



The Corporation of the City of London Freedom of information process review Final Internal Audit Report

Audit performed: September and October 2017
Final Report Issued: January 2018

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Executive summary

Introduction

As part of the 2017-2018 Internal Audit Plan, Deloitte performed a review of The Corporation of the City of London's ("City") municipal freedom of information and protection of privacy operational processes. The internal audit review commenced in September 2017 and fieldwork was completed in October 2017. City Clerk as the 'Head' is the person designated to act as the head of the institution for the purposes of the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). The purpose and objective of this review was to assess the operational effectiveness and efficiency of processes and controls undertaken by the Head in responding to MFIPPA requests. An assessment of the process for the City to maintain the confidentiality of the related records was also performed.

Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

MFIPPA came into effect in January of 1991 to balance providing access to information rights with privacy protection. The purpose of the Act is to provide a right of access to information in the custody or under the control of institutions in accordance with a set of principles and protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information. This legislation applies directly to The Corporation of the City of London. In support of MFIPPA, the City promotes an open government fostering an organizational structure that advances the fundamental principles of the legislation.

The detailed purpose and objective of this review was to:

- Review and assess the City's governance framework and organization structure to handle MFIPPA
- Review and assess the efficiency and effectiveness of the City's MFIPPA operational processes and relevant key controls, and
- Review and assess the City's operations and technology tools used for service delivery.

The specific agreed upon scope details between management and internal audit are described in **Appendix 1: Internal Audit detailed scope**.

Key strengths

Redacting information for disclosure: The City Clerk's Office has implemented procedures to effectively redact portions of records relevant to a MFIPPA request. Information relevant to a request may fall within an exemption and can reasonably be severed from the record prior to disclosure. The City Clerk's Office's procedures to sever records and provide notice of exemptions to the requester aligns with the Information and Privacy Commissioner's best practice guidelines.

MFIPPA request intake: The City maintains effective procedures to receive incoming MFIPPA requests. Procedures are not only designed to ensure all requests are adequately recorded when received, but also align with requirements of MFIPPA. Additionally, the City's webpage for MFIPPA enables individuals to understand the steps to be taken to make a request that includes links to the appropriate form for submission.

Standard MFIPPA request decision letter: The City Clerk's Office has established and implemented a standard decision letter to respond to requests made under the MFIPPA. The document template considers the Act's requirements by clearly outlining the purpose for the letter, providing information to contact the City, and referencing relevant legislation. Additionally, the letter informs the requester of their ability to appeal a decision and outlines the steps to initiate an appeal with the Information and Privacy Commissioner.

Key observations

Deloitte’s review of the freedom of information and protection of privacy practices identified the following observations:

Priority	High	Medium	Low	Leading Practice
Observations	2	0	0	0

High priority observations

Observation 1.01: Governance of the MFIPPA program

- **Observation:** Internal Audit noted areas where active monitoring practices to govern certain MFIPPA activities require enhancement, including freedom of information and protection of privacy training and awareness, oversight of MFIPPA practices and controls, and records oversight.
- **Risk and implication:** The lack of active monitoring of MFIPPA practices increases the risk that the City is unaware of activities that do not adhere to legislation requirements or City expectations.
- **Management action plan:** The City Clerk’s Office recognizes the observation and recognizes the need to enhance existing monitoring procedures to ensure that all City of London employees are meeting legislative requirements. The City Clerk’s Office will work to enhance the current monitoring framework.
- **Responsible party:** Cathy Saunders, City Clerk May 2018

