

COVID-19 PRIVACY + FOI BULLETIN – MAY 1, 2020

By Keri L. Bennett

On April 30, 2020, the Ontario Ministry of Labour and four provincial Health and Safety Associations released a series of more than 60 technical sector guidance documents to further support employers and employees in remaining safe in the workplace during the COVID-19 outbreak. A link to the backgrounder and the guidance documents can be found [here](#).

WorkSafeBC's general COVID-19 information can be found [here](#) and industry guidance can be found [here](#).

Employers may propose to collect more personal information than usual for the purpose of management of health and safety in the workplace. The various guidance documents contemplate a range of enhanced screening options for employees and visitors before they are permitted to enter the workplace.

The Office of the Privacy Commissioner of Canada has issued a framework to assess privacy-impactful initiatives in response to COVID-19 [here](#).

The framework sets out some key privacy principles, including:

- legal authority: the proposed measures must have a clear legal basis;
- the measures must be necessary and proportionate, and, therefore, be science-based and necessary to achieve a specific identified purpose;
- purpose limitation: personal information must be used to protect public health and for no other purpose;
- use de-identified or aggregate data whenever possible;
- exceptional measures should be time-limited and data collected during this period should be destroyed when the crisis ends;
- transparency and accountability: government should be clear about the basis and the terms applicable to exceptional measures, and be accountable for them.

This guidance applies to employers subject to the federal *Personal Information Protection and Electronic Documents Act* only but provides helpful principles for all employers addressing the challenge of balancing employee privacy rights against health and safety obligations.



Privacy professionals have [articulated](#) the need to ensure individual privacy rights are protected when, for example, contact tracing and/or other types of monitoring is put in place. The federal government has committed to ensuring that contact tracing or other monitoring measures are implemented in a manner that best protects [privacy](#).

As employers consider implementation of new measures to protect the workplace, they should also:

1. consider the above principles;
2. ensure access to information collected is limited to employees who need to access it for the purpose of their duties and responsibilities in the workplace;
3. implement appropriate security safeguards; and
4. prepare for destruction of the personal information once no longer needed, as appropriate in the circumstances.

Read our previous COVID-19 Privacy and FOI updates and bulletins:

- [April 23, 2020 Update](#)
- [March 30, 2020 Bulletin](#)

If you have questions on Privacy and FOI in the context of COVID-19, please connect with us - contact information can be found below.

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