states that an applicant must not be required under subsection (1) to pay a fee for

- the first three hours spent locating and retrieving a record, or
- time spent severing information from a record

Section 75(4) states that if an applicant is required to pay fees for services under subsection (1), the public body must give the applicant an estimate of the total fee before providing the service. Where it is anticipated that the fees will amount only to nominal copying charges, the applicant will be told that such charges will be calculated at \$0.25/page. In these instances, no written fee estimate will be prepared. Where detailed fee estimates are required, either the head (Director of Recreation & Culture or designate) or the FOI Coordinator will prepare the estimate letter.

Section 75(5) of the Act states that the head may excuse an applicant from paying all or part of a fee if, in the head's opinion,

- the applicant cannot afford the payment, or for any other reason it is fair to excuse payment, or
- the record relates to a matter of public interest, including the environment or public health or safety.

Note that "public interest" as used in the Act has been defined as a matter that only exists in the clearest and most serious situations. The public interest in disclosure must be of an urgent and compelling nature. It is not to be confused with matters that are "of interest to the public."

Fees – Applicants other than Commercial Applicants

a)	for locating and retrieving a record	\$7.50 per ¼ hour after the first 3 hours
b)	for producing a record manually	\$7.50 per ¼ hour
c)	for producing a record from a machine readable record	\$16.50 per minute for cost of use of the central mainframe processor on all locally attached devices plus \$7.50 per ¼ hour for developing a computer program to produce the record
d)	for preparing a record for disclosure and handling a record	\$7.50 per ¼ hour
e)	for shipping copies	actual costs of shipping method chosen by applicant

f)	for copying records	
	i) photocopies and computer printouts	\$0.25 per page (8.5x11) \$0.25 per page (8.5x14) \$0.30 per page (11x17)
	ii) computer tapes	\$40.00 per tape up to 2400 feet
	iii) photographs (colour or black and white)	\$5.00 to produce a negative \$12.00 each for 16"x20" \$9.00 each for 11"x14" \$4.00 each for 8"x10" \$3.00 each for 5"x7"
	iv) photographic print of textual, graphic or cartographic record (8"x10" black and white)	\$12.50 each
	v) hard copy laser print, B/W 300 dots/inch	\$0.25 each
	vi) hard copy laser print, B/W 1200 dots/inch	\$0.40 each
	vii) hard copy laser print, colour	\$2.00 each
	viii) photomechanical reproduction of 105 mm cartographic record/plan	\$3.00 each
	ix) plans	\$1.00 per square metre
	x) audio cassette duplication	\$10.00 plus \$7.00 per ¼ hour of recording

Fees – Commercial Applicants

For commercial applicants for each service listed above the cost will be the actual cost of providing that service.

The following criteria will be considered when determining whether a request has been made for a commercial purpose:

- Is the applicant a business or is the applicant making a request on behalf of a business?
- Does the applicant intend to sell the information, either in its present form or in some reformatted version?
- Is the applicant acting as an agent (e.g. a lawyer) for another individual?
- Has the applicant requested commercial information?
- Will the applicant be reimbursed for his or her services relating to the request?

IV. Policies/Practices

The following are policies and practices regarding some types of FOI/POP Act requests. These reflect provisions of the Act and NVRC policies and current practices. Any questions should be directed to the FOI/POP Coordinator.

Contracts

The intent of the FOI/POP Act is to make public bodies more accountable to the public. Generally speaking this means that any contract or agreement signed by the Chair or by staff with any other party is subject to scrutiny by the public. Contracts for services rendered are available to the public.

Care must be taken, however, to examine the wording and clauses of a contract to ensure that it does not reveal trade secrets, proprietary information, or information which could possibly harm the business interests of a third party. Therefore, before releasing any contractual information, please check with the FOI/POP Coordinator.

E-Mail

E-mail is considered a transitory type of record. It is the practice of the NVRC that if information contained in an e-mail message is of value and to be retained, it must be filed on the appropriate paper file and/or filed electronically.

The same retention principles that apply to regular mail should apply to the disposal of e-mail. "Junk" mail, for example, is disposed of on a regular basis. Some e-mail is more relevant to your professional activities and may be stored in an e-mail folder. Some e-mail contains significant statements about strategies or decisions and must be saved either electronically or printed and retained in the relevant file.

The use of e-mail is growing at a tremendous rate. You can communicate with co-workers, with counterparts in other jurisdictions, with contacts in the provincial or federal governments and with the general public all via this handy tool. It is very easy to exchange information. Therefore, it is very important that you think about what type of information you are sending, and what information you should retain.

Please note, however, that when you are requested by the Head or FOI/POP Coordinator to produce records in response to a request, it is expected that you will also include any e-mail records in your possession.

Personnel Information

Employees are entitled to view their employee file. A request in advance must be made to the Personnel Officer to arrange a time to review the records. Please note that as an employee you are entitled to see any comments made about you – that is your personal information; however, the identity of the person making the comments may be withheld.

