

POLICY 7.1.1

BIBLIOTHÈQUE PUBLIQUE DU CANTON DE RUSSELL TOWNSHIP OF RUSSELL PUBLIC LIBRARY



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Title of policy : Anti-spam Compliance Policy
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STATEMENT OF PURPOSE

The Board is committed to complying with Canada's Anti-Spam Legislation (CASL) and its requirements.

A. DEFINITIONS

1. In this Policy, the following terms have the following meaning:

- **“Canada’s Anti-Spam Legislation” or “CASL”** means the following Act and Regulations:

- 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”);
- Electronic Commerce Protection Regulations (CRTC), SOR/201236; and
- Electronic Commerce Protection Regulations (Industry Canada), SOR/2013221.

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

- software;
- applications (apps);
- games;
- ebooks;
- any upgrades or updates to an existing Computer Program; and
- any other computer code that meets the above description.

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

- contains Computer Programs or other data, and
- pursuant to Computer Programs,
 - performs logic and control, and
 - 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:

- by email;
- by text message;
- by instant message;
- via a social media account.

For greater certainty, an EM does not include messages:

- sent via posted mail;
- sent via fax;

- c) communicated via a two-way voice conversation;
- d) communicated via voicemail to a telephone account; and/or
- e) 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:

- i. an email account;
- ii. an instant messaging account;
- iii. a telephone account;
- iv. a social media account; or
- v. 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 section F herein.

● **“Person”** means an individual, partnership, corporation, organization, association, trustee, administrator, executor, liquidator of a succession, receiver or legal representative.

B. GUIDELINES: GENERAL

1. The Library CEO or designate is responsible for administering and enforcing this Policy.
2. Compliance with this Policy is required by all Library directors, employees and volunteers, and any other Person who communicates on behalf of the Library.
3. Notwithstanding anything in this Policy, at its 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.
4. 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.

C. GUIDELINES: ELECTRONIC ADDRESSES

1. No Person shall collect an Electronic Address for the purposes of sending Electronic Messages on behalf of the Library to the Person who owns that Electronic Address without having first obtained the consent of that Person.
2. All Electronic Addresses collected by or on behalf of the Library shall be entered, stored and managed by the Library in a centralized Customer Relationship Management database (“CRM”), which is connected to and/or managed by the Library’s

Integrated Library System (“ILS”).

3. All individuals who obtain and/or collect Electronic Addresses on behalf of the Library must enter those Electronic Addresses into the CRM, in accordance with the Library’s policies and procedures respecting collection of personal information.

D. GUIDELINES: ELECTRONIC MESSAGES

1. No EM shall be sent by or on behalf of the Library, in the course of carrying out 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 defined by this Policy.

2. EMs sent by or on behalf of the Library in the course of carrying out the Library’s activities may only be sent to Electronic Addresses that have been entered into the CRM.

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

- a) the Library’s name and mailing address;
- b) the Library’s telephone number and website URL; and
- c) the Library’s unsubscribe mechanism, as prescribed in section G herein.

4. EMs sent between employees of the Library and/or from employees of the Library to employees of other libraries shall concern the activities of the Library.

5. 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 his/her 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.

E. GUIDELINES: EXPRESS CONSENT

1. The Library shall endeavour to obtain Express Consent from all Persons to whom it sends EMs, at all reasonable opportunities.

2. Express Consents provided to the Library shall be entered into the Library’s 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.

3. 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) the Library’s telephone number and website URL; and
- e) a statement that consent may be withdrawn at any time.

4. 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 from the Person to whom the Electronic Message is being sent.

5. Requests for Express Consent made in writing shall not include pre-checked boxes.

6. Requests for Express Consents made orally 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. the Library's telephone number and website URL; and

v. that the Person may withdraw the consent at any time.

b) ONLY email addresses authorized verbally or in writing by a Person shall be entered into the Library's CRM.

c) Details of the Express Consent shall be noted in the customer's record in the CRM including the purpose for which consent is being sought, the date consent is obtained and the initials of the staff member who obtained the consent.

7. Any individual who obtains Express Consent on behalf of the Library shall enter the Express Consent into the CRM within three business days of receiving the Express Consent, or as soon as is reasonably possible, in accordance with the Library's procedures.

F. GUIDELINES: IMPLIED CONSENT

1. 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 the EM is sent;

c) Persons who entered into a financial transaction with the Library in the 24 months preceding the date the EM is sent;

2. (a) For the purposes of this section, the following term has the following meaning:

● **"Transition Cardholders"**: means individuals:

i. who were cardholders of the Library prior to July 1, 2014;

ii. who ceased to be cardholders of the Library prior to July 1, 2014; and

iii. to whom the Library has sent EMs prior to July 1, 2014.

(b) Prior to July 1, 2017, the Library has Implied Consent to send EMs to Transition Cardholders, in the course of carrying out Library activities.

(c) 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, as defined by this Policy; and/or

ii. there is Express Consent to send those Persons EMs, as defined by this Policy.

G. GUIDELINES: UNSUBSCRIBE MECHANISM

1. 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”).
2. The Unsubscribe Mechanism shall be prominently displayed in the body of all EMs sent by or on behalf of the Library.
3. All requests to Unsubscribe shall be entered into the Library’s CRM by the individual who received the request within three business days of being notified of the request, or as soon as is reasonably possible, in accordance with the Library’s procedures.
4. 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).

H. GUIDELINES: THIRD PARTIES

1. For the purposes of this section, the following term-has the following meaning:
 - **“Third Party”** means a Person who is not a director or employee of the Library, who sends EMs that promote, advertise, market, or otherwise encourage participation in the Library’s activities.
2. The Library requires that all Third Parties have Express Consent or Implied Consent to send EMs on behalf of the Library, from the Persons to whom the EMs are sent, prior to the Ems being sent.
3. 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.
4. 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.
5. 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.
6. 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 shall be made by the Library on a case-by-case basis.

I. GUIDELINES: COMPUTER PROGRAMS

1. 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.
2. There is no requirement to obtain Express Consent to install the following Computer Programs on behalf of the Library:
 - a) A cookie;
 - b) HTML code;
 - c) Java Script; and
 - d) An operating system.
3. 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.
4. For the purposes of this section, the following term has the following meaning:
 - **“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.
5. 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.

J. GUIDELINES: USE OF THE LIBRARY’S COMPUTERS / INTERNET CONNECTION

1. 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.

2. Any Person who contravenes this section 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.

K. GUIDELINES: TRAINING

1. The Library's directors, employees and volunteers are required to attend training on this Policy.
2. The Head of Communications, Marketing and Community Engagement shall be responsible for all training on this Policy.
3. New directors, employees and volunteers will receive training within ninety days of joining the Library or becoming a volunteer for the Library.
4. Refresher training shall be conducted every 48 months.

L. GUIDELINES: AUDIT

1. Once every twelve months, the Library shall conduct an audit of its electronic communication practices, to ensure compliance with this Policy (the "Audit"). The Audit shall be conducted and managed by the Head of Communications, Marketing and Community Engagement.
2. 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").
3. In the event an Annual or Random Audit reveals 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.