Observation 1.02: Clarity of MFIPPA practices

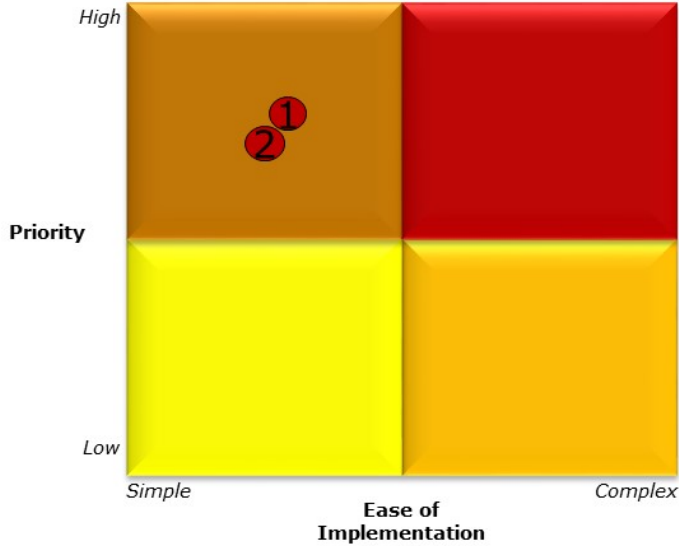
- **Observation:** Internal Audit identified that certain of the City’s internal MFIPPA practices require further clarity as the internal process is not documented, but rather the City Clerk’s Office refers directly to the legislation as opposed to documented procedures of how the City will actually meet the requirements of MFIPPA. Items that require further clarity include, third party communication, escalation protocol, privacy breach protocol, MFIPPA request appeals, and assigning responsibility to search records for MFIPPA requests.
- **Risk and implication:** The lack of clearly defined procedures for MFIPPA practices increases the risk that the City management and staff do not follow internal processes as designed, and may be unaware of legislation requirements or City expectations.
- **Management action plan:** Management accepts the risk. Direct reference to legislation, and procedures published by the Information and Privacy Commissioner of Ontario (IPC), provides explicit and definitive direction to meet legislative requirements. The City Clerk’s Office will continue to directly refer to legislation, and procedures published by the IPC, to ensure internal processes and procedures are compliant with the Act and that all legislative requirements are met. MFIPPA appeals will continue to be processed as per the IPC’s Code of Procedure for Appeals Under the Act. The City Clerk’s Office is preparing a draft Access and Privacy Policy, which will incorporate a privacy breach, and escalation protocol; definitions; and other considerations. The City Clerk’s Office will engage with Senior Leadership to impress the importance of legislative compliance and promote effective internal practices. In addition, the City Clerk’s Office will continue leveraging IPC guidance documents and consulting with peer municipalities, as necessary.
- **Responsible party:** Cathy Saunders, City Clerk May 2018

Observation 2.0: Corporate management – Access and Privacy Policy

- **Observation:** Internal Audit identified that although the City Clerk’s Office has documented processes in place, the establishment of a corporate policy to formalize freedom of information and protection of privacy practices and expectations would be of assistance. The City has self-acknowledged this and is currently drafting a policy.
- **Risk and implication:** The lack of a corporate policy to establish formal practices and expectations could lead to inconsistent practices not aligned with MFIPPA legislative requirements.

- **Management action plan:** The City Clerk’s Office has completed a draft of an Access and Privacy Policy. Management will utilize existing resources to further enhance the draft policy for Council to adopt, and develop a communication plan to effectively publish and distribute to all City employees.
- **Responsible party:** Cathy Saunders, City Clerk March 2018

Priority heat map

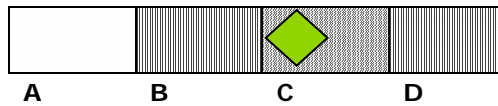


Conclusion

Based on our review of municipal freedom of information and protection of privacy practices we noted two high priority observations with the potential to impair the effectiveness of current processes. The issues noted in the report should be addressed in a timely manner to enhance current controls and mitigate relevant risks.

Management is to provide action plans for the observations noted in the ‘Detailed observations and recommendations’ section.

