



GENERAL INSURANCE STATISTICAL AGENCY

Policy on Access to Information and Protection of Privacy

APPROVED DEC 17, 2007

The General Insurance Statistical Agency (GISA) is committed to being a transparent, open, and accountable organization. The following Policy on Access to Information and Protection of Privacy sets out the guidelines by which GISA adheres to these principles.

PURPOSE

- To provide the public the right of access to information held by GISA; and
- To impose a duty on GISA's staff to protect the privacy of the information and data reported by third parties.

SCOPE

- Any record of information, regardless of how it was recorded, such as paper, computer, e-mail, personal log books, microfilm, photograph, and video is subject to this Policy; and
- Where part of the record falls within one of the exclusions or limitations (see below), but other information in the record can be disclosed, as much of the record as possible must be disclosed.

EXCLUSION OF INFORMATION OWNED BY PARTICIPATING JURISDICTIONS

The data collected by GISA or its service provider for its participating jurisdictions, and including without limitation any and all Exhibits, Standard Reports, Ad Hoc Reports, information and documents derived from such data (collectively, the "Member Owned Information"), are the respective property of GISA's participating jurisdictions. The Member Owned Information of each participating jurisdiction is subject to the provincial laws of such jurisdiction including any freedom of information and privacy legislation of such province. All Member Owned Information is excluded from the application of this Policy.

LIMITATIONS ON ACCESS

There are two types of exemptions from the rights of access, discretionary and mandatory.

Mandatory Exemptions

Mandatory exemptions pose an obligation on GISA to refuse to disclose a record. There are five mandatory exemptions:

- (a) Cabinet Records: any record that went to, or is going to, or received from the Cabinet, or its committees, of any of the participating jurisdictions.

- (b) Board Deliberations: an agenda, minute or other record of the deliberations of decisions of the GISA Board or its committees.
- (c) Board information prior to decisions: any record that does not contain information referred to in Cabinet Records or Board Deliberations set out above, but does contain background explanations or analyses submitted to the GISA Board or its committees for their consideration in making decisions, before those decisions are made and implemented.
- (d) Third party confidential information: any record that satisfies the Information And Privacy Three Part Test set out below.
- (e) Personal information: such as a complainant's identity, home address, educational or employment history, personal views of a private citizen who contacted GISA, etc.

Discretionary Exemptions

Other exemptions are discretionary; which means that GISA may elect to disclose the record despite the existence of an exemption. Dealing with a discretionary exemption involves a two stage process. The first step is to determine whether the record or part of the record falls within an exemption and the second step is to decide whether GISA is willing to release the record despite the existence of the exemption (GISA Chair to make this decision). The following is a list of applicable discretionary exemptions:

- (a) Advice to the GISA Board or a government: information relating to a recommendation made by one GISA staff person to another which will ultimately be accepted or rejected (e.g. recommended options for policy direction).
- (b) Relations with participating jurisdictions: information that may have a negative impact on relations with the participating jurisdictions.
- (c) Economic and other interest of participating jurisdictions or companies: information that has trade secrets or financial, commercial, scientific or technical information that belongs to GISA's participating jurisdictions or companies and has monetary value or potential monetary value. For the purposes of this exemption, the statistical databases of GISA are deemed to have trade secrets and/ or financial, commercial and scientific or technical information that are the property of GISA's participating jurisdictions (see Exclusion of Information Owned by Participating Jurisdictions set out above).
- (d) Solicitor-client privilege: records that reveal the request for, or receipt of, legal advice or in contemplation of litigation.
- (e) Information already or soon to be published: records that have been, or will be with a reasonable time, be published by GISA or any of the participating jurisdictions.

FRIVOLOUS OR VEXATIOUS OR ABUSIVE REQUESTS

In select circumstances, GISA may decide not to process a request because the request is frivolous or vexatious or the requesting party is abusing the system. The GISA Chair is responsible for deciding whether to refuse to process a request on such a basis. In such event, GISA shall provide written notice to the requesting party setting out the following:

- (a) that the request is refused because GISA is of the opinion that the request is frivolous, vexatious or the requesting party is abusing the system;
- (b) the reasons for which GISA is of the opinion that the request is frivolous, vexatious or the requesting party is abusing the systems; and
- (c) that the requesting party may appeal to the GISA Board for a review of the decision.

For the purposes of this Policy, a request for access to a record is frivolous, vexatious or the requesting party is abusing the system if:

- (a) the GISA Chair is of the opinion on reasonable grounds that the request is part of a pattern of conduct that amounts to an abuse of the right of access or would interfere with the operations of GISA; or
- (b) the GISA Chair is of the opinion on reasonable grounds that the request is made in bad faith or for a purpose other than to obtain access.

