



Hamilton

INFORMATION REPORT

TO: Chair and Members Public Works Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: November 4, 2013	
SUBJECT/REPORT NO: Access by Council Members and their Staff to Hansen and Amanda Databases LS13034 (City Wide)	
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Council Direction:

Legal Services was directed to report on the privacy issues and concerns around providing full access to the Hansen and Amanda software systems to Council members' Offices.

Information:

Members of Council and their staff can be provided with access to much, but not all, of the information in the Hansen/Amanda databases. However, access to some information, for example, certain health and enforcement information such as children's vaccination exemptions, complainants' names and property owners' names (property addresses can be accessed), must be assessed on a case-by-case basis under the applicable legislation – the *Personal Health Information Protection Act* or the *Municipal Freedom of Information and Protection of Privacy Act*. This is because access can be provided to Council members and their staff only if at least one of the exemptions under the legislation applies: most commonly, in the case of personal information, if the individual has given his or her consent to access.

Crystal Reports:

The best way to allow for convenient access to information that does not need to be assessed on a case-by-case basis would be to set up customized reports using Crystal Reports. Crystal Reports is an application used to design and generate customized reports from databases. The customized reports would provide up-to-date information on a City-wide,

Ward-wide or property-by-property basis. Information that must be assessed on a case-by-case basis would be filtered out.

Information and Privacy Commissioner View:

The question of Council access to databases like Hansen/Amanda has come up previously in Ontario municipalities, most recently in Toronto where it was actively pursued. This included seeking advice from the Information Privacy Commissioner, and, eventually, making an application to Superior Court.

In one of her two letters providing advice to Toronto, the IPC gave the following explanation of why full – “unfettered, routine” – access cannot occur:

It is very important to distinguish between the duties performed on behalf of the City (as functions of an institution), and the constituency activities of individual councillors, which are not functions of the City. . . .

In conclusion, there is no provision under MFIPPA for individual councillors to obtain unfettered, routine access to personal information in order to carry out their constituency function. . . .

It may be helpful to conclude by drawing a parallel between the application of the freedom of information and privacy laws at the municipal and provincial levels. Under the provincial *Freedom of Information and Protection of Privacy Act*, Ministers are the “heads” of their respective ministries. However, it is well understood that being the head does not confer, on the Minister, the right to access any personal information in the record holdings of their ministry. Quite the opposite. For example, it is inconceivable that the Minister of Health would be granted access to the ministry’s OHIP database simply because he or she was the head of that ministry. In addition, different rules apply when Ministers are functioning in their roles as local members representing their constituents. As with councillors, the general rule is that provincial members require an individual’s consent in order to access his or her personal information, when performing constituency functions.

Court Supports Information and Privacy Commissioner:

After receiving the Information and Privacy Commissioner’s advice, Toronto applied to Superior Court for a declaration that access to its database by members of Council complied with the *Municipal Freedom of Information and Protection of Privacy Act*. The Superior Court deferred to the Information and Privacy Commissioner, stating that Toronto had to obtain a decision (and not simply advice) from the Information and Privacy Commissioner before going to the courts. Toronto did not pursue the matter any further.