

Policy

In accordance with the *Freedom of Information and Protection of Privacy Act* (FIPPA), the public has a general right of access to employer information under the WSIB's custody or control through filing a formal freedom of information (FOI) request, subject to the limited and specific exemptions to disclosure under FIPPA.

The WSIB also routinely discloses and actively disseminates certain employer information, as a matter of course without the need for a formal FOI request, if it is clear such information is not exempt from disclosure under FIPPA.

Employer information that is specifically exempted from disclosure under FIPPA is treated as confidential, and generally only disclosed to the employer or to the employer's authorized representative(s).

Purpose

The purpose of this policy is to outline the circumstances under which the WSIB may disclose employer information.

Guidelines

Definitions

Active dissemination means the periodic and proactive release of employer information without a request for access.

Employer information means all information relating to a specific employer supplied to, collected, or created by the WSIB and contained in existing WSIB records, but does not include claim file information. For information relating to disclosure of **claim file information**, see 21-02-1, Disclosure of Claim File Information - General.

FOI request means a formal written request for access to information made under the authority of FIPPA.

Informal request means a request for access to employer information, made by a member of the public, that may be satisfied without a formal FOI request.

Personal information, as defined in FIPPA, means all information about an identifiable individual. However, personal information generally does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

Routine disclosure means the routine or automatic release of information in response to an informal request.

Comment [OPB1]:

Change: New addition

Purpose: To reflect the formal right of access to information under FIPPA subject to any specific exemptions to the disclosure of such information under FIPPA

Description: Paragraph added that provides an overview of the formal right of access under FIPPA as it relates to employer information held by the WSIB

Comment [OPB2]:

Change: New addition

Purpose: To provide express reference to routine disclosure and active dissemination of non-confidential employer information

Description: Paragraph added that specifies that the WSIB routinely discloses and proactively disseminates certain non-confidential employer information

Comment [OPB3]:

Change: Amendment

Purpose: To reflect that FIPPA is the basis for treating certain information as confidential and limiting the disclosure of such information

Description: Paragraph provides that employer information that is specifically exempted from disclosure under FIPPA is treated as confidential and generally only disclosed to the employer or their authorized representative(s)

Comment [OPB4]:

Change: Deletion

Purpose: To remove the "Note" section

Description: The three notes have been removed. With respect to the first note, a point of clarification has been added in the definition of "employer information" to make clear that employer information does not include claim file information. The second and third notes provided that the policy did not apply to information released in the case of Purchase or Clearance Certificates. These were seen as unnecessary as the policy does not prevent the release of such information

Comment [OPB5]:

Change: New addition

Purpose: To increase the policy's clarity by adding definitions

Description: Definitions were added for relevant terms used in the policy

Section
Access to Information - Employers

Subject
Access to Employer Information

Limits to access

The WSIB considers employer information that is specifically exempted from disclosure under FIPPA as confidential, and will generally not disclose such information to someone other than the employer or the employer's authorized representative(s).

In accordance with FIPPA, employer information will generally be exempt from disclosure and treated as confidential:

- where disclosure may reveal personal information about the owner or the workers of the employer, or
- where the information is a trade secret or scientific, technical, commercial, financial or labour relations information that has been **supplied in confidence**, implicitly or explicitly, to the WSIB, and
- disclosure could prejudice significantly the employer's competitive position or cause one of the other harms listed in section 17 of FIPPA.

Confidential employer information

Employer information which is generally treated as confidential by the WSIB includes, but is not limited to:

- payroll
- account balances
- optional insurance amounts
- the amount of unpaid premiums
- accident cost statements
- details on Schedule 2 invoices, and covered by advance notices, and
- account number and firm number (at the discretion of the WSIB, e.g. Clearance Certificates).

