

***eHealth Ontario***

# Privacy Complaints and Inquiries Policy and Procedure

Privacy Office

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# 1 Purpose / Objective

The purpose of this document is to establish procedures for handling privacy complaints and inquiries received by eHealth Ontario. These procedures will support eHealth Ontario in responding to all privacy complaints and inquiries in accordance with applicable privacy law and industry best practices.

The eHealth Ontario Privacy Complaints and Inquiries Procedure must be read in conjunction with the *eHealth Ontario Privacy and Data Protection Policy*, *Personal Health Information Privacy Policy*, and *Personal Information Privacy Policy*.

# 2 Scope

This Policy applies to all eHealth Ontario personnel and third party service providers whom it has retained to support the delivery of its operations and services. It applies to the manner in which eHealth Ontario's Privacy Office handles privacy complaints and inquiries received from personnel, members of the public or external stakeholders.

Where the repository or system is governed by the *Electronic Health Record (EHR) Privacy Policies*, follow the appropriate policies and procedures outlined in the eHealth Ontario *Electronic Health Record Privacy Policies*.

# 3 Definitions

The term "privacy complaint" includes concerns or complaints relating to the privacy policies, procedures and practices implemented by eHealth Ontario as well as concerns and complaints related to the compliance of eHealth Ontario with the *Personal Health Information Protection Act, 2004* and its regulation and with the *Freedom of Information and Protection of Privacy Act* and its regulations.

The term "privacy inquiry" includes inquiries relating to the privacy policies, procedures and practices implemented by eHealth Ontario and related to the compliance of eHealth Ontario with the *Personal Health Information Protection Act, 2004* and with the *Freedom of Information and Protection of Privacy Act* and its regulations.

# 4 Policy

The Chief Privacy Officer (CPO) or designate at eHealth Ontario is responsible for leading the design and operation of the Agency's privacy program; providing advice, support and direction to personnel about privacy matters applicable to their areas of responsibility; and monitoring and reporting on privacy protection at eHealth Ontario. The CPO is responsible for managing privacy complaints and inquiries received from personnel, members of the public or external stakeholders about eHealth Ontario's privacy practices or program.

The Privacy Office's responsibilities include:

- reviewing, investigating and documenting every complaint received and monitoring complaints for any trends arising;

- acknowledging and responding to all complaints, questions or feedback received within a reasonable number of days, as defined by this procedure;
- taking appropriate measures to respond to complaints and feedback, which may include changing privacy policies and practices; and
- providing a means for personnel to share privacy-related concerns in confidence and ensuring that reporting personnel suffer no reprisals.

## 5 Procedure

### 5.1 Receiving Complaints and Inquiries

The CPO works with eHealth Ontario's Stakeholder Relations and Communications Department to develop eHealth Ontario's communications materials. eHealth Ontario makes the following means available to personnel, members of the public or external stakeholders for submitting a privacy complaint or inquiry:

A person may obtain information about eHealth Ontario's privacy policies and procedures on eHealth Ontario's website or by telephoning, emailing, faxing or writing to the Privacy Office.

A person may submit a complaint or inquiry relating to eHealth Ontario privacy policies and procedures through the Privacy Complaint or Inquiry Form on eHealth Ontario's website. A person may also submit their complaint, concerns or inquiry by telephone, email, fax or mail to the Privacy Office:

*eHealth Ontario Privacy Office*  
*P.O. Box 148*  
*Toronto, ON M5G 2C8*  
**Fax: (416) 586-4397 or 1(866) 831-0107**  
**Email: [privacy@ehealthontario.on.ca](mailto:privacy@ehealthontario.on.ca)**  
**Telephone: (416) 946-4767 or 1 (888) 411-7742 ext. 64767**

A person may submit anonymous complaints and inquiries; however, in order to receive a response, complaints and inquiries must include the sender's name address, telephone number, or e-mail address. Identifiable personal health information should not be submitted with the complaint or inquiry.

A person may also file a complaint with the Information and Privacy Commissioner of Ontario regarding eHealth Ontario's compliance with the *Personal Health Information Protection Act, 2004* or the *Freedom of Information and Protection of Privacy Act*. The Commissioner's contact information is:

*Information and Privacy Commissioner of Ontario*  
*2 Bloor Street East, Suite 1400*  
*Toronto, ON M4W 1A8*  
**Telephone: 416-326-3333 • 1-800-387-0073**  
**Fax: 416-325-9195**  
**TTY: 416-325-7539**  
**Website: [www.ipc.on.ca](http://www.ipc.on.ca)**

### 5.2 Addressing and Responding to Inquiries

A person making an inquiry is requested to include the following information (as applicable)::

- A detailed description of the inquiry;
- Preferred method of contact, as applicable; and

- Relevant contact information, as applicable..