The following scale depicts our overall conclusion for the priority of observations noted for improvement within this review as it relates to the scope of areas audited as outlined above:



Description	Definition
A	No or insignificant process control or efficiency weaknesses identified
B	Minor process control or efficiency weaknesses identified
C	Moderate process control or efficiency weaknesses identified
D	Significant control process or efficiency weaknesses identified Impairing the effectiveness of the process

Detailed observations and recommendations

Observation 1.0 – Governance of the MFIPPA program

Observation	Implication	Recommendation	Management comments and action plan	Responsible party and timing
<p>1.01 Governance of the MFIPPA program</p> <p>Through review of MFIPPA documentation and discussion with select management, Internal Audit noted the following areas where active monitoring practices to govern certain MFIPPA activities require enhancement:</p> <p><i>Freedom of information and protection of privacy training and awareness:</i> The City has a responsibility to monitor training to ensure relevant City management and staff are adequately trained and knowledgeable about legislative requirements and City expectations. Through testing, it was identified that City employees have not maintained MFIPPA training nor is there an expectation from the City that City employees participate in MFIPPA training beyond the initial orientation.</p> <p><i>Oversight of MFIPPA practices and controls:</i> There is a lack of procedures for management to ensure MFIPPA request practices and controls are operating effectively throughout the year. Some request files sampled did not adhere to the MFIPPA request process as currently designed or</p>	<p>1.01 Governance of the MFIPPA program</p> <p>The lack of active monitoring of MFIPPA practices increases the risk that the City is unaware of activities that do not adhere to legislation requirements or City expectations.</p>	<p>1.01 Governance of the MFIPPA program</p> <p>City Clerk’s Office management should enhance management oversight procedures to confirm that MFIPPA practices across the City comply with legislative requirements. When establishing more active oversight practices, management should consider the following:</p> <ul style="list-style-type: none"> ● Clarify roles and responsibilities to ensure all stakeholders have an adequate understanding and there are no gaps or duplication in oversight ● Extend existing practices to enhance review of the operating effectiveness of MFIPPA practices (e.g. periodic file checks to audit completed files for quality assurance purposes) ● Enhance communication lines with City Service Areas to identify, share, and adopt best practices for process and control improvements and 	<p>Management agrees.</p> <p>The City Clerk’s Office recognizes the observation and recognizes the need to enhance existing monitoring procedures to ensure that all City of London employees are meeting legislative requirements.</p> <p>The City Clerk’s Office will work to enhance the current monitoring framework by:</p> <ul style="list-style-type: none"> ● Engaging Senior Leadership to encourage all employees to maintain an adequate understanding of their responsibilities under Act ● Developing a tool to document MFIPPA request file reviews and enhance documented procedures to address process deviations and legislative noncompliance; and 	<p>Cathy Saunders, City Clerk May 2018</p>

Observation	Implication	Recommendation	Management comments and action plan	Responsible party and timing
<p>supporting documentation was not maintained in the file.</p> <p><i>Records oversight:</i> There is a lack of oversight to validate that electronic records are consistently retained on CityHub, the City's records management system. This system is designed to more effectively retain and dispose records and enable procedures to efficiently execute records searches and automatically destroy old records.</p>		<p>effectively promote proper MFIPPA practices;</p> <ul style="list-style-type: none"> ● Enhance procedures to address deviations from City expectations and noncompliance with MFIPPA legislative requirements in an efficient and timely manner (e.g. define remediation actions, etc.). Leverage a log to document and track remediation activities to ensure these are completed and closed. Formally define and communicate with City employees disciplinary actions for all cases of deviations from City expectations and legislative noncompliance; and ● Enhance procedures established to track on a regular basis (e.g. annually) that City employees have completed the iLearn module for freedom of information and privacy practices to ensure relevant stakeholders maintain adequate knowledge and awareness. Consider creating MFIPPA champions in each City Division to support directly those employees who may process requests as part of their job duties. 	<ul style="list-style-type: none"> ● Collaborating with Senior Leadership and relevant Human Resources management to encourage and track MFIPPA and Records training currently offered through iLearn. ● Enhanced oversight practices to govern the new Access and Privacy Policy will be incorporated upon Council approval of the Policy. 	

