

Investigations

# Municipal Conduct Act & ATIPPA, 2015

What is Considered a Workplace Investigation?

## Workplace Investigation

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An investigation related to the conduct of an employee in the workplace involving harassment, or events involving employees or the public, possibly leading to discipline or corrective action.

# Code of Conduct Complaint

- **Complainant** can be a Municipal official or a member of the public.
- **Respondent** is a Municipal official.
- **Complaint** means a written document alleging that a municipal official acted in a conflict of interest or contravened the code of conduct;
- **Municipal Official** means, unless the context indicates otherwise,
  - (i) a councillor,
  - (ii) a chief administrative officer,
  - (iii) an administrator,
  - (iv) an employee of a municipality, and
  - (v) any person acting, with or without remuneration, under the direction of a municipality, including fire chiefs and fire fighters providing services for or to a municipality;

# Understanding Section 33 of ATIPPA

If the ATI applicant is the Complainant or Respondent, you **cannot** use s.33 to withhold information related to the investigation.

## Disclosure to Complainant or Respondent

- This ensures that the main parties have access to the information necessary to understand and respond to the investigation's findings.
- Only **information relevant to the investigation should be disclosed**, and unrelated personal or sensitive details should be excluded.
- Other exceptions should also be considered in instances where s.33 is not applicable to determine whether it is appropriate to withhold the information under another exception.
- You must carefully verify the applicant's identity and role in the investigation before releasing any information.

# Understanding Section 33 of ATIPPA

These records contain highly sensitive personal and employment information.

## Disclosure to a Witness

- Witnesses who provided statements during the investigation are only entitled to **information that relates to their own statements.**
- They do not receive access to the full investigation file or information about other parties.
- This protects the privacy of all participants and maintains the integrity of the investigation process.

## Disclosure to a Non-Party

- When an applicant is not a party to the workplace investigation, **all relevant information must be withheld.**
- This ensures that sensitive details are not disclosed to individuals without a direct role in the process.
- You must carefully verify the applicant's identity and role in the investigation before releasing any information.

# Understanding Section 14 of the Municipal Conduct Act

## s. 14 (6)

A complaint filed under this section against a councillor or former councillor by a member of the public or another councillor is **not** considered a workplace investigation for the purposes of section 33 of the **Access to Information and Protection of Privacy Act, 2015**.

- Only **information relevant to the complaint should be disclosed**, and unrelated personal or sensitive details should be excluded. (s. 40)
- Other exceptions should also be considered in instances where s.33 is not applicable to determine whether it is appropriate to withhold the information under another exception.

# Is it a Workplace Investigation?

## Not a Workplace Investigation

- Councillor v Councillor
- Joe Public v Councillor
- Staff v Councillor

## It is a Workplace Investigation

- Staff v CAO
- Staff v Staff
- Joe Public v Staff
- Councillor v Staff

*\*Councillor also includes former Councillors*

# What is considered relevant information?

Relevance is an important concept to consider and is the topic of many decisions on workplace investigations.

## **OIPC Guidance:**

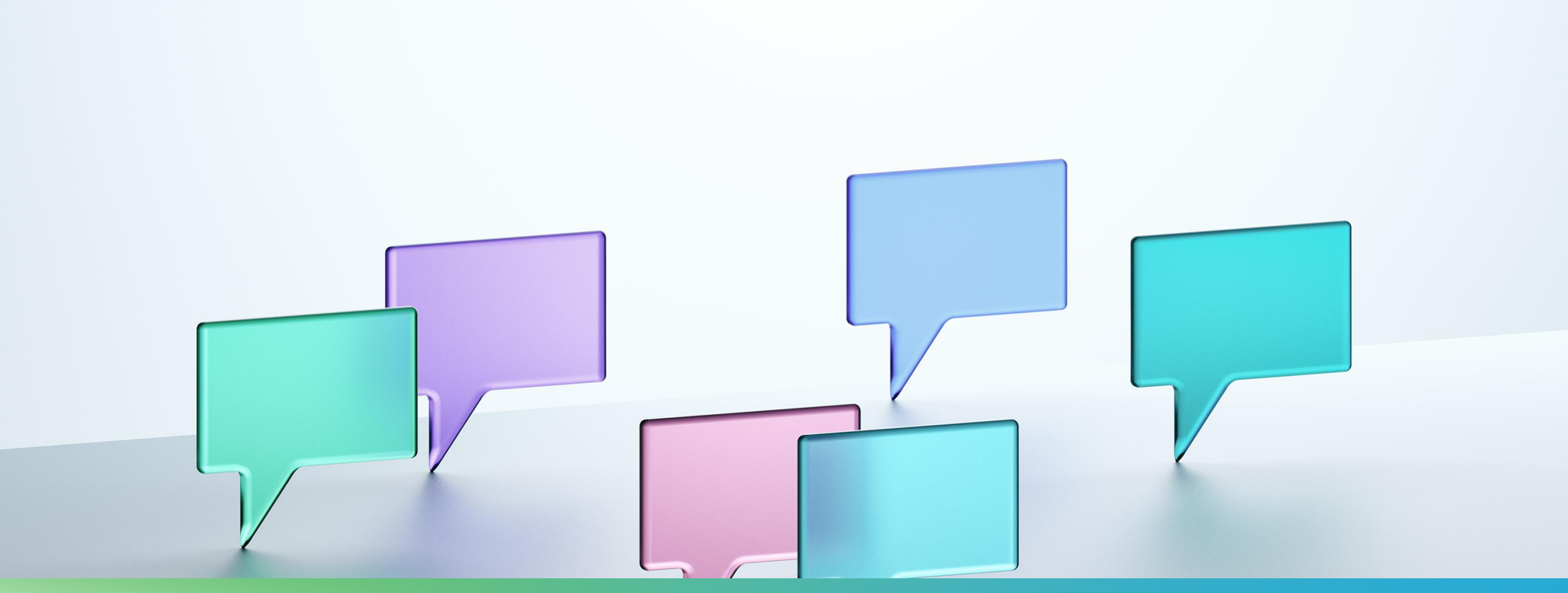
“...a lot of information may be created or gathered that is ultimately not relevant to the investigation. Examples of such information might include medical diagnoses unrelated to the issue or specifics of medical treatment. While a general diagnosis or description of a medical condition may be relevant in some situations, sometimes detailed treatment notes or plans are not relevant.”



## Mandatory Exception

S. 40 Personal Information is any recorded information about an identifiable individual.

- Name, address, phone number
- Age, sex, sexual orientation, family status
- Religious or political beliefs
- Health care status or history
- Opinions, except when they are about someone else



# Redaction Exercise