

Policy Number: QA7.070	Policy Section: Quality Assurance	Effective: March 2, 2011
Title: Right to Access Personal Information Policy		Executive Sponsor: Director, Quality Assurance

1. PURPOSE

This policy describes how CLBC supports individuals to exercise their right to access their own personal information or request changes to their personal information held by CLBC as provided for under the *Freedom of Information and Protection of Privacy Act*.

It is one of a suite of policies described in the *Organizational Privacy Policy*. These policies are supplemented by the *CLBC Privacy Guidelines* which provide an overview of privacy legislation and best practices.

The CLBC *Confidentiality and Information Sharing Policy* provides guidance to staff regarding circumstances when an individual's personal information may be shared with other persons.

2. DEFINITIONS

Confidentiality: The obligation to keep others' personal information private, secret and safe from access, use or disclosure by people who are not authorized to have that personal information.

Freedom of Information and Protection of Privacy Act (FOIPPA): Provincial legislation that provides the legal context for the accountability of public bodies, including CLBC, as regards information sharing and protecting personal privacy.

Information Access Operations Branch (IAO): The section in the B.C. Ministry of Citizens' Services which manages all requests for information under the *Freedom of Information and Protection of Privacy Act* (FOIPPA) for the BC government, including Community Living BC. The Information Access Operations Branch provides freedom of information request processing related advice and training services for CLBC. The Branch is required to respond to a request for information within 30 business days.

Informed Consent: A person is made aware of the decision or choice to be made; understands the possible consequences of giving or not giving consent, including for instance the purpose for which released information may be used; and then consents voluntarily.

Personal Information: Information recorded about an identifiable individual, including, but not limited to:

- name, address, telephone number, email
- race, national/ethnic origin, colour, religious or political beliefs or associations
- age, sex, sexual orientation, marital status
- identifying number or symbol such as social insurance number or driver's licence number
- fingerprints, blood type, DNA prints
- health care history
- educational, financial, criminal, employment history and
- anyone else's views or opinions about an individual and the individual's personal views or opinions unless they are about someone else.

Personal information also includes separate pieces of information that may seem unrelated, but when put together would allow someone to accurately infer information about an individual.

Privacy of Personal Information: The fundamental right of individuals to determine for themselves when, how and to what extent their personal information is collected, used and communicated to others.

Office of the Information and Privacy Commissioner: The Office of the Information and Privacy Commissioner investigates, mediates and attempts to resolve appeals concerning access to information disputes, and where necessary issues binding orders. The Office generally requires a complainant to first work out a solution directly with the organization involved, without their involvement. The Office will mediate a settlement of any complaint that it does accept.

Third Party: A person or organization other than the person or organization requesting the information.

3. POLICY

Individuals supported by CLBC have a right to access and review their personal information held by CLBC. Family members may also access their own personal information held by CLBC. CLBC staff support and assist individuals and their families to access their own personal information.

The right of an individual to access his or her personal information is restricted only if the disclosure of the information would:

- Harm someone else;
- Harm an investigation or legal proceeding; or
- Disclose someone else's personal information.

Individuals and family members also have a right to ask CLBC and service providers to correct their personal information, if they believe that CLBC records contain factual errors or omissions. CLBC staff must correct any factual errors or omissions and inform any other organizations to whom they may have provided incorrect information.

Service providers are expected to have procedures in place to guide their response to an individual's request for access to their personal information.

CLBC staff and service providers do not share personal records about an individual that have been obtained in confidence from a third party. The third party is responsible for the release of their records.

An individual or family member, who is not satisfied that they have received all the information they are entitled to, may ask the Office of the Information and Privacy Commissioner for a review.

4. PROCEDURES

4.1 Facilitators

- Explain to individuals and families about the types of personal information held about them by CLBC;
- Explain to individuals and families that they have a right to access the personal information held about them by CLBC;
- Explain to families and third parties that they cannot access someone else's information without that individual's consent, unless they are the individual's Committee.
- Provide information to individuals and their families about the process for requesting their personal information through a freedom of information request to the Information Access Operations Branch.
- Assist individuals and their families with the process for requesting their personal information through a freedom of information request to the Information Access Operations Branch. This may include obtaining the required form from the Branch and assisting with its completion and submission.
- Inform their manager of any concerns about the potential sensitivity or harmfulness of personal information being requested.
- Provide information to individuals or families seeking to appeal to the Office of the Information and Privacy Commissioner.

4.2 Analysts

- Ensure service providers are aware of their responsibilities under FOIPPA and the *Privacy Protection Schedule* in the *Terms and Conditions* section of their contract with CLBC.

4.3 All Staff

- Correct any factual error or omission in CLBC records, of which they become aware, resulting from a request for correction from an individual or family member, or following direction from the Information Access Operations Branch.
- Where a correction has been made, inform third parties to whom CLBC may have previously disclosed incorrect information.
- If CLBC does not agree that there is a factual error or omission requiring correction as requested by an individual or family member, annotate the record with the requested correction, as directed by the Information Access Operations Branch, indicating that CLBC does not concur with it.
- Inform the Information Access Operations Branch after making any correction or annotation to CLBC records, or sharing corrected information with third parties.

4.4 Managers

- Consult with the Director, Quality Assurance, regarding questions about what types of information may be handled informally and what requests should be made using a formal access to information request;
- Advise and consult with the Director, Quality Assurance about concerns regarding the potential sensitivity or harmfulness of personal information being requested. As a result of such consultation, inform the Information Access Operations Branch and/or provide direction to staff as appropriate.

5. DOCUMENTATION

5.1 Use a NOTE in PARIS to document any correction made to the PARIS record and how third parties have been informed of the correction

5.2 Annotate the applicable record in PARIS with a NOTE describing the requested correction, where CLBC does not agree that there is a factual error or omission.

6. PRACTICE

6.1 Staff should proactively advise individuals and family members that requests for personal information held by CLBC are made directly to the Information Access Operations Branch (IAO), which manages all requests for information under the Freedom of Information and Protection of Privacy Act (FOIPPA) for the Province of B.C, including provision of individual records on behalf of CLBC.

6.2 When staff collect personal information for a defined purpose under another CLBC policy, and that policy allows for sharing specific personal information with certain people, for example the *Guide to Support Allocation*, a freedom of information request through the IAO may not be required. Staff consult with their managers in such circumstances prior to sharing the information.

6.3 If managers or their staff are in doubt as to whether specific personal information may be provided to a person, that person should be advised to make their request to the Information Access Operations Branch (IAO). Managers seek advice from the Director, Quality Assurance.

6.4 Privacy of personal information, confidentiality and disclosure of personal information can be sensitive issues for individuals and families. Staff are expected to be open and respectful when explaining privacy requirements and the process for accessing personal information held by CLBC. It is important to respond to family member's concerns, while explaining the reasons and rationale behind the legal requirements. Staff should be familiar with the *Role of Formal and Informal Representatives Policy* as well, and consult with a manager or the Director, Quality Assurance as needed.

6.5 Staff are encouraged to assist the individual or family member, requesting his or her own information, to understand what may be included in it, especially if some time has gone by and they may have forgotten what information they have given to CLBC.

REFERENCES

Freedom of Information and Protection of Privacy Act (FOIPPA)

Privacy Guidelines

Organizational Privacy Policy

Confidentiality and Information Sharing Policy

Documentation and Recording Policy

Role of Formal and Informal Representatives Policy

Information Access Operations Branch:

<http://www.gov.bc.ca/citz/iao/foi/process/index.html>