

eHealth Ontario Privacy Complaints and Inquiries Procedure

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*Enquiries relating to this document should be referred to the responsible Document Prime.

Approval History

Approver(s)	Approved Date
John Moore, Senior Vice President of Corporate Services	2011-10-18
Patrick Lo, Director, Privacy	2011-10-17
Kathy Callfas, Manager of Privacy Assurance Services	2011-10-17

Revision History

Version No.	Version Date	Summary of Change	Changed By
3	2011-10-06	Update process steps and document format	Nadia Remtulla
2	2008-10-03	Updated to reflect Agency name change and shift from policy to procedure document, as directed by the Director, Privacy	Angelique Hamilton
2	2007-12-14	Second Publication	Urooj Kirmani
1	2007-09-24	First Publication	Urooj Kirmani

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 permanent employees and temporary staff (collectively, “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.

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) 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 delegates the responsibility for managing privacy complaints and inquiries received from personnel, members of the public or external stakeholders about eHealth Ontario’s privacy practices or program to the Director, Privacy.

Specifically, the Director, Privacy’s responsibilities include:

- review, investigate and document every complaint received and shall monitor for any trends arising;
- acknowledge and respond to all complaints, questions or feedback received within a reasonable number of days, as defined by this procedure;
- take appropriate measures to respond to complaints and feedback, which may include changing privacy policies and practices; and
- provide a means for personnel to share privacy-related concerns in confidence and ensure that reporting personnel suffer no reprisals.

5 Procedures

5.1 Receiving Complaints and Inquiries

The Director, Privacy 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:

- Individuals 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 Director, Privacy.
- Individuals 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. Individuals may also submit their complaint, concerns or inquiry by telephone, email, fax or mail to the Director, Privacy:

eHealth Ontario Privacy Office
P.O. Box 148
777 Bay Street, Suite 701
Toronto, ON M5G 2C8
Fax: (416) 586-6598
Email: privacy@ehealthontario.on.ca
Telephone: (416) 946-4767

- Individuals 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 information or personal health information should not be submitted with the complaint or inquiry.
- Individuals 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

5.2 Addressing Complaints and Inquiries

Individuals making a complaint or inquiry are requested to include the following information (as applicable):

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

All privacy complaints and inquiries received by eHealth Ontario are reviewed by the Director, Privacy. The Director, Privacy acknowledges receipt of a complaint or inquiry within five (5) business days of receiving the complaint or inquiry. Where the sender has provided contact information, eHealth Ontario may contact the individual to clarify the nature or scope of the complaint or inquiry.

If eHealth Ontario is contacted with a complaint or inquiry regarding a Health Information Custodian's (HIC) information management or privacy practices, it shall direct the individual to the appropriate HIC. If a complaint about a HIC could have an influence on eHealth Ontario's contract management and compliance monitoring activities, the agency may choose to follow up with the HIC regarding the investigation and resolution.

The Director, Privacy maintains a file for each complaint and inquiry. The Director, Privacy documents all related communications and any resolution that is achieved. The Director, Privacy also enters all complaints, inquiries and their resolutions in the *Log of Privacy Complaints and Inquiries*.

5.3 Investigating and Responding to Complaints and Inquiries

The Director, Privacy is responsible for assessing complaints and determining whether:

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

The Director, Privacy determines if the complaint or inquiry will be investigated within five (5) business days of receipt of the complaint. A privacy complaint or inquiry 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* and its regulation, or the *Freedom of Information and Protection of Privacy Act* 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 Director, Privacy documents the decision on whether to proceed with the investigation and the reasons for the decision in the *Log of Privacy Complaints and Inquiries*.

If the Director, Privacy determines that the privacy complaint or inquiry will *not* be investigated further, the Director, Privacy sends a letter to the complainant within ten (10) business 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 the *Personal Health Information Protection Act, 2004* or its regulation or the *Freedom of Information and Protection of Privacy Act* or its regulations.

If the Director, Privacy determines that the complaint or inquiry *will* be investigated, a letter is sent to the complainant within ten (10) business 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;
- setting out the nature of the documentation that will be provided upon completion of the investigation.

eHealth Ontario senior management and personnel will be informed of the complaint or inquiry and impending investigation as required and determined by the Director, Privacy. The Director, Privacy 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 twenty (20) business days of receipt of the complaint or inquiry, the Director, Privacy completes the investigation and documents the findings from the interviews, reviews and site visits in a report. The Director, Privacy may forward the report to eHealth Ontario senior management for their review. The report includes:

- a description of the complaint or inquiry;
- 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 the *Personal Health Information Protection Act, 2004*, and its regulation or the *Freedom of Information and Protection of Privacy* and its regulations;
- any related considerations;
- recommendations to address the concern or inquiry and timeliness for implementation; and
- a draft response to the sender.

The Director, Privacy:

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

In addition, the Director, Privacy:

- reviews policies and procedures to ensure that issues identified in the complaint or inquiry 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 or inquiry;
- reviews agreements with third party service providers for potential improvements, where applicable;

- works with the VP, Stakeholder Relations and Communications regarding changes to communications materials, as appropriate; and
- takes disciplinary action, as appropriate.

Within six (6) weeks of receiving the complaint or inquiry, the Director, Privacy 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 or inquiry;
- 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 Director, Privacy sends a confirmation letter when all recommendations have been implemented.

5.4 Logging and Document Retention

The Director, Privacy provides 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 Director, Privacy is responsible for the secure retention of:

- the *Log of Privacy Complaints and Inquiries*, including those for which an investigation was not undertaken;
- 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 and Compliance

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

This Procedure will be updated or revised annually or more frequently as needed under the approval of the Chief Privacy Officer.

eHealth Ontario personnel must comply with this procedure. Compliance will be audited on an on-going basis by the Chief Privacy Officer.

7 Glossary

Term	Definition
Health Information Custodian	An individual or organization that has custody of Personal Health Information as a result or in connection to performing that individual or organization's power or duties and as defined by the Ontario <i>Personal Health Information Protection Act</i> (PHIPA).
Information and Privacy Commissioner of Ontario (IPC)	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.
Personnel	eHealth Ontario employees and temporary staff (contractors, temp agency staff, co-op students and seconded individuals.) Contractors are individuals procured through a company for a specified period of greater than 3 months to fill a permanent full time position temporarily and on a day- to- day basis are managed directly by eHealth Ontario management.
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 <i>Personal Health Information Protection Act, 2004</i> and its regulation and with the <i>Freedom of Information and Protection of Privacy Act, 1990</i> and its regulations.
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 <i>Personal Health Information Protection Act, 2004</i> and with the <i>Freedom of Information and Protection of Privacy Act, 1990</i> and its regulations.

8 References and Associated Documents

- eHealth Ontario Privacy and Data Protection Policy
- eHealth Ontario Personal Health Information Privacy Policy
- eHealth Ontario Personal Information Privacy Policy
- eHealth Ontario Privacy Incident Management Policy
- Log of Complaints and Inquiries
- Privacy Complaint or Inquiry Form