



April 21, 2020 - Statement from the Office of the Information and Privacy Commissioner of Saskatchewan on Documenting Decisions in a Pandemic

During this Pandemic, public officials, elected and appointed, have made and will make many decisions in an attempt to flatten the curve to help prevent our health care system from being overwhelmed and to save lives. As we all can see, things are moving very quickly so decisions have to be made very quickly. Citizens and the media look forward and appreciate the daily briefings.

In this pandemic with decisions being required quickly, there continues to be a need to document those decisions. *The Freedom of Information and Protection of Privacy Act* (FOIP) and *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) section 5 gives citizens the right to obtain records (with appropriate exceptions). Implicit in all of this is the duty to document the important decisions as they are being made. To be able to respond to that right, public bodies need to create the records. If there are no records, then citizens will never view records of decisions made during this pandemic. I would ask public officials, elected and appointed, to ensure the decisions made and actions taken are documented.

During this time, more decisions may be made electronically. Emails and texts have been sent and people are working from home. Officials need to ensure that records, such as documents, emails, and texts are safeguarded and filed according to their records retention and disposal schedules. Further, there may be a need to document decisions made over the telephone. I ask public officials, elected and appointed, to ensure that all records created during the pandemic, including those electronic communications are captured as official records unless transitory in nature.

Under [The Archives and Public Records Management Act](#), there is no need to retain transitory records. Guided by the Provincial Archives' *Transitory Records Guidelines*, the initiator of the communication or the receiver should determine whether something is transitory. Because of the historical significance of the decisions being made during this pandemic, I would ask public officials, elected and appointed, to take a broader approach and treat more of the communications as official records rather than transitory. In other words, narrow what is considered a transitory record and broaden what is considered an official record.

When this pandemic is over, policy analysts, historians and researchers will and should reflect back on decisions and actions taken by officials in Saskatchewan. They will study what worked and what might not have worked. This analysis will better equip us for the next crisis that may come our way.

The Federal Information Commissioner, Caroline Maynard, in a [News Release](#) on April 2, 2020 stated:

Last week the Prime Minister told Canadians that transparency is crucial to being accountable to Parliament and in maintaining the public's confidence.

When the time comes, and it will, for a full accounting of the measures taken and the vast financial resources committed by the government during this emergency, Canadians will expect a comprehensive picture of the data, deliberations and policy decisions that determined the Government's overall response to COVID-19.

Canadians have a fundamental right to this information. They expect that it will be available to them, and that the government will provide it.

...ministers and deputy ministers must ensure that they and their officials generate, capture and keep track of records that document decisions and actions, and that information is being properly managed at all times.

Doing this is a matter of asking the right questions and then providing the information, tools and support employees need to meet their access to information and information management responsibilities.

For example, are minutes of meetings—even those taking place by teleconference or video conference—continuing to be taken and kept? Are all relevant records—such as decisions documented in a string of texts between co-workers—ultimately finding their way into government repositories? Do employees have a clear understanding of what constitutes “a record of business value” and that this record must be preserved for future access?

In conclusion, the best practice in order to fulfill what is outlined in section 5 of FOIP, LA FOIP and *The Archives and Public Records Management Act*, is for public officials, elected and appointed, to ensure their organizations are creating and maintaining the documents, emails and texts that relate to the decisions and actions being taken during this Pandemic.

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