NORTHERN ONTARIO HOCKEY ASSOCIATION

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NORTHERN ONTARIO HOCKEY ASSOCIATION
PRIVACY POLICY
OVERVIEW

Hockey Canada, in conjunction with its Branches across the country, has prepared the attached Privacy Policy (the "Policy") for use by Hockey Canada. The Policy is also intended to provide a template for member Branches and individual minor hockey associations/leagues across the country to amend as necessary in order to establish their own privacy policies. The attached policy has been revised from the Hockey Canada template for the use of the Northern Ontario Hockey Association. We encourage you to maintain an up to date knowledge of privacy legislation in your own jurisdiction and to ensure that you strengthen the Policy as necessary to meet the requirements of your provincial legislation.

These Implementation Guidelines will explain the necessity for the Policy, including the legal background, the scope of the information covered under the Policy and some suggested implementation procedures you may wish to use in order to maintain the integrity of the policy/policies which may govern your association. The Hockey Canada Policy has been prepared with a view to establishing a high level of privacy compliance. We will provide an overview of key points you may wish to consider and then provide the Policy Hockey Canada has adopted. The Hockey Canada Policy may be adopted for your own use and they have been developed with this in mind. Hockey Canada has also developed a more specific Privacy Policy for use internally which deals with Employee issues that may not be required by many associations. If your association does employ staff you should ensure you take this into account when finalizing your Privacy Policy.

The Policy is designed to meet the legislative requirements as set out in Schedule 1of the Personal Information Protection and Electronic Documents Act (PIPEDA) legislated by the Federal Government of Canada. Where necessary, we will strengthen this document to meet existing legislation (or legislation due to be implemented by Jan. 1, 2004) in certain provinces. We expect that the provinces which will have relevant legislation by January 1, 2004 will be British Columbia, Alberta and Quebec. We will also monitor developments in the other provinces.

PIPEDA affects the manner in which your organization collects, uses, discloses and retains personal information about an individual. Obviously, this type of legislation can have a significant impact on a sport such as hockey where the registration of hockey players, coaches, referees and managers is essential to the management of the game. We hope that these Implementation Guidelines will assist your association in achieving compliance with the legislation and with privacy policies.

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Understanding PIPEDA

Although PIPEDA has been in existence since 2000, full implementation of PIPEDA does not occur until Jan. 1, 2004 at which time it will apply to private sector organizations. This may include Hockey Canada, its branches and individual minor hockey associations/leagues. Even then, however, PIPEDA only applies to an organization in the course of a commercial activity. As most of the activities of Hockey Canada, its branches and hockey associations and leagues are not carried out with a view to making a profit, they are arguably not "commercial" as defined in PIPEDA and therefore the requirements of PIPEDA do not apply. Nonetheless, it is the view of Hockey Canada that we should comply with the underlying principles of PIPEDA as they represent good business practice in Canada. Furthermore, in some provinces PIPEDA will be superseded by provincial laws which will not be limited to "commercial" activities. To the extent branches in some provinces have to comply with privacy principles, it is preferable that the same standards be upheld across the country. All users of this document should consult their legal counsel or the office of their provincial/federal Privacy Commissioner to ensure that their organization is meeting all of their privacy policy commitments. In general, where provincial laws apply, you will need to comply only with those laws. However, in certain instances you may need to comply with both federal and provincial laws.

As of January 1, 2004 below are the requirements of Canada and the Province of Ontario:

Canada:

Canada's Federal Privacy Law, the Personal Information Protection and Electronic Documents Act was originally enacted in 2000. It is scheduled for full scale implementation beginning January 1, 2004. For further information you may check with the Privacy Commissioner of Canada web-site at www.privcom.gc.ca, or consult your legal counsel.

Ontario:

The government developed draft legislation and a discussion paper, *Privacy of Personal Information Act 2002*, that would have dramatically expanded privacy protections far beyond the federal law. Organizations commented on the proposed legislation regarding its potential impact upon charitable fundraising. The liberal election win has delayed introduction of the Act.

Ontario is currently governed by the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and protection of Privacy Act. Oversight is handled by the Information and Privacy Commissioner of Ontario at www.ipc.on.ca/. Additional privacy information can be found at Ontario's Information Privacy Office at: www.gov.on.ca/MBS/english/fip.

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As noted above, PIPEDA applies to "personal information" which is defined in the act as information about an identifiable individual. However, personal information does not include the name, title or business address or telephone number of an employee of an organization (sometimes referred to as "business contact" information). Personal information includes opinions and beliefs, in addition to financial information and birthdates.

The Scope of the Act and its Impact on your Association

Two of the central requirements of PIPEDA are that organizations may collect, use and disclose personal information only with the consent of the individual involved and may use it only for the purpose for which they collected it. Generally speaking, therefore, if you only use the data for the express purposes for which you have collected it you will likely be in compliance with the spirit of PIPEDA.