Information regarding a person's employment history is considered personal information and will not be disclosed to anyone but the employee unless express permission is gained first. However, certain information pertaining to employment would be released upon request. This includes information about an employee's position, functions or remuneration or information about expenses incurred by a third party while travelling at the expense of the NVRC.

Surveys – of the Public

Results of surveys conducted by the NVRC or our agents are considered public information and should be routinely disclosed. Please note, however, that the survey forms themselves will likely contain personal information which should not be disclosed. Therefore, the completed forms will not be released routinely. An FOI request must be made if an applicant wished to see the actual completed forms. A survey form must have included an FOI/POP statement informing the public why the information is being collected, under what authority, and for what purposes the personal information will be used. This allows the individual discretion whether or not to participate and informs them what will happen with the information collected.

Tenders

Tenders submitted to the NVRC in response to a call for bids or proposals are routinely available to the public, with the exception of information regarding unit pricing. Unit pricing information is considered proprietary information belonging to the third party. Release of that information could potentially harm the company's business interests and, subsequently, is withheld under section 21 of the Act. The release of information includes name of bid company and total amount of the bid, but not details, and is available only after all bids have been received and opened.

Forms – Collecting Information

The FOI/POP Act governs the collection use, protection and retention of personal information. It is our duty to ensure that information collected is stored securely, is collected legitimately, is kept current and is used only for the purposes for which it is collected. For example, if you gather names, addresses, telephone numbers and opinions regarding the need for ice arenas, you cannot use that information for the purpose of ice arena equipment.

Individuals must be advised of what the information being gathered is going to be used for and what authority the local public body had for collecting that information.

All forms must therefore contain a rider advising the applicant of the use of the information; for example, "Personal information contained on this form is collected under the FOI/POP Act and will be used only for the purposes of responding to your request".

Reprinting Forms

In enacting the FOI/POP Act, it was recognized that it would not be economical for a local public body to discard all forms in use and replace them immediately with new forms providing the necessary clauses. It is important, however, to re-examine the purpose, use and format of all forms prior to reprinting them. As forms are reprinted, they should be redesigned to provide the public with the necessary information as to their use and availability.

Keeping Information Current

Section 29 of the FOI/POP Act establishes control over personal information by giving an individual the right to request correction of her/his own personal information in the records in the custody or control of the public body. A correction may involve a request to change personal information that is wrong or to add personal information that is new.

What this means is that if a person requests a change to their personal information, it is up to the public body to ensure that the change is made to the records within their custody and control, and to provide the change to any other body the information might have been provided to in the course of the service for which the information was collected.

Therefore, it is important to review information you are collecting –

- Do you need the information?
- Do you have authority to collect the information?
- What will the information be used for?
- Who else will you provide that information to?

If you don't need it, don't collect it!

VI. Personal Information Directory

The NVRC is required under section 69(6) of the FOI/POP Act to make available for inspection and copying by the public a list of NVRC's personal information banks and includes the following information with respect to each:

1. Its title and location;
2. A description of the kind of personal information and the categories of individuals whose personal information is included;
3. The authority for collecting the personal information;
4. The purposes for which the personal information was obtained or compiled and the purposes for which it is used or disclosed; and
5. The categories of persons who use the personal information or to whom it is disclosed.

The legislation defines a "personal information bank" as a collection of personal information that is organized or retrievable by the name of an individual or by an identifying number, symbol or other particular assigned to an individual.

Personal Information Banks:

A. Human Resources Information System – JD Edwards (Pursuant to Sections 26 (a) and (c) of the Freedom of Information and Protection of Privacy Act)

1. The Human Resources Information System – JD Edwards (HRIS) is an electronic database located on the District of North Vancouver computer network located at Municipal Hall.
2. The HRIS lists employee employment and payroll information of current and former employees of the NVRC.
3. The personal information is compiled and used for employment-related purposes.

B. Human Resources Employee Files (Pursuant to Sections 26 (a) and (c) of the Freedom of Information and Protection of Privacy Act)

1. Human Resources employee files are located in the office of the NVRC Personnel Officer.
2. These files contain employment information of current and former employees of the NVRC.
3. The personal information is compiled and used for employment-related purposes.

C. NVRC Local Phone Search (Pursuant to Section 26(c) of the Freedom of Information and Protection of Privacy Act)

1. NVRC local phone directory is an electronic database located on the NVRC Intranet.
2. The database contains employee position title and local telephone information.
3. The personal information is compiled and used for locating telephone locals for NVRC staff.

D. CLASS Registration System (Pursuant to Section 26(c) of the Freedom of Information and Protection of Privacy Act)

1. CLASS is a registration system that manages the use of personal information provided by NVRC clients when registering for programs and/or classes and is stored in a secure electronic database.
2. When a new account is created, or a new client is added to an account, a new privacy record is created for each client. The consent of the client is required in order to communicate with the client regarding information other than that related to their existing membership.
3. The personal information is compiled and used for the purpose of administering recreation programs, informing clients of our services and benefits, and for statistical purposes.