Non-confidential employer information

Employer information that is typically available to the public includes, but is not limited to

- whether a particular employer is registered;
- the employer's rate group
- the employer's classification unit
- whether the employer is in Schedule 1 or 2
- the name and contact information of a registered employer
- confirmation that an individual has optional insurance (excluding the amount of coverage or the length of coverage)
- confirmation an individual's or an employer's account is in good standing, but not any details about outstanding amounts

Comment [OPB6]:

Change: Deletion
Purpose: To remove unnecessary definition of "employer"
Description: The definition of "employer" has been removed because it exists elsewhere in the Operational Policy Manual

Comment [OPB7]:

Change: New addition
Purpose: To align policy guidelines on limits to access with mandatory exemptions under FIPPA
Description: Section added that summarizes the mandatory exemptions to disclosure under FIPPA that apply to employer information

Comment [OPB8]:

Change: Amendment/deletions
Purpose: To better align examples in policy with FIPPA
Description: Several categories of information have been removed from the list of examples. It was not accurate to state that this information was generally exempt from disclosure under FIPPA

- the employer's aggregated accident statistics (for example, injury rates and characteristics) where the data set consists of a sufficient number of claims to ensure the probability of re-identification of individual workers is low
- the employer's aggregated benefit costs and types where the data set consists of a sufficient number of claims to ensure the probability of re-identification of individual workers is low, and
- the employer's experience rating information.

Access to confidential employer information

The WSIB generally does not disclose confidential employer information to any person who fails to satisfy the WSIB that they are the employer, or an authorized representative of the employer. An employer (i.e. an authorized officer of the company) or an authorized representative (i.e. a third party consultant) acting on behalf of the employer may request that the WSIB provide them with the employer's information.

An employer may authorize a representative to act on behalf of the employer and get access to information about the employer's account. However, such representatives must be identified to the WSIB through proper authorization. A representative who is not currently authorized must file a written authorization with the WSIB before any information is released. For more information, see 21-01-02, Authorization of Employer Representatives Regarding Employer Information.

Verification of representative

In all cases, the WSIB reserves the right to verify the information directly with the employer, including:

- the authenticity of the request
- the authorization of the representative, and
- the signing authority of the individual who signed the authorization.

Written requests

A written request generally must be submitted to obtain confidential employer information in written format. Written requests must include proper authorization if the employer representative is the requestor. Requests must include the following information:

- the correct employer name and account number
- the requestor's name
- the specific information requested, and
- contact information, i.e. where the information should be sent, and who to contact if there are any questions, etc.

For more information, see 21-01-02, Authorization of Employer Representatives Regarding Employer Information.

Comment [OPB9]:

Change: Amendment/new additions
Purpose: To provide additional examples
Description: Several examples have been added that relate to aggregated data sets

Comment [OPB10]:

Change: Amendment
Purpose: To reflect that there may exceptional circumstances in which the WSIB, pursuant to FIPPA, may disclose confidential employer information to someone other than the employer or the employer's authorized representative
Description: Added "generally" to reflect the disclosure of confidential employer information in exceptional circumstances

Comment [OPB11]:

Change: Amendment
Purpose: To provide clarity
Description: Amended section to clarify that it pertains to confidential employer information, as routine disclosure is addressed below

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Disclosure of employer information under exceptional circumstances

Receivers appointed by the courts, trustees, and executors who have taken over management of an employer undergoing bankruptcy, or for a deceased employer, are entitled to the same employer information as the employer. They alone can authorize the release of confidential employer information. Satisfactory proof of status as a receiver, trustee or executor must be provided to the WSIB.

The WSIB may provide government agencies and the police with certain confidential employer information without the employer's, person's, or agency's authorization. All requests from government agencies and law enforcement agencies must be made in writing to the WSIB's Privacy Office or, in the case of fraud investigations, to the WSIB's Regulatory Services.

Access to non-confidential employer information (routine disclosure)

The WSIB may, from time-to-time, receive informal requests for access to non-confidential employer information.

Routine disclosure in these cases will generally be allowed where the information request is of a type that is regularly received by the WSIB and the WSIB is satisfied that a page-by-page review of the exemptions under FIPPA is not necessary.

Any area of the WSIB that receives an informal request for non-confidential employer information will advise the requester:

- whether the information and/or record is available as routine disclosure, or
- whether it will be necessary to submit a formal FOI request to the WSIB, due to exemptions under FIPPA which may be applicable.

