

Law 25

The Unavoidable Duty to Protect Personal Information

Three years after its gradual implementation, Law 25 remains a daily challenge for Québec municipalities. This law is designed to prevent major data leaks and strengthen the protection of personal information. It imposes stringent obligations on all municipalities, without exception. How have these obligations been handled so far, and how can we ensure long-term compliance?

"A few years ago, several incidents, such as the one involving Desjardins, demonstrated the urgent need to strengthen the protection of personal information," says Stéphanie Provost, a lawyer specializing in municipal law at Prévost Fortin D'Aoust.

Although best practices are gradually being implemented, there are still challenges in applying the requirements of Law 25 (formerly Bill 64) on a daily basis. These challenges include clear identification of sensitive information, increased administrative pressure, the need for ongoing training, and the constant vigilance required in the face of IT risks.

And since this law applies to all municipalities, regardless of size, municipal administrations have no choice but to adapt their processes to their specific means and needs.

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Stéphanie Provost
Lawyer specializing in municipal law
at Prévost Fortin D'Aoust

Identifying personal information: a major challenge

One of the main difficulties observed by Ms. Provost during her ADMQ training sessions was the identification of personal information. "The concept is so broad that it affects all kinds of situations and involves many municipal officers. The same information may be considered public in one case and confidential in another," she explains.

"Municipalities also need to make sure that they have an operational understanding of these requirements, notably by conducting Privacy Impact Assessments (PIAs)," adds Virginie Bernier, Senior Manager, Advisory, Risk Consulting, Privacy, Cybersecurity at KPMG.

"We work with cities and municipalities of all sizes, and we've seen time and time again that this is an often misunderstood but essential step in preventing risks associated with the use of personal information," she says.

Small municipalities under greater pressure

For small municipalities, the administrative burden associated with Law 25 is especially heavy. Not only do they have to perform more administrative checks and bolster their IT security, but they also have a duty to ensure that employees receive ongoing training—a priority that is sometimes neglected for lack of time.

"All employees, from the director general to the receptionist, not to mention elected officials, must clearly understand what personal information is," insists Ms. Provost. "In addition to the obligation to systematically obtain citizens' consent and rigorously secure physical and computer access to data, employees and elected officials must be made aware of digital threats such as phishing. The collection of information must also be limited to what is strictly necessary. It's simple math: the more you collect, the greater the risk!"

Ms. Bernier also points out that, although they generally have fewer resources, smaller municipalities can benefit from faster implementation