In order to prepare for the implementation of a privacy policy you should make a list of the personal information you currently collect. In a hockey setting this can include but is in no way limited to, registrations, coaching clinic registrants, referee clinic registrants, team lists, raffle ticket entrants, past donors, executive members, parent information etc. Next you need to understand why you collect the information. In addition to the consent principle described above, privacy legislation is based on the expectation of the reasonable person. In a minor hockey association you collect certain data for the administration of hockey programs. If you were to collect e-mail addresses from all registrants simply to create a more complete file of your members you would not be complying with the act. However if e-mail was one manner in which you wished to communicate with your members then a reasonable person would have no difficulty with your collection of this data. In a hockey setting it is reasonable to ask for the mailing address of the participants for the purposes of determining that they are registered in the proper locale. Much of the information collected is required to operate hockey programs and your members will understand this. Be careful however when you request information such as age, gender, ethnicity, marital status etc. These may be reasonable in certain instances however certainly not in all.

Identifying Purposes/Obtaining Consent

You must identify all purposes for which you collect, use or disclose personal information. This includes identifying all instances in which you disclose personal information to a third party. For these purposes, this includes disclosure to an affiliated or related organization, such as another Hockey Canada branch.

Consent to use of personal information must be obtained before or at the time of collection. If you are going to use information you already have for a new purpose, then

consent should be obtained before the use. Consent can be implied or express. Implied consent exists when the purpose for using information is clear and it can therefore be implied that by giving you the information the individual consented. However, in most instances it is preferable to obtain express consent. This can be indicated by a signature on a form, clicking on "I agree" in the online context, or by verbal acknowledgement to a member of staff. For activities such as registration where it is possible to obtain express consent, we recommend this option. If there are other instances where consent may be implied, think carefully about whether it is reasonable to imply consent in the circumstances. Consent should be obtained for all uses the organization will make of information and also for any disclosures you may make to third parties. An individual has the right to withdraw consent at any time so your practices have to be built to accommodate this.

Data Management

In order to ensure that you comply with the requirements of the Policy, you will need to review all of your data handling practices. You will need to keep track of the consents obtained above, to know where you keep information, who uses it, how long you use it and where you send it. Keeping track of the information is essential to enable you to comply with the principles of accountability and access described below.

Accountability/Openness and Access

The principles of accountability, openness and access to information are fundamental privacy principles. Accountability means that you must choose someone in the organization to be responsible for ensuring that you comply with privacy requirements. Openness requires that your policies and practices be made available to anyone who asks. This requirement is often met by posting on the website, by handing out pamphlets or by providing a toll-free number to call. The person accountable should also handle access to information requests and complaints. Individuals about whom you hold information have the right to be told what you hold, what you have done with the information and to receive a copy. PIPEDA requires that the response be within 30 days. However, some information, such as that identifying a third party, should not be provided. We recommend seeking legal advice before responding to a request for access to information. If an individual advises you that the information you have is inaccurate you must consider this carefully and, if you agree, correct the information. Individuals may also make complaints and you should be ready to receive and respond to them. Again, seeking legal advice before responding is the best course.

It is useful to decide in advance who in the organization will be responsible for receiving access requests and complaints and to establish a procedure to be followed in both cases.

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Security

The data you collect must be treated with respect. You must understand any and all methods you have of maintaining personal information. This includes things like hard files, computer files, offices, filing cabinets, web based information etc. Essentially there are three forms of protecting data:
-physical, lock filing cabinets, keyed access, clean desk at night etc.
-organizational, security clearances, "need to know" information
-technological, access passwords, encryption

To implement these you will need to review, and possibly amend, your protocols and procedures that limit access to personal information and all employee/volunteer confidentiality contracts or policies.

Other Considerations

Your organization should be aware of using 3rd party vendors such as a mail-house or data processing company. Your responsibilities do not cease if you have subbed services to this type of service supplier. You must research their privacy policies to ensure they comply with the policy your members expect. You should require that their contracts with you contain a commitment to compliance with privacy policies. For example:

> *The Contractor agrees and undertakes to treat all personal information transferred to it pursuant to the terms of this agreement in accordance with the Hockey Canada Privacy Policy, a copy of which is attached. The Contractor shall use this information only for the purposes of _____and shall not disclose this information to any third party except in accordance with Hockey Canada's Privacy Policy. The Contractor warrants that it has in place facilities and procedures to safeguard the security of the personal information. The Contractor agrees to provide information about its handling of personal information promptly on request by Hockey Canada.*

You should also consider a retention policy which ensures all personal data which is no longer required is disposed of in a manner which leaves no recoverable trace of personal data. Be aware of legislative retention requirements such as CCRA however when you develop such a retention policy.