Observation	Implication	Recommendation	Management comments and action plan	Responsible party and timing
<p>1.02 Clarity of MFIPPA practices</p> <p>Internal Audit identified that certain of the City's internal MFIPPA practices require further clarity as the internal process is not documented, but rather the City Clerk's Office refers directly to the legislation as opposed to documented procedures of how the City will actually meet the requirements of MFIPPA. Items that require further clarity:</p> <p><i>Third party communication:</i> There are no internal procedures documented for the Head to communicate and liaise with third parties, such as contracted vendors.</p> <p><i>Escalation protocol:</i> There are no formal criteria used to determine when concerns for an MFIPPA request should be escalated to Senior Leadership (i.e. City Clerk, Managing Directors, and City Manager).</p> <p><i>Privacy breach protocol:</i> There are no operational procedures documented for identifying, assessing, and responding to a privacy breach (e.g. procedures, roles and responsibilities, etc.).</p> <p><i>MFIPPA request appeals:</i> There are no internal procedures documented to handle appeals once received from the Information and Privacy Commissioner of Ontario (e.g. procedures, roles and responsibilities, and timelines).</p> <p><i>Assigning responsibility to search records for MFIPPA requests:</i> It is unclear in the existing records search process what the definition of an</p>	<p>1.02 Clarity of MFIPPA practices</p> <p>The lack of clearly defined procedures for MFIPPA practices increases the risk that the City management and staff do not follow internal processes as designed, and may be unaware of legislation requirements or City expectations.</p>	<p>1.02 Clarity of MFIPPA practices</p> <p>To provide further clarity to the City's internal MFIPPA practices in order to ensure that City staff understand both the legislation and the City's procedures in place to meet the legislation, the City Clerk's Office management should supplement the internal procedures documented with additional detail. The City Clerk's Office management should also promote awareness of and enable City management and staff to understand expectations in relation to legislative requirements.</p> <p>Management should enhance the existing process by documenting internal procedures for third party communication, escalation protocol, privacy breach protocol, MFIPPA request appeals, and assigning responsibility to search records for MFIPPA requests.</p> <p>The following items should be considered when enhancing internal procedure documentation:</p> <ul style="list-style-type: none"> ● Identify and address legal requirements to ensure internal practices and controls are appropriately designed ● Further leverage existing Information and Privacy 	<p>Management Accepts the Risk</p> <p>Direct reference to legislation, and procedures published by the Information and Privacy Commissioner of Ontario (IPC), provides explicit and definitive direction to meet legislative requirements.</p> <p>The City Clerk's Office will continue to directly refer to legislation, and procedures published by the IPC, to ensure internal processes and procedures are compliant with the Act and that all legislative requirements are met.</p> <p>MFIPPA appeals will continue to be processed as per the IPC's <i>Code of Procedure for Appeals Under the Act</i>.</p> <p>The City Clerk's Office is preparing a draft Access and Privacy Policy, which will incorporate a privacy breach, and escalation protocol; definitions; and other considerations.</p> <p>The City Clerk's Office will engage with Senior Leadership to impress the importance of legislative compliance and promote</p>	<p>Cathy Saunders, City Clerk May 2018</p>

Observation	Implication	Recommendation	Management comments and action plan	Responsible party and timing
<p>'experienced employee' is in the context of the Head (or designate) assigning MFIPPA requests to City Division management and staff.</p>		<p>Commissioner of Ontario guidance documentation (e.g. Open Government Implementation, etc.);</p> <ul style="list-style-type: none"> ● Collaborate with other peer institutions to better understand standard practices and practical challenges ● Create meaningful dialogue with all stakeholders to increase awareness and support, and ● Leverage existing tools and technologies for further automation where possible. 	<p>effective internal practices; The City Clerk's Office will continue leveraging IPC guidance documents and consulting with peer municipalities, as necessary.</p>	