Informal requests may be submitted verbally or in writing to the WSIB. The WSIB may require that an informal request be submitted in writing where the verbal request is unclear, or where the requester wishes to receive the information in written format.

There may be a charge for supplying non-confidential employer information that is not readily available.

Active dissemination

The WSIB may disclose non-confidential employer information through the process of active dissemination. Methods of active dissemination include, but are not limited to, posting on the WSIB's website.

Requests concerning retroactive adjustments

The amount of information released concerning an experience rating adjustment is limited to the years currently eligible for adjustment. For example, see 13-02-07, Adjustments to NEER

Comment [OPB12]:**Change:** Amendment**Purpose:** To provide clarity and align with practice**Description:** Paragraph amended to show that Privacy Office, not an FOI Coordinator in Legal, handles such requests. The last sentence of paragraph was also removed since it related strictly to the responsibilities of WSIB staff**Comment [OPB13]:****Change:** New addition**Purpose:** To provide guidance on routine disclosure of non-confidential employer information**Description:** Section added that specifically relates to the routine disclosure of non-confidential employer information. The section sets out when such disclosure may be allowed and provides some practical guidelines on informal requests**Comment [OPB14]:****Change:** New addition**Purpose:** To provide for the WSIB proactively and periodically making certain non-confidential employer information available to the public**Description:** Section added that specifically relates to the active dissemination of non-confidential employer information. The section sets out that the WSIB may actively disseminate employer information that is non-confidential, including by posting such information on the WSIB's website

Section
Access to Information - Employers

Subject
Access to Employer Information

Refunds and Surcharges. Information for the period before that time does not affect experience rating.

Information for additional years may be released at the discretion of the WSIB, based on the merits of each request.

Accuracy of information

When a request is made for employer information, the accuracy of the information provided by the WSIB will be based on the information requested being correctly described in sufficient detail and the timeliness of the information provided by the requestor. The information given by the WSIB reflects the circumstances as they are at the time that the WSIB provides the information.

FOI process

Any member of the public can make a formal FOI request for employer information to the Privacy Office. FOI requests are assessed on a case-by-case basis to determine whether any of the exemptions in FIPPA apply to the information requested.

If employer information is requested under FIPPA and the WSIB believes that an exemption may apply to some or all of the information, the employer will be notified of the FOI request and given an opportunity to make submissions.

Application date

This policy applies to all decisions made on or after October 10, 2017.

Document history

This document replaces 21-01-01 dated January 2, 2013.

This document was previously published as:
21-01-01 dated October 12, 2004
11-01-09 dated March 5, 2004.

References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended
Section 181

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, as amended
Sections 2, 10, 17, 21, 63

Comment [OPB15]:

Change: Deletion

Purpose: To reflect that the WSIB is able to provide an employer or the employer's authorized representative(s) with information concerning retroactive adjustments that go beyond the current plus two-year window that was the limit in the original policy

Description: Paragraph on retroactive adjustments deleted

Comment [OPB16]:

Change: Deletion

Purpose: To remove several unnecessary sections

Description: Deleted sections relating to "Multiple Copies", "Vetting of Information", and "Verbal Requests" as they were unnecessary (e.g. no longer reflect current practice or covered elsewhere in the policy)

Comment [OPB17]:

Change: Amendment

Purpose: To clarify that the accuracy of what the WSIB provides is based on the sufficiency of the request

Description: Minor revisions to specify that the accuracy of the information provided by the WSIB to a requestor is based on the request setting out accurately and in sufficient detail the information being sought and the timeliness of the request

Comment [OPB18]:

Change: New addition

Purpose: To clarify that the formal FOI process is available to any member of the public

Description: Section added that provides that any person can make a formal FOI request to Privacy Office for any employer information, and such requests will be assessed on a case-by-case basis

Comment [OPB19]:

Change: Amendment

Purpose: To reflect that the legislative authority for the policy is FIPPA

Description: Added FIPPA reference and reference to the most relevant sections from FIPPA



**Operational
Policy**

Document
Number

21-01-01

Section

Access to Information - Employers

Subject

Access to Employer Information

Minute

Administrative