

Privacy Considerations:

Faxing Personal Information and Personal Health Information



Background Information

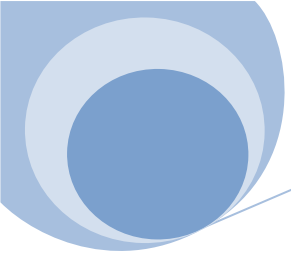
The Freedom of Information and Protection of Privacy Act (FOIP), The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP), and The Health Information Protection Act (HIPA) outline requirements in law about the collection, use and disclosure of personal information and personal health information.

A privacy breach occurs when a government institution, local authority or trustee (organization) fails to take reasonable measures to safeguard personal information or personal health information in its possession/custody or control.

Though FOIP and LA FOIP do not contain a similar provision, HIPA specifically addresses safeguarding personal health information in section 16: “...a trustee that has custody or control of personal health

information must establish policies and procedures to maintain administrative, technical and physical safeguards...” However, as FOIP and LA FOIP set out rules against unauthorized collection, use and disclosure of personal information, failure to safeguard information may result in a breach of either Act regardless.

To date, the Information and Privacy Commissioner has considered the issue of safeguarding personal information or personal health information in the following Investigation Reports, available at the *Reports* tab at www.oipc.sk.ca: [F-2007-001](#), [H-2007-001](#), [F-2005-001](#). When investigating a breach of privacy complaint, the Commissioner will determine if the organization involved had appropriate safeguards in place to protect personal information and personal health information including written policies and procedures and if employees were following them.



Faxing personal information or personal health information increases the risk of improper collection, use or disclosure of this information. Some of these risks include (but are not limited to):

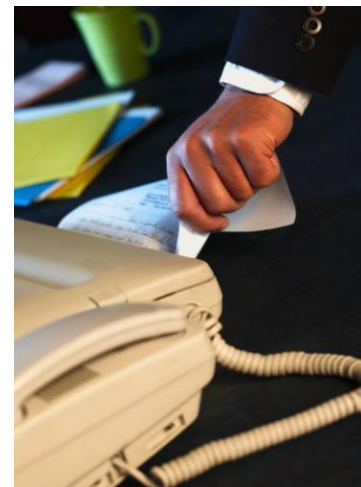
- Sending the document to the wrong number resulting in the document being received by an unintended recipient without a legitimate 'need to know'.
- Sending the document to the correct number but it is viewed by an unintended recipient (example, the faxed information is left unattended or the fax machine is located in an area where multiple people have access to it).
- The fax number of the organization has changed or the intended recipient is no longer employed by the organization.

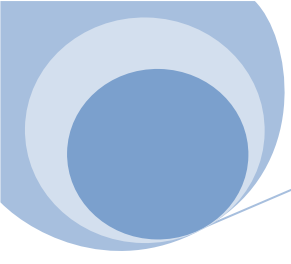
The following provides some helpful tips for safeguarding personal information or personal health information when faxing. Remember, before sending personal information and personal health information consider other more secure methods to securely forward the information to the intended recipient other than faxing. The quickest way is not necessarily the only and best way.

Tips for Safeguarding Information When Faxing

Policy and Procedures

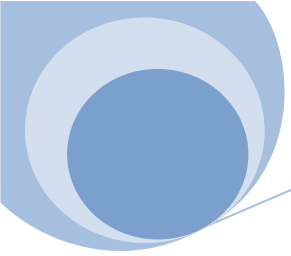
- Adopt a written policy on faxing personal information and personal health information and ensure that employees, including all new employees, are trained and regularly reminded of the policy. This policy should include the types of information that can be faxed by or to your organization.
- If possible, designate one employee to be responsible for sending and receiving personal information and personal health information by fax. Train that employee in proper procedures and ensure they are aware of the legal duty to protect the information.





Tips for Fax Equipment

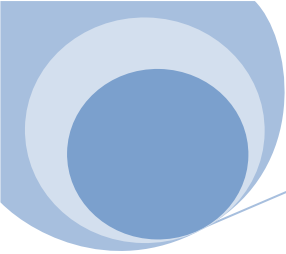
- If you have a need to continually fax personal information or personal health information, look into acquiring a fax machine that has enhanced security features such as encryption or other heightened security measures.
- Fax machines should be physically located in an area of the office that prevents unauthorized individuals from viewing/retrieving faxed personal information and personal health information. Make sure to control access to the machine.
- If you are sending personal information or personal health information by a fax modem (a fax device contained in a computer), confirm that other users of the computer system do not have access to the fax without a password. Likewise, if you are expecting information by a fax modem, ensure that other users of your system cannot access the information without a password.
- Be aware that your fax number likely will be reassigned once you have given up the number. If you require the number not to be used while you advise clients that the organization is moving or closing, check with your telephone service provider about options to rent the number for a period of time to ensure all clients have been contacted and have had the opportunity to update their contact information.
- Be aware that fax machines now have hard drive and/or memories that store and retain information. When disposing of or selling a fax machine, ensure that the hard drive has been properly scrubbed to remove all information that was stored on the hard drive or memory.
- Pre-program commonly used fax numbers and be sure to check those numbers regularly to ensure accuracy.
- If you have pre-programmed a fax header into your fax machine that automatically prints the fax number on the recipient copy, update that information if your fax number or office contact information changes.
- Safeguarding faxes not only applies to fax equipment. If you re-locate or if your contact information is changed, ensure that you update your fax number with all of your contacts and directories that included the previous number. Don't forget to destroy pre-printed forms, fax cover sheets and correspondence that refer to your previous number. This would include such items as letterhead, business cards, prescription forms, etc – all of which need to be replaced with updated information.