Observation 2.0 – Corporate management – Access and Privacy Policy

Observation	Implication	Recommendation	Management comments and action plan	Responsible party and timing
<p>2.0 Corporate management - Access and Privacy Policy</p> <p>Through discussion with City Clerk’s Office, Internal Audit noted that the City does not have an Access and Privacy Policy in place to establish formal freedom of information and protection of privacy practices and expectations. The City has self-acknowledged this gap and is currently drafting a policy. Additionally, through review of documentation and discussion with City Clerk’s Office management, Internal Audit noted that the City utilizes a manual process to handle MFIPPA requests where incoming requests are manually added to an Excel spreadsheet and given a reference number for processing. Deadlines for disclosure are tracked via their Microsoft Outlook calendar.</p>	<p>2.0 Corporate management - Access and Privacy Policy</p> <p>The lack of a corporate policy to establish formal practices and expectations could lead to inconsistent practices not aligned with MFIPPA legislative requirements.</p>	<p>2.0 Corporate management - Access and Privacy Policy</p> <p>City Clerk’s Office management should continue working to establish and implement an Access and Privacy Policy. When drafting this policy, City Clerk’s Office management should consider the following:</p> <ul style="list-style-type: none"> ● Clearly define roles and responsibilities including the official policy steward ● Collaborate with City Service Areas and Corporate Departments ● Map policy parameters to legislative requirements and corporate expectations (e.g. use of CityHub, etc.) to identify and address any gaps ● Enable the steward to amend policy to reflect new/changing requirements and increase clarity ● Leverage Information and Privacy Commissioner of Ontario existing guidance documentation (e.g. April 2017 Fact Sheet: Reasonable Search, etc.) ● Create a mechanism for City management and staff to periodically (i.e. annually) attest and certify their 	<p>Management agrees.</p> <p>The City Clerk’s Office agrees with the observation and has been drafting a comprehensive Access and Privacy Policy. The City Clerk’s Office will enhance the draft Access and Privacy Policy by:</p> <ul style="list-style-type: none"> ● Continuing to align policy parameters with legislative requirements and corporate expectations ● Leveraging IPC guidance documents ● Establishing documented management oversight practices to actively monitor legislative compliance, and ● Developing a communication plan to effectively publish and distribute the Policy to the City. <p>The City Clerk’s Office will assess the need for a case management system and explore existing technologies that may provide for greater efficiencies.</p>	<p>Cathy Saunders, City Clerk March 2018</p>

Observation	Implication	Recommendation	Management comments and action plan	Responsible party and timing
		<p>understanding of Policy requirements</p> <ul style="list-style-type: none"> ● Establish and implement a tailored MFIPPA training framework for relevant City management and staff to promote knowledge and awareness ● Forge an active management oversight framework to monitor the extent of compliance with Policy requirements, and ● Create a communication plan to publish and distribute Policy to all stakeholders. Ensure Policy is easily accessible for reference. <p>City Clerk's Office management should establish procedures to actively monitor future needs for a case management system. To consider when a formal assessment of a case management system should be completed, the following areas should be actively monitored:</p> <ul style="list-style-type: none"> ● Increasing volume of incoming MFIPPA requests ● Trending of MFIPPA request process timelines with indicators (e.g. time to respond, etc.), and ● Extent of compliance with legislative requirements. 		

Appendix 1: Internal Audit detailed scope

Specifically, the internal audit addressed the following areas:

Reviewed and assessed the City's governance framework and organizational structure to handle the Municipal Freedom of Information and Protection of Privacy Act:

- Reviewed and assessed existing processes undertaken by the City Clerk's Office to assure reporting lines and responsibilities are designed and established to efficiently and effectively process freedom of information requests within existing guidelines, procedures, and legislation
- Assessed whether Division management and staff adequately understand their role and responsibility to search and provide all relevant records for freedom of information requests
- Reviewed and assessed current training, and development materials available to the staff performing freedom of information process requirements both within the Clerk's Office and within City Departments
- Reviewed and assessed the method to communicate within the City Clerk's Office, any related changes to freedom of information legislation, privacy legislation, or process enhancements for safeguarding information and escalating issues
- Reviewed and assessed monitoring activities performed by those who hold responsibility in the City Clerk's Office to ensure the City strategies for freedom of information are achieving desired outcomes, and
- Reviewed the City's freedom of information and protection of privacy framework and assessed against local government peers of similar size.

