

# Minimum Amount Necessary Requirement

## Overview

The minimum necessary standard is a key protection provided for in Part 3 of the *Access to Information and Protection of Privacy Act, 2015* (“*ATIPPA, 2015*”). Simply put, it requires that personal information not be collected, used or disclosed when it is not necessary to achieve an authorized purpose. Public bodies must review their policies, practices and procedures to ensure that unnecessary collections, uses and disclosures of personal information do not occur.

Subsection 66(2) of the *ATIPPA, 2015* states:

*66. (2) The use of personal information by a public body shall be limited to the minimum amount of information necessary to accomplish the purpose for which it is used.*

Subsection 68(2) of the *ATIPPA, 2015* states:

*68. (2) The disclosure of personal information by a public body shall be limited to the minimum amount of information necessary to accomplish the purpose for which it is disclosed.*

A public body must use and disclose only as much personal information as is reasonably necessary to accomplish the purpose for which it is permitted to be used or disclosed under sections 66 and 68. If a public body uses or discloses more personal information than is necessary to accomplish an authorized purpose, the public body will not be in compliance with the *ATIPPA, 2015* and may be subject to a privacy complaint, audit or investigation by this Office.

## Collection, Use and Disclosure

One of the purposes of the *ATIPPA, 2015* is to protect individuals against the unauthorized use of personal information by public bodies. The term “use” is not defined in the *ATIPPA, 2015*; however “use” is generally understood as meaning the viewing of, handling of, dealing with or applying the personal information for an identified purpose.

Similarly, another purpose of the *ATIPPA, 2015* is to protect individuals against the unauthorized disclosure of personal information by public bodies. The term “disclosure” is not defined in the *ATIPPA, 2015*; however, “disclosure” is generally understood as meaning making personal information available, releasing or revealing the information.

Consequently, a public body should analyze each situation and consider the following before using or disclosing personal information:

- What is the reason for using the information or making the disclosure (i.e. what is the purpose of the use or disclosure?);



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- Whether that purpose is authorized under the Act;
- If it is advisable in the circumstances to obtain consent even if the use or disclosure is otherwise authorized; and
- How to limit the use or disclosure to the minimum amount of information necessary to accomplish the authorized purpose (i.e. is it restricted to the necessary information, handled by the necessary person(s) in the particular circumstances)

In general, public bodies should proceed with a “less is best” approach; only the personal information that is absolutely necessary to achieve the authorized purpose should be collected, used or disclosed. Included in this practice should be a “need to know” policy which limits access to only those individuals who require the personal information to fulfill their job duties.

A public body should regularly review its practices, and have measures in place, to ensure that it is collecting, using and disclosing only the minimum amount of personal information necessary for the identified, authorized purpose. This can include:

- Reviewing and redesigning forms, questionnaires and procedures used to gather personal information;
- Developing and reviewing policy manuals and procedures manuals;
- Reviewing contracts, agreements and arrangements with contractors and agents of the public body, etc.

### Documenting Your Uses and Disclosures

It is useful for public bodies to keep a record of every disclosure of personal information including a description of the information, who disclosed it, to whom it was disclosed, and the reasons for the disclosure. This way, if an issue is raised regarding the minimum amount necessary standard, the public body can readily respond to any inquiries.

Additionally, public bodies should strive to develop a written statement about the uses to which it will put the personal information in its custody and control and the circumstances under which it can be disclosed. Public bodies should attempt to be as clear as possible as to the specific information being used or disclosed, the nature of the use or disclosure, and the necessity and authority for the use or disclosure. Public bodies should make this information readily available to the public.