From this information, confirm whether the inquiry pertains to the EHR

All privacy inquiries received by eHealth Ontario are reviewed by the CPO. Where the person has provided contact information, eHealth Ontario may contact the person to clarify the nature or scope of the inquiry.

eHealth Ontario acknowledges receipt of an inquiry within four (4) days of receiving the inquiry.

#### **eHealth Ontario Inquiries – Other Departments**

If the inquiry is not related to the Privacy Office, it may be forwarded to the appropriate eHealth Ontario department.

#### **Inquiries Pertaining to a HIC**

If eHealth Ontario is contacted with an inquiry regarding a Health Information Custodian's (HIC) information management or privacy practices, eHealth Ontario shall forward the inquiry to the appropriate HIC(s) as soon as possible, but in any event no later than four (4) days following receipt of the inquiry. When eHealth Ontario acknowledges receipt of an inquiry regarding a HIC, eHealth Ontario will advise the person making the inquiry that eHealth Ontario will forward the inquiry to the appropriate HIC, and that the person will receive a response directly from the HIC.

#### **eHealth Ontario Privacy Related Inquiries**

eHealth Ontario shall address and respond directly to the person making the inquiry as soon as possible, but in any event no later than thirty (30) days following receipt of the inquiry.

The Privacy Office maintains a record of each inquiry. The Privacy Office documents all related communications and any resolution that is achieved. The Privacy Office also enters all inquiries and their resolutions in the *eHealth Ontario Privacy Office Operations Log*.

### **5.3 Investigating and Responding to Complaints**

A person making a complaint is requested to include the following information (as applicable):

- A detailed description of the complaint
- date and time of occurrence ;
- persons involved in the occurrence; and
- any other pertinent information.

From this information, confirm whether the complaint pertains to the EHR.

All privacy complaints received by eHealth Ontario are reviewed by the CPO or delegate. Where the person has provided contact information, eHealth Ontario may contact the person to clarify the nature or scope of the complaint.

If the complaint is not related to the Privacy Office, it may be forwarded to the appropriate department. If eHealth Ontario is contacted with a complaint regarding a Health Information Custodian's (HIC) information management or privacy practices, eHealth Ontario shall forward the complaint to the appropriate HIC(s) as soon as possible, but in any event no later than four (4) days following receipt of the complaint. When eHealth Ontario acknowledges receipt of a complaint regarding a HIC, eHealth Ontario will advise the person making the complaint that eHealth Ontario will forward the complaint to the appropriate HIC, and that the person will receive a response directly from the HIC.

The Privacy Office acknowledges receipt of a complaint within four (4) days of receiving the complaint. eHealth Ontario shall address and respond directly to the person making the complaint as soon as possible, but in any event no later than thirty (30) days following receipt of the complaint.

The Privacy Office maintains a record of each complaint. The Privacy Office documents all related communications and any resolution that is achieved. The Privacy Office also enters all complaints and their resolutions in the *eHealth Ontario Privacy Office Operations Log*.

The CPO is responsible for assessing complaints and determining whether:

- the complaint is a privacy complaint that should be investigated; and
- the complaint relates to a privacy incident and breach and should be addressed in accordance with the *eHealth Ontario Privacy Incident and Breach Management Policy*.

The Privacy Office acknowledges receipt of the complaint within four (4) days. The CPO determines if the complaint will be investigated. A privacy complaint is subject to further investigation if it:

- relates to an action on the part of eHealth Ontario personnel that could constitute a breach of eHealth Ontario's policies or procedures or the requirements of the *Personal Health Information Protection Act, 2004* (PHIPA) and its regulation, or the *Freedom of Information and Protection of Privacy Act* (FIPPA) and its regulations;
- relates to an activity on the part of eHealth Ontario personnel that could be contrary to industry best practices, or directives or communications from the Information and Privacy Commissioner of Ontario; or
- is well founded for any other reason.

The Privacy Office documents the decision on whether to proceed with the investigation and the reasons for the decision in the *eHealth Ontario Privacy Office Operations Log*.

If the CPO determines that the privacy complaint or inquiry will *not* be investigated further, a letter is sent to the complainant within fourteen (14) days of receipt of the complaint or inquiry:

- providing a response to the privacy complaint or inquiry;
- advising that an investigation will not be undertaken; and
- advising that a complaint may be made to the Information and Privacy Commissioner of Ontario if there are reasonable ground to believe that eHealth Ontario has contravened or is about to contravene PHIPA or its regulation or FIPPA or its regulations.