Reviewed and assessed the efficiency and effectiveness of the City's Municipal Freedom of Information and Protection of Privacy Act operational processes and relevant key controls:

- Reviewed the existing processes within City Departments to collect and store general and personal records and assessed its adequacy to maintain privacy and confidentiality in accordance with MFIPPA legislation
- Reviewed select City Division freedom of information request processes and evaluated procedures in place to search and provide relevant records to the City Clerk's Office and assessed the adequacy to mitigate residual business risks (i.e., incomplete list of records, timeline to search and provide records, etc.), assure transparency, and efficiently execute the process
- Reviewed the freedom of information request process and evaluated procedures to validate that all records relevant to a request have been administered in responses from City Divisions in a timely manner to the Head.
- Reviewed the process in place for City Divisions to request an extension with the City Clerk's Office for freedom of information requests, and
- Reviewed the process in place for the City Clerk's Office to communicate with internal stakeholders with respect to the management of freedom of information and privacy.

Reviewed and assessed the City's operation and technology tools used for service delivery:

- Reviewed and assessed the use of existing City information, systems and technology to ensure information and tools are adequate and effectively leveraged.





The following elements were out of scope for the Freedom of information operational process assessment:

- Assessment of the City's compliance with MFIPPA; and
- Assurance of systems used across the freedom of information processes such as validation of data integrity, etc.

Appendix 2: Internal Audit rating scale

Individual observation prioritization

Internal Audit will prioritize each observation and recommendation within a report using a three point rating scale. The three point rating scale will be as follows:

	Description	Definition
	High	Observation is high priority and should be given immediate attention (e.g. 0-3 months) due to the existence of either significant internal control risk or a potential significant operational improvement opportunity.
	Medium	Observation is a moderate priority risk or operational improvement opportunity and should be addressed in the near term (e.g. 3-6 months).
	Low	Observation does not present a significant or medium control risk but should be addressed (e.g. within a 6-12 month timeframe) to either improve internal controls or process efficiency.
	Leading Practice	Consideration should be given to implementing recommendations in order to improve the maturity of the process and align with leading practices.

Appendix 3: Stakeholder involvement

In conducting the review the following management and staff were interviewed to gain an understanding of the City's freedom of information and protection of privacy processes and practices.

Stakeholder	Position
Cathy Saunders	City Clerk
Evelina Skalski	Manager of Records and Information Services, City Clerk's Office
Julie Wilson	Manager II, Corporate Records
Bridgette Somers	Records Systems Analyst
Various – Deloitte met with various management and staff at select City Service Areas to gather an in-depth understanding of MFIPPA practices and perform audit procedures.	

Appendix 4: Audit procedures performed

As part of the municipal freedom of information and protection of privacy operational process review the following procedures were performed:

- Conducted a planning meeting with City Clerk and Manager of Records and Information Services
- Updated and issued a finalized Project Charter and request for information
- Conducted meetings and interviews with City Clerk's Office management and staff as well as sample City Service Area process owners to:
 - Gain an understanding of MFIPPA request expectations and practices
 - Identify and gain an understanding of the various MFIPPA request procedures including procedures to receive a request, clarify request details, process a request, perform a reasonable search, request a time extension, provide records to the head, review and disclose records, and preserve and dispose records, and
 - Gain an understanding of management's oversight of MFIPPA practices
- Obtained documentation regarding relevant procedures and controls to perform an inspection of:
 - Municipal Freedom of Information and Protection of Privacy Act
 - City Clerk's Office organization chart
 - City Clerk's Office management and staff job descriptions
 - MFIPPA process document and process flow map
 - MFIPPA tracking sheet (Excel)
 - Draft Access and Privacy policy
 - Draft iLearn MFIPPA presentation
 - Senior Leadership Team MFIPPA presentation
 - MFIPPA orientation presentation
 - 2016 year-end Statistical Report for the Information and Privacy Commissioner (IPC) of Ontario
 - Decision letter template
 - MFIPPA Records Retrieval Form
 - MFIPPA By-law delegating MFIPPA Head responsibilities, and
 - Sample MFIPPA request files
- Conducted industry and IPC benchmarking to compare and contrast City MFIPPA practices and framework (e.g. policy expectations, privacy breach protocol, etc.)
- Conducted strategic sample testing activities related to MFIPPA request procedures at sample City Service Areas to identify areas for improvement
- Drafted observations and validated observations with management

- Conducted a closing meeting with key management stakeholders to validate and communicate our findings, and
- Issued this internal audit report with our detailed observations.

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