



Anti Spam Legislation

Operational

Purpose

This Anti-Spam Policy has been created:

- To ensure the Brantford Public Library complies with Canada's Anti-Spam Legislation.
- To ensure Library Board Members, Employees and Volunteers understand what is expected of them when using library communications channels, platforms, connectivity and equipment for sending electronic messages.

Defined Terms

The following definitions shall apply for the purposes of this policy

Canada's Anti-Spam Legislation (CASL)

- An act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-Television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act, S.C. 2010, c. 23 (the "Act")

Commercial Electronic Message (CEM)

- An electronic message that encourages participation in a commercial activity and/or requests consent to send a message involving commercial activity. There does not need to be any expectation of profit.

Electronic Address

- An address used in connection with the transmission of an electronic message to an electronic mail account, an instant messaging account, a telephone account or any similar account.

Electronic Message (EM)

- A message sent by any means of telecommunication, including a text, sound, voice or image message

Express consent

- The explicit and/or expressed communication by a person (orally or in writing) that the person wishes to receive CEMs/EMs from the Brantford Public Library.

Implied consent

- There is an existing relationship with Brantford Public Library in which a person is a member/cardholder; has made a transaction, inquiry or application; has a written contract for the provision of goods and services; has provided volunteer work; or has made a donation to the library. Implied consent is also granted if a message is sent to a person that has conspicuously published their electronic address to which the message is sent.

Person

- An individual, partnership, corporation, organization, association, trustee, administrator, executor, liquidator of a succession, receiver or legal representative.

Special Functions

- Means a computer program that is intended to cause the following functions, contrary to the reasonable expectations of the user/owner of the computer system
 - Collecting personal information stored on the computer system;
 - Interfering with the owner's or an authorized user's control of the computer system;
 - Changing or interfering with settings, preferences or commands already installed or stored on the computer system without the knowledge of the owner or an authorized user of the computer system;
 - Changing or interfering with data that is stored on the computer system in a manner that obstructs, interrupts or interferes with lawful access to or use of that data by the owner or an authorized user of the computer system;
 - Causing the computer system to communicate with another computer system, or other device, without the authorization of the owner or an authorized user of the computer system;
 - Installing a computer program that may be activated by a third party without the knowledge of the owner or an authorized user of the computer system.

Third Party

- A person who is not a director, officer or employee of the Library, who sends EMs that promote, advertise, market or otherwise encourage participation in the Library's activities.

Volunteer

- A person who voluntarily extends his or her services to actively support the Brantford Public Library, and does so without remuneration.

- Library Board Members, while volunteers, will be referred to as Board Members because of roles and responsibilities that are different from those of other volunteers.

Policy

Principles

The Brantford Public Library requires all of its directors, officers, employees and volunteers, and any other person who communicates on its behalf, to comply with this Policy.

The Library will appoint staff members who are responsible for the managing the implementation of this Policy and whose titles are: Chief Executive Officer (CEO), Manager – Communications and Community Engagement, Manager – Programming and Outreach, Manager – Public Services, Manager – Library Services, and Corporate Services Administrator.

At its sole and absolute discretion, the Library may at any time revise this Policy to ensure the Library remains in compliance with CASL.

Notwithstanding anything in this Policy, at the Library's sole and absolute discretion, the Library may rely on any one or more of the Exemptions outlined in CASL. A determination as to when a situation would be subject to any one of the Exemptions shall be made by the Library on a case-by-case basis.

Electronic Addresses

No person shall collect an Electronic Address for the purposes of sending Electronic Messages or CEMs to the Person who owns that Electronic Address on behalf of the Library, without having first obtained the consent of that person or having evidence of where the electronic address is conspicuously published.

Electronic Messages

No EM shall be sent by or on behalf of the Library, in the course of carrying on the Library's activities, unless the recipient of the EM has provided their Express Consent or Implied Consent to receive EMs from the Library (as prescribed in parts VI and VII of this policy) or the Electronic Address of the recipient is conspicuously published.

EMs sent by or on behalf of the Library in the course of carrying on the Library's activities may only be sent to Electronic Addresses that have been entered into the CRM or where it has been determined there is implied or express consent or where the Electronic Address was conspicuously published.

All EMs sent by or on behalf of the Library in the course of carrying on the Library's activities must include the following information:

1. The Library's name and mailing address;
2. The Library's email address/telephone number/website; and
3. The Library's unsubscribe mechanism, as prescribed in *Electronic Addresses*

Express Consent

The Library shall endeavor to obtain Express Consent from all persons to whom it sends EMs, at all reasonable opportunities.

Express Consents provided to the Library shall be entered into the Library's CRM or Integrated Library System (ILS) in accordance with the Library's procedures, and shall specify:

1. The types of EMs the person has consented to; and
2. The manner in which the express consent was given

All requests for Express Consent made by or on behalf of the Library in writing (whether electronic or in hard copy format), must include the following:

1. A request that the recipient consent to receive EMs from the Library;
2. The purpose for which the consent is being sought (e.g. for receiving EMs, for receiving e-newsletters);
3. The Library's name and mailing address;
4. The Library's email address/telephone number and/or website; and
5. A statement that consent may be withdrawn at any time.

All requests for Express Consent made in writing or online shall not include pre-checked boxes.