If the CPO determines that the complaint *will* be investigated, a letter is sent to the complainant within fourteen (14) days of receipt of the complaint:

- advising that an investigation of the privacy complaint or inquiry will be undertaken;
- providing an explanation of eHealth Ontario's privacy complaint and inquiry handling procedures;
- indicating that if additional information is required, the complainant will be contacted;
- setting out the timeframe for completion of the investigation; and
- setting out the nature of the documentation that will be provided upon completion of the investigation.

**NOTE:** if the complaint relates to a privacy incident or breach, it shall be addressed in accordance with the *eHealth Ontario Privacy Incident and Breach Management Policy*. As soon as possible, but no later than five (5) days after receipt of the Privacy Incident and Breach Management Report, eHealth Ontario shall at a minimum provide the person who made the complaint with a summary of the results of the investigation and measures that have been or will be implemented to remediate the privacy breach and prevent privacy breaches in the future.

eHealth Ontario senior management and personnel will be informed of the complaint or inquiry and impending investigation as required and determined by the CPO. The CPO is responsible for conducting the investigation, including:

- undertaking review of relevant documents;
- conducting interviews with the sender, personnel, eHealth Ontario third party service providers or HICs, as appropriate; and
- carrying out site visits and inspections as appropriate.

Within thirty (30) days of receipt of the complaint, the CPO completes the investigation and documents the findings from the interviews, reviews and site visits in a report. The CPO may forward the report to eHealth Ontario senior management for their review. The report includes:

- a description of the complaint;
- findings from the investigation;

- where eHealth Ontario personnel, third party service providers and/or HICs have deviated from eHealth Ontario policies and procedures and/or have been non-compliant with PHIPA and its regulation or FIPPA and its regulations;
- any related considerations;
- recommendations to address the concern and timeliness for implementation; and
- a draft response to the sender.

The CPO:

- assigns personnel(s) to implement recommendations;
- establishes timelines for implementation; and
- monitors and tracks implementation, ensuring timelines are met.

In addition, the CPO:

- reviews policies and procedures to ensure that issues identified in the complaint have been addressed;
- provides education and training to personnel, third party service providers and/or HICs, as necessary, on any changes to policies, procedures and processes arising from the complaint;
- reviews agreements with third party service providers for potential improvements, where applicable;
- works with the Vice President, Communications and Stakeholder Relations regarding changes to communications materials, as appropriate; and
- takes disciplinary action, as appropriate.

Within six (6) weeks of receiving the complaint or inquiry, the CPO notifies the sender in writing of:

- the nature of the findings of the investigation;
- any measures that have been/will be taken in response to the privacy complaint ; and
- the sender's right to make a complaint to the Information and Privacy Commissioner of Ontario and contact information for the Commissioner.

**NOTE:** if implementation of recommendations is not complete at the time this letter is sent, the CPO sends a confirmation letter when all recommendations have been implemented.

## 5.4 Logging and Document Retention

The CPO provides a status report to eHealth Ontario senior management on a regular basis or as required, which includes a description of the complaints or inquiries received and actions taken by eHealth Ontario to implement all recommendations until they are completed.

The CPO is responsible for the secure retention of:

- the *eHealth Ontario Privacy Office Operations Log*, including those for which an investigation was not undertaken; and
- comprehensive files for each privacy inquiry and privacy complaint, including all correspondence (both external and internal), the *Privacy Complaint or Inquiry Form*, and any notes made during the investigation.

Documents are securely retained in accordance with eHealth Ontario's policy and procedures.

# 6 Responsibilities

The CPO is considered the ultimate authority for interpreting, implementing, enforcing and maintaining this Policy

The CPO is responsible for the intake, review, investigation, response and tracking of privacy complaints and inquiries.



The CPO is responsible for monitoring compliance with this Policy.

eHealth Ontario personnel and third party service providers must comply with this procedure.