Tips for Sending Faxes

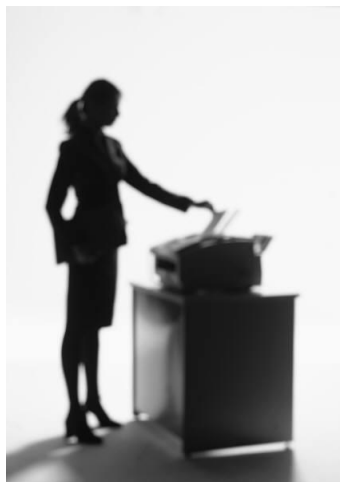
- Determine if there is an immediate time requirement that necessitates faxing the personal information or personal health information. Is there a quick and more secure way to forward the information to the recipient?
- If a client requests that you fax their personal information or personal health information, first explain the risk of accidental disclosure or the possibility that the information may be deliberately intercepted by people other than the intended recipient and seek their consent before faxing.
- Remove all personal identifiers and confidential information before faxing the information, wherever possible.
- Before faxing personal information or personal health information, confirm that you have the correct fax number for the intended recipient and confirm with the recipient (or another employee in the office) the right number before sending.
- When faxing personal information and personal health information, confirm that the recipient has taken appropriate precautions to prevent those without the requisite need to know from viewing the faxed document.
- Always use a fax cover sheet clearly identifying the sender, the contact information for the sender, the intended recipient, the recipient's fax number and the total number of pages sent. Include a confidentiality clause that specifies that the faxed material is confidential, is intended only for the stated recipient, and is not to be used or disclosed by any other individual. The confidentiality clause should ask the individual in receipt of a fax received in error to immediately notify the sender and then return or securely destroy the personal information or personal health information (as requested by the sender).
- After you have dialed a fax number carefully check the number before hitting "send".
- Check the fax confirmation report to be certain that the fax went to the right place – check the number on the report against the confirmed recipient's number. Also check the number of pages actually transmitted and received. If you have designated one employee for faxing, that individual should check each day's fax history reports for errors or unauthorized faxes.

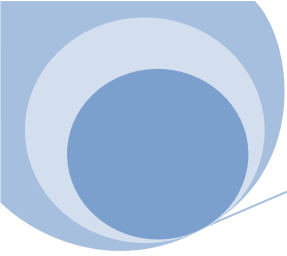


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- Retrieve all materials that have been faxed from the fax machine immediately. Do not leave faxes sitting on or near the fax machine. When faxing personal information or personal health information, stay by the machine to ensure that all materials were transmitted correctly.
 - Security precautions should be taken for faxes received after normal business hours.
 - Do not assume that contact information on forms and cover sheets you receive is correct. You should phone first to ensure that the fax number you have is current.

If a breach of privacy has occurred, please see the **Privacy Breach Guidelines** available under the *Resources* tab at: www.oipc.sk.ca.

This document is for general information only. It is not intended to be, and cannot be relied upon as legal advice or other advice. Its contents do not fetter, bind or otherwise constitute a decision or finding by the Office of the Information and Privacy Commissioner (OIPC) with respect to any matter, including any complaint, investigation or other matter. Responsibility for compliance with the law (and any applicable professional or trade standards or requirements) remains with each government institution, local authority, or trustee.





Resources

The information contained in this document has been compiled from many resources, including the following:

- Saskatchewan Office of the Information and Privacy Commissioner: www.oipc.sk.ca
Investigation Reports F-2007-001, H-2007-001, H-2005-001
FOIP Folio Issues: June 2004, December 2004, March/April 2005
- Alberta Office of the Information and Privacy Commissioner: www.oipc.ab.ca
Guidelines on Facsimile Transmission
- British Columbia Office of the Information and Privacy Commissioner: www.oipc.bc.ca
Faxing and Emailing Personal Information
- Manitoba Ombudsman: www.ombudsman.mb.ca
Manitoba Ombudsman Practice Note: Privacy Considerations for Faxing Personal and Personal Health Information
- Office of the Privacy Commissioner of Canada: www.privcom.gc.ca
Fact Sheet: Faxing Personal Information

For further information, contact us:

**OFFICE OF THE
SASKATCHEWAN INFORMATION AND PRIVACY COMMISSIONER**
#503 – 1801 Hamilton Street
Regina, Saskatchewan
S4P 4B4
Telephone: (306) 787-8350 / Toll Free: 1-877-748-2298
Fax: (306) 798-1603
E-mail: webmaster@oipc.sk.ca
Website: www.oipc.sk.ca