

INNISFIL PUBLIC LIBRARY



SUBJECT: CANADA'S ANTI-SPAM LEGISLATION COMPLIANCE POLICY

Policy No.: 2015-03

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PURPOSE:

Canada's Anti-Spam Legislation ("CASL") came into force on July 1, 2014. The Innisfil Public Library is committed to complying with CASL and its requirements. Following is the Library's CASL compliance policy (the "Policy").

POLICY

Application

This policy applies to all Staff, Board Members, Volunteers and any other Person(s) who communicate(s) on its behalf.

Definitions

"Canada's Anti-Spam Legislation" or "CASL" - means the following Act and Regulations:

- i. 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");
- ii. Electronic Commerce Protection Regulations (CRTC), SOR/2012-36; and
- iii. Electronic Commerce Protection Regulations (Industry Canada), SOR/2013-221.

“Commercial Electronic Message” or “CEM” means: an Electronic Message that, directly or indirectly, encourages participation in the Library’s commercial activities, and/or in the commercial activities of a Person other than the Library.

“Computer Program” - means data representing instructions or statements that, when executed in a Computer System, causes the Computer System to perform a function. Examples of Computer Programs include, but are not limited to:

- a) software;
- b) applications (apps);
- c) games;
- d) eBooks;
- e) any upgrades or updates to an existing Computer Program; and
- f) any other computer code that meets the above description.

“Computer System” - means any device or a group of interconnected or related devices one or more of which:

- a) contains Computer Programs or other data, and
- b) pursuant to Computer Programs,
 - i. performs logic and control, and
 - ii. may perform any other function.

Examples of a Computer System include, but are not limited to: a computer; a server; a hard drive; a mobile telephone; a tablet.

“Electronic Message” or “EM” - means a message sent by electronic means to an Electronic Address, including, but not limited to messages sent:

- a) by email;
- b) by text message;
- c) by instant message; and
- d) via a social media account.

For greater certainty, an EM does not include messages:

- i. sent via posted mail;
- ii. sent via fax;
- iii. communicated via a two-way voice conversation;
- iv. communicated via voicemail to a telephone account; and/or
- v. posted or published on a website (but not sent to an Electronic address).

“Electronic Address” - means an address used in connection with the transmission of an Electronic Message to:

- a) an email account;
- b) an instant messaging account;
- c) a telephone account;
- d) a social media account; or
- e) any similar account.

“Exemptions” – means the exemptions to the requirements of subsections 6(1) and/or 6(2) of the Act, as prescribed in CASL.

“Express Consent” - means the explicit and/or expressed communication by a Person that the Person wishes to receive EMs from the Library.

“Implied Consent” - means the existence of the requirements prescribed in Part V herein.

“Person” - means 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:

- a) collecting personal information stored on the Computer System;
- b) interfering with the owner's or an authorized user's control of the Computer System;
- c) 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;
- d) 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;
- e) 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;
- f) 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” - means 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.

“Transition Cardholders” – means individuals:

1. who were cardholders of the Library prior to July 1, 2014;
2. who ceased to be cardholders of the Library prior to July 1, 2014; and
3. to whom the Library has sent EMs prior to July 1, 2014.

Guidelines

PART I - GENERAL

1. The Library will appoint Staff Members who are responsible for managing the implementation of this Policy.

2. 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. 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.
3. At its sole and absolute discretion, the Library may at any time revise this Policy to ensure that the Library remains in compliance with CASL.

PART II – ELECTRONIC ADDRESSES

4. No Person shall collect an Electronic Address for the purposes of sending Electronic Messages to the Person who owns that Electronic Address on behalf of the Library, without having first obtained the consent of that Person.
5. All the Electronic Addresses collected by or on behalf of the Library shall be entered, stored and managed by the Library through its Integrated Library System ("ILS") and Customer Relationship Management database (CRM).
6. All individuals who obtain and/or collect Electronic Addresses on behalf of the Library must enter those Electronic Addresses into the ILS and the CRM, in accordance with the Library's policies and procedures respecting collection of personal information.

PART III – ELECTRONIC MESSAGES

7. 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 his or her Express Consent or Implied Consent to receive EMs from the Library (as particularly prescribed at Parts IV and V of this Policy).
8. 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 ILS.
9. 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:
 - a) the Library's name and mailing address;
 - b) at least one of the following:
 - i. Library's email address;
 - ii. Library telephone number;
 - iii. Library website; and
 - c) the Library's unsubscribe mechanism, as prescribed at Part VI herein.
10. EMs sent:
 - a) between employees of the Library; and/or
 - b) from employees of the Library to employees of other libraries, shall concern the activities of the Library.

11. If an employee of the Library sends an EM to another employee of the Library or to an employee of another library, which promotes, markets, advertises or otherwise encourages participation in commercial activity of a Person other than the Library, the sending employee must:
 - a) use their personal Electronic Address and not an Electronic Address owned by the Library to send the EM; and
 - b) obtain the Express Consent of the recipient employee prior to sending the EM.