## 7 Glossary

The following terminology and acronyms are associated with this Policy:

TERM	DEFINITION
<b><i>Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F. 31 (FIPPA)</i></b>	A provincial privacy statute that provides a right to access information under the control of institutions in accordance with the principles that information should be available to the public; necessary exemptions from the right of access should be limited and specific; and decisions on the disclosure of government information should be reviewed independently of government. FIPPA also protects the privacy of personal information of individuals held by institutions. It provides individuals with a right of access to, and correction of, that information.
<b>Health Information Custodian (HIC)</b>	Has the same meaning as defined in section 3 of <i>Personal Health Information Protection Act, 2004</i> (PHIPA), and generally means a person or organization that delivers healthcare services. Examples include: physicians, hospitals, pharmacies, laboratories, community care access centres and the Ministry of Health and Long-Term Care but not eHealth Ontario.
<b>Information and Privacy Commissioner of Ontario (IPC)</b>	The IPC is an oversight body responsible for educating the public concerning their rights under privacy legislation and ensuring that organizations fulfill their obligations under the legislation.
<b>Personal Health Information (PHI)</b>	Has the same meaning as defined in section 4 of the <i>Personal Health Information Protection Act, 2004</i> (PHIPA), and generally means identifying information about an individual in oral or recorded form, pertaining to that person's health or health services provided to the individual. Examples include family health history, health card number, and any information that identifies an individual and links them to a healthcare provider.
<b><i>Personal Health Information Protection Act, 2004, S.O. 2004, c. 3. (PHIPA)</i></b>	A provincial health privacy statute that establishes rules for the management of PHI and protection of the confidentiality of that information, while facilitating the effective delivery of healthcare services.
<b>Personnel</b>	Collectively, the following: current and former Employees; current Suppliers; and current and former Appointees.  Where: <ul style="list-style-type: none"><li>• Employee: A person whom through the execution of a contract of service, has</li></ul>

entered into an employment relationship with eHealth Ontario and is classified in one of the following categories, as defined by the eHealth Ontario Human Resources Department: Full-Time Regular Employee, Full-Time Temporary Employee, Part-Time Regular Employee or student.

- Supplier: Also referred to as a third party service provider. An individual who or entity that supplies goods or services to eHealth Ontario, and is paid through the eHealth Ontario accounts payable system.
- Appointee: An individual appointed by the Lieutenant Governor in Council as a member of the board of directors of eHealth Ontario under Ontario Regulation 43/02, “eHealth Ontario”, made under the *Development Corporations Act, 1990*, as amended from time to time.

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**Privacy Complaint** Concerns or complaints relating to the privacy policies, procedures and practices implemented by eHealth Ontario as well as concerns and complaints related to the compliance of eHealth Ontario with the *Personal Health Information Protection Act, 2004* and its regulation and with the *Freedom of Information and Protection of Privacy Act, 1990* and its regulations.

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**Privacy Inquiry** Inquiries relating to the privacy policies, procedures and practices implemented by eHealth Ontario and related to the compliance of eHealth Ontario with the *Personal Health Information Protection Act, 2004* and with the *Freedom of Information and Protection of Privacy Act, 1990* and its regulations.

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**Table 1: Privacy Complaints and Inquires Procedure: Glossary**

## 8 References and Associated Documents

The following are legislative references and eHealth Ontario policies associated with this Policy:

REFERENCE	LOCATION
Freedom of Information and Protection of Privacy Act (FIPPA) and regulations	<a href="http://www.e-laws.gov.on.ca">http://www.e-laws.gov.on.ca</a>
Personal Health Information Protection Act, 2004 (PHIPA) and regulations	<a href="http://www.e-laws.gov.on.ca">http://www.e-laws.gov.on.ca</a>
eHealth Ontario Privacy and Data Protection Policy	<a href="http://www.ehealthontario.on.ca/en/privacy">http://www.ehealthontario.on.ca/en/privacy</a>
eHealth Ontario Personal Health Information Privacy Policy	<a href="http://www.ehealthontario.on.ca/en/privacy">http://www.ehealthontario.on.ca/en/privacy</a>
eHealth Ontario Personal Information Privacy Policy	<a href="http://www.ehealthontario.on.ca/en/privacy">http://www.ehealthontario.on.ca/en/privacy</a>
eHealth Ontario Privacy Incident and Breach Management Policy	<a href="http://www.ehealthontario.on.ca/en/privacy">http://www.ehealthontario.on.ca/en/privacy</a>

eHealth Ontario s Privacy Inquiries and  
Complaints Reference Guide for the Privacy  
Office

Internal Privacy Office SharePoint

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eHealth Ontario Privacy Office Operations Log

Internal Privacy Office SharePoint

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**Table 2: Privacy Complaints and Inquires Procedure: References and Associated Documents**

## 9 Interpretation

Policy requirements preceded by:

- 'shall' are compulsory actions;
- 'may' are options; and
- 'should' are recommended actions

If there is a discrepancy between this Policy and *FIPPA* or *PHIPA*, the regulations made under those Acts, or with the Agency's Regulation, the legislation or regulation takes precedence.

If there is a discrepancy between this Policy and any other eHealth Ontario privacy policy, the *eHealth Ontario Privacy and Data Protection Policy* takes precedence.