All requests for Express Consent made by or on behalf of the Library orally shall follow the following procedure:

1. The individual requesting the consent shall disclose to the person from whom the consent is being sought:
 - a. That the consent is being sought on behalf of the Library;
 - b. The purpose for which the consent is being sought (e.g. for receiving EMs; for receiving e-newsletters);
 - c. The Library's mailing address
 - d. The Library's email address/telephone number and/or website; and
 - e. That the person may withdraw consent at any time.
2. Only email addresses authorized verbally or in writing by a person shall be entered into the ILS or CRM.
3. Details of the Express Consent will be noted in the patron's record in the ILS or the CRM, including the purpose for which consent is being sought, the date consent is obtained/renewed, and the initials of the staff member who obtained the consent.

The record of Express Consent the Library receives shall be entered into the CRM/ILS within 14 business days of receiving the Express Consent.

Implied Consent

The Library has Implied Consent to send EMs to the following:

1. Persons who are current, active members of the library;

2. Persons who were members of the Library but who ceased to be members in the 24 months preceding the date of the sending of the EM;
3. Persons who entered into a financial transaction with the Library in the 24 months preceding the date of the sending of the EM;
4. Persons who donated to the Library (or related Foundation, if one is to be established) in the 24 months preceding the sending of the EM;
5. Persons who volunteered for the Library in the 24 months preceding the date of the sending of the EM.

Unsubscribe Mechanism

All EMs sent by or on behalf of the Library in the course of carrying out Library activities shall include a mechanism by which the Person receiving the EMs may unsubscribe (i.e., opt-out) from receiving EMs from the Library.

The Unsubscribe Mechanism shall be prominently displayed in EMs sent by or on behalf of the Library.

All requests to unsubscribe shall be acted upon by the Library's communications and community engagement department within ten business days of the receipt of the unsubscribe request.

No EMs shall be sent by or on behalf the Library to any person who made a request to unsubscribe 10 days after the request was made and thereafter, unless the Person provides his/her Express Consent to receive EMs from the Library, or unless the EM meets one of the Exemptions. These Exemptions will be determined on a case by case basis.

Third Parties

The Library requires that all Third Parties have provided Express Consent or Implied Consent (as prescribed in sections *Express Consent* and *Implied Consent* of this Policy) to receive EMs from the Library, from the Persons to whom the EMs are sent, prior to the Library sending the EMs.

The Library shall not be held liable for any and all EMs sent by Third Parties that are not sent in compliance with this Policy.

All Third Parties agree to defend, indemnify and hold harmless the Library and its directors, officers, employees, agents and trustees, from and against any and all complaints, claims, action or demands result from, and/or arising out of, the Third Parties' breach of this Policy, including, but not limited to, for any and all regulatory proceedings, warrants, preservation demands, disclosure requests, compliance notices, administrative monetary penalties, fines, damages, injunctive relief, class actions, legal fees, expert fees and disbursements.

At its sole and absolute discretion, the Library may, from time to time, enter into agreements and/or arrangements with Third Parties that may not necessarily be in compliance with this Policy, but ensure the Library's compliance with CASL.

Notwithstanding anything in this Policy, at its sole and absolute discretion, the Library may rely on one or more of the Exemptions for EMs sent by Third Parties. A determination of whether a

particular EM sent by a Third Party is subject to an Exemption will be made by the Library on a case-by-case basis.

Computer Programs

In the course of conducting Library activities, no person shall cause a computer program to be installed on a computer system, unless that person first obtains the Express Consent of the owner or authorized user of the computer system to install the computer program, on behalf of the Library.

There is no requirement to obtain Express Consent to install the following computer program on behalf of the Library:

1. A cookie;
2. HTML code;
3. Java Script; and
4. An operating system

When seeking Express consent to install a Computer Program on behalf of the Library, the person seeking the consent shall disclose to the person from whom consent is being sought, clearly and simply, the function and purpose of the computer program being installed.

If the computer program being installed on behalf of the Library is intended to perform a Special Function(s), the person seeking consent on behalf of the Library must prominently, clearly, simply and separate and apart from any other requests for consent, describe the Special Function(s), including their nature and purpose and their impact on the operation of the computer system.

Use of the Library's Computers/Internet Connection

Any person who uses:

1. A computer system owned, operated and/or controlled by the Library; and/or
2. An internet connection owned, controlled and/or provided by the Library (including any wireless connection),

must carry out his or her activities in a manner that is compliant with CASL.

Any person who contravenes this Part shall defend, indemnify and hold harmless the Library and its directors, officers, employees, agents and trustees from and against any and all complaints, claims, actions or demands resulting from and/or arising out of that person's actions, including, but not limited to, for any and all regulatory proceedings, warrants, preservation demands, disclosure requests, compliance notices, administrative monetary penalties, fines, damages, injunctive relief, class actions, legal fees, expert fees and disbursements.

Training

Within 90 days of the implementation of this Policy, the Library's directors, officers, employees and volunteers are required to complete mandatory training on this Policy and CASL in general.

The training shall be selected and/or prepared, conducted and tracked by management.

New hire training: all new Board Members, employees and volunteers of the Library shall be required to complete the Training.

Refresher training will be available every 48 months for Board members and staff.

Audit

Once every 12 months, the Library will conduct an audit of its electronic communication practices, to ensure compliance with this Policy. The audit shall be conducted by communications and community engagement staff.

The Library may also conduct a random audit of its electronic communication practices to ensure compliance.

In the event an audit discloses discrepancies between this Policy and the Library's communication practices, such discrepancies shall be addressed by the Library to ensure compliance with the Policy, as soon as is reasonably possible.

History

Supersedes: Not applicable

Background documents, related policies: Canada's Anti-Spam Legislation (CASL); Federation of Ontario Public Libraries and the Canadian Urban Libraries Council Canada's Anti Spam Legislation Legal Opinion (Maanit Zemel, MTS Law P.C.); Brantford Public Library Donations and Sponsorship Policy

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