PART IV – EXPRESS CONSENT

12. The Library shall endeavour to obtain Express Consent from all Persons to whom it sends EMs, at all reasonable opportunities.
13. Express Consents provided to the Library shall be entered into the Library's ILS and CRM in accordance with the Library's procedures, and shall specify:
 - a) the date and time the Express Consent was given;
 - b) the types of EMs the Person has consented to; and
 - c) the manner in which the Express Consent was given.
14. 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:
 - a) a request that the recipient consent to receive EMs from the Library;
 - b) the purpose for which the consent is being sought (e.g., for receiving EMs; for installing a particular Computer Program);
 - c) the Library's name and mailing address;
 - d) At least one of the following:
 - i. the Library's email address;
 - ii. the Library's telephone number;
 - iii. the Library's website; and
 - e) a statement that consent may be withdrawn at any time.
15. Express Consent shall not be sought by or on behalf of the Library by sending an Electronic Message to an Electronic Address, unless the Library has Implied Consent (as prescribed at Part V herein) from the Person to whom the Electronic Message is being sent.
16. All requests for Express Consent made in writing shall not include pre-checked boxes.
17. All Express Consents provided to the Library in hard copy format shall be scanned and saved in the CRM.
18. All requests for Express Consents made by or on behalf of the Library orally shall follow the following procedure:
 - a) The individual requesting the consent shall disclose to the Person from whom the consent is being sought:

- i. that the consent is being sought on behalf of the Library;
 - ii. the purpose for which the consent is being sought (e.g., for receiving EMs; for installing a particular Computer Program);
 - iii. the Library's mailing address;
 - iv. at least one of the
 - the Library's email address;
 - the Library's telephone number;
 - the Library's website, and
 - v. that the Person may withdraw the consent at any time.
- b) If consent is requested in person, the individual seeking the consent shall request that the Person sign a form stating: "I / we hereby consent to receive electronic communications from the Innisfil Public Library."
 - c) If consent is requested by telephone, the individual seeking the consent shall request that the Person send an email or text message to designated staff person with the following sentence: "I / we hereby consent to receive electronic communications from the Innisfil Public Library."

19. Any individual who obtains Express Consent on behalf of the Library shall enter the Express Consent into the CRM as soon as is reasonably possible, in accordance with the Library's procedures.

PART V – IMPLIED CONSENT

20. The Library has Implied Consent to send EMs to the following:
- a) Persons who are current, active cardholders of the Library;
 - b) Persons who were cardholders of the Library but who ceased to be cardholders in the 24 months preceding the date of the sending of the EM;
 - c) Persons who entered into a financial transaction with the Library in the 24 months preceding the date of the sending of the EM. This can be confirmed in the account history prior to the sending of the EM.
- 21.
- a) Prior to July 1, 2017, the Library has Implied Consent to send EMs to Transition Cardholders, in the course of carrying out Library activities.
 - b) After July 1, 2017, no EMs may be sent to Transition Cardholders by or on behalf of the Library in the course of carrying out Library activities, unless:
 - i. there is Implied Consent to send those Persons EMs, in accordance with section 20 of this Policy; and/or
 - ii. there is Express Consent to send those Persons EMs, in accordance with Part IV of this Policy.

PART VI – UNSUBSCRIBE MECHANISM

22. 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 Electronic Messages from the Library (the “Unsubscribe Mechanism”).
23. The “Unsubscribe Mechanism” shall be prominently displayed in the body of all EMs sent by or on behalf of the Library.
24. All requests to Unsubscribe shall be entered into the Library’s ILS and CRM as soon as is possible, in accordance with the Library’s procedures.
25. No EMs shall be sent by or on behalf the Library to any Person who made a request to Unsubscribe, ten days after the request was made and thereafter, unless the Person provides his or her Express Consent to receive EMs from the Library, or unless the EM meets one of the Exemptions (to be determined by the Library on a case-by-case basis).

PART VII – THIRD-PARTIES

26. The Library requires that all Third Parties have Express Consent or Implied Consent (as prescribed at Parts IV and V of this Policy) to receive EMs from the Library, from the Persons to whom the EMs are sent, prior to the sending of the EMs.
27. 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.
28. 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, actions or demands resulting 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.
29. 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 which ensure the Library’s compliance with CASL.
30. 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.

PART VIII – COMPUTER PROGRAMS

31. 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.
32. Notwithstanding section 31, there is no requirement to obtain Express Consent to install the following Computer Program on behalf of the Library:
 - a) a cookie;
 - b) HTML code;
 - c) Java Script; and
 - d) an operating system.
33. 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.
34. 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.

PART IX – USE OF THE LIBRARY'S COMPUTERS / INTERNET CONNECTION

35. Any Person who uses:
 - a) a Computer System owned, operated and/or controlled by the Library; and/or
 - b) 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.
36. 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.

PART X – TRAINING

37. Within 60 days of the implementation of this Policy, all Library Staff, Board Members and Volunteers are required to attend a mandatory training on this Policy (the "Training").

38. The Training shall be prepared and conducted by the Deputy Chief Librarian or designate.
39. Records of attendance at the Training shall be taken and tracked by the Library.
40. New hire Training: all Staff, Board Members and Volunteers of the Library shall be required to attend the Training, as soon as is possible after joining the Library and/or becoming a Volunteer for the Library.
41. Refresher Training: Refresher Training shall be conducted on an annual basis. Attendance at the refresher Training shall be mandatory for all Library Staff, Board Members and Volunteers.

PART XI – AUDIT

42. Once every six months, the Library shall conduct an audit of its electronic communication practices, to ensure compliance with this Policy (the “Audit”).
43. Notwithstanding section 38, at the Library’s sole and absolute discretion, the Library may from time to time conduct an audit of its electronic communication practices to ensure compliance with this Policy (the “Random Audit”).
44. In the event the Annual or Random 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.

Approved by the Innisfil Public Library Board, February 17, 2015
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