INFORMATION AND PRIVACY THREE PART TEST

Information supplied to GISA by a third party can be exempted from disclosure if it satisfies all three parts of the information and privacy test. The test is as follows:

- (a) the record must reveal a trade secret or scientific, technical, commercial, financial or labour relations information; **and**
- (b) the record must have been supplied to the GISA in confidence; **and**
- (c) disclosure of the information must give rise to a reasonable expectation of harm, such as:
 1. significantly prejudice the third party's competitive position; **or**
 2. information would no longer be supplied to GISA where it is in the public interest to continue to be supplied; **or**
 3. result in an undue loss or gain to any person or organization.

ACCESS PROCEDURE

- (1) A person seeking access to a record shall:
 - (a) make a request in writing to GISA;
 - (b) provide sufficient detail relating to the record(s) being requested;
 - (c) at the time of making the request, pay the application fee.
- (2) Oral requests shall not be sufficient to comply with this section. GISA shall not be required to respond to any requests that are not delivered in writing to GISA.
- (3) If GISA reasonably determines that the request does not sufficiently describe the record sought, GISA shall inform the requesting party of the defect and shall offer assistance in reformulating the request so as to comply with this section.
- (4) Subject to the Procedure Regarding Affected Parties set out below, within 30 days after a request for information is received by GISA, GISA will provide a written response outlining whether or not access, or partial access, to the record(s) will be

given. If access is given, the record(s) will be included as part of the written notice to the requestor; as well as the final invoice for all other fees (including search time; preparation time; photocopying; invoiced expenses; and delivery fees).

- (5) In certain circumstances (e.g. large number of records or external consultations), GISA may extend the 30 day time limit for a period of time that is reasonable under the circumstances. This extension shall be subject to review by the GISA Chair. Where an extension is granted pursuant to this section, GISA shall give the requesting party written notice of the extension setting out:
 - (a) the length of the extension;
 - (b) the reason for the extension; and
 - (c) that the requesting party may ask the GISA Board to review the extension.
- (6) If GISA gives a person an estimate of an amount payable under this Policy for the cost of disclosing information and such estimate is \$100 or more, GISA may require the person to pay a deposit equal to 50 per cent of the estimate before GISA takes any further steps to respond to the request.
- (7) If a person is required to pay a fee for access to a record, GISA may require the person to do so before giving the person access to the record.

PROCEDURE REGARDING AFFECTED PARTIES

1. If GISA has reason to believe that the information to be disclosed may affect a person other than the requesting party, GISA shall give written notice to the affected person setting out:
 - (a) a statement that GISA intends to release a record or a part of a record that may affect the interests of the person;
 - (b) a description of the contents of the record or part that relate to the person; and
 - (c) a statement that if the person makes representations with twenty days to GISA as to why the record or part thereof should not be disclosed, those representations will be considered by GISA.
2. GISA would then notify the requesting party that an affected person is being given an opportunity to make representations on the disclosure request.
3. The affected person is given the opportunity to make representations to GISA, within twenty days after the notice is given, as to why the information should not be disclosed.
4. Not earlier than 21 days, or later than 30 days, of giving notice pursuant to section 1 above, GISA shall make its decision whether to disclose.
5. GISA then must give written notice of the decision on whether to disclose to the requesting party and the affected person and give the affected person an opportunity to appeal the decision.
6. If no appeal is launched, GISA will disclose the information if such disclosure is in compliance with this Policy.

DISCLOSURE DENIAL

If the request to gain access to a record or part thereof is denied, GISA's notice of refusal to the person seeking access to the information shall include:

- (a) where there is no such record,
 - (i) that there is no such record, and
 - (ii) that the person who made the request may appeal to the GISA Board regarding whether such a record exists; or
- (b) where there is such a record,
 - (i) the specific provision under this Policy that applies to the record,
 - (ii) the reason the provision applies to the record,
 - (iv) that the person who made the request may appeal to the GISA Board for a review of the decision as outlined in the Appeal section below.

APPEAL

In general, any decision that is made under this policy may be appealed to the GISA Board provided that new information relating to the request is presented. The appeal must be made in writing within 30 days of receipt of GISA's decision.

ANNUAL REPORT TO THE BOARD

An annual report to the GISA Board will be presented by the GISA Secretariat each year. The report shall include:

- (a) The number of requests under this policy
- (b) The number of refusals to disclose a record under this policy, the provisions of this policy under which disclosure was refused and the number of occasions on which each provision was invoked.
- (c) The amount of fees collected for requests made under this policy

CHARGEABLE FEES

\$5.00, NONREFUNDABLE APPLICATION FEE

\$25.00 APPEAL FEE

SEARCH TIME - \$30/hr (no free time) - to locate the records if a whole file is requested or a specific document in a file, if that is the nature of the request

PREPARATION TIME - \$30/hr (examples: remove binding; taking a complainant's name off an occurrence report, etc).

PHOTOCOPYING @ 20 cents per page (includes time/labor)

INVOICED EXPENSES @ cost (examples: photographs, blue prints, shipping)

DELIVERY @ cost

The list of chargeable fees and the applicable charge rates may be changed from time to time without notice at the discretion of the GISA Board.