



Office of the Information and  
Privacy Commissioner of Alberta

## Changes to Processing of PIPA Privacy Breach Notifications

**April 1, 2024**

The Office of the Information and Privacy Commissioner (OIPC) is revising its procedures for processing breach notifications received under the *Personal Information Protection Act* (PIPA). A privacy breach (or breach) means a loss of, unauthorized access to, or unauthorized disclosure of personal information.

The new process for processing breach notifications is in effect starting on **April 1, 2024** and applies to all open PIPA breach files. The new [PIPA Privacy Breach Process](#) and [Guidance](#) are available on the OIPC website. You can also find the Privacy Breach Notification Form under PIPA on the [Forms](#) page of the OIPC website under the heading Mandatory and Self-Reported Breach Forms.

Key changes are highlighted in the table below.

### **Why have we revised our processes?**

Section 34.1 of PIPA requires organizations, without unreasonable delay, to provide notice to the Commissioner of any privacy breach where a reasonable person would consider that there exists a real risk of significant harm (RROSH) to individuals as a result of the breach.

Section 37.1(1) provides the Commissioner with the discretion to require organizations to notify individuals if the privacy breach meets the criteria of section 34.1 in the form and manner prescribed by the regulations. Section 37.1 (3) requires the Commissioner to establish an expedited process for determining whether to require an organization to notify individuals if the RROSH is obvious and immediate.

A key purpose of the breach notification provisions in PIPA is to ensure that organizations notify, in a timely fashion, affected individuals for whom there exists a real risk of significant harm (RROSH).

In July 2022, the OIPC released a [report](#) that analyzed nearly 2,000 breaches reported in Alberta between 2010 and 2021. One of the report's significant findings was that since 2012-2013, at least 80% of organizations had already notified affected individuals of a privacy breach involving

their personal information by the time the OIPC received notice of the breach. Therefore, in a majority of cases, this key purpose of the OIPC breach notification process had been fulfilled by organizations before the OIPC process began. After the release of the 2022 report, we examined procedures in our Compliance Support unit, and found a number of opportunities to improve efficiency and sustainability of our procedures for processing PIPA breach notification files.

The changes being made to this process will enable timely resolution of PIPA privacy breach files, will help to reduce backlogs in processing PIPA privacy breach files, and will allow the OIPC to allocate resources to cases that require increased attention. These revisions align with the strategic priority, found in our 2023-2026 Business Plan, of enhancing internal processes to support our legislative mandate and to improve response timelines.

### What is changing?

Previous Process	New Process	How Does this Affect Organizations?
<p>Breach Notification Decisions (BNDs) under section 37.1 were issued for all breaches with a real risk of significant harm (RROSH) to individuals, regardless of whether an organization had already notified individuals in accordance with the PIPA Regulation.</p>	<p>BNDs will be issued when an organization has suffered a privacy breach that meets the criteria of section 34.1 but has not notified affected individuals or when notice to affected individuals does not meet the requirements of the PIPA Regulation.</p> <p>“No RROSH” and “No Jurisdiction” decisions will continue to be issued as appropriate in letter form.</p>	<p>Organizations that notify affected individuals on their own initiative and in accordance with the PIPA Regulation will receive a closing letter instead of a BND.</p>
<p>All RROSH BNDs were published on the OIPC website.</p>	<p>The general practice of publishing all BNDs will cease.</p> <p>BNDs, in complete or abridged form, may be published at the discretion of the Commissioner.</p>	<p><a href="#">BNDs published</a> in the past will remain available for review on the OIPC website.</p> <p>Summaries and statistical information about privacy breaches will be published on the OIPC website to inform Albertans of novel or impactful incidents and trends.</p>
<p>All <b>information</b> about breaches provided to the OIPC, whether or not it was provided as formal</p>	<p>Breach notices or information received that meets the criteria of section 34.1 notice but affected</p>	<p>Under section 37.1, the OIPC may request additional information about an incident regardless of whether or not an organization has notified the OIPC under section</p>

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<p><b>notice</b> under section 34.1 of PIPA, were processed in the same manner.</p>	<p>individuals have not been notified, or if notification to individuals does not meet the requirements of the Regulation, will be processed on an expedited basis.</p> <p>The submission of the OIPC Privacy Breach Notification Form is notice under section 34.1.</p> <p>If it is not clear that the information provided is notice to the OIPC under section 34.1, or if the organization is not clear in establishing that a RROSH exists to affected individuals, the OIPC is not considered to have been notified under section 34.1.</p>	<p>34.1. Pursuant to section 37.1(5)(a), organizations must comply with a requirement to provide additional information under section 37.1(4).</p> <p>The Commissioner may issue a decision under section 37.1 to notify affected individuals if the information provided by the organization is regarding an incident that involves the circumstances under section 34.1. As noted, the OIPC may publish in full or abridged form these decisions.</p> <p>The OIPC may investigate whether an organization complied with its section 34.1 duty to notify the OIPC of a privacy breach, as provided by sections 36(1)(a) and 36(2)(e.1).</p> <p>It is an offence to fail to provide notice to the OIPC under section 34.1 (section 59(1)(e.1)).</p>
<p>One form was provided for notification of a privacy breach to the OIPC under Alberta's three privacy laws.</p>	<p>New guidance on breach notices, a new process document, and new form is available to organizations specifically providing notice of a privacy breach under PIPA.</p> <p>A separate form is to be used to report privacy breaches under the <i>Health Information Act</i> (HIA) and the <i>Freedom of Information and Protection of Privacy Act</i> (FOIP Act). Custodians under HIA and public bodies under the FOIP Act should continue to use the form and guidance available prior to April 1, 2024.</p>	<p>The new <i>PIPA Privacy Breach Notification Form</i> was developed to assist organizations with notifying the OIPC of a privacy breach under section 34.1, with the information required to meet the requirements of section 19 of the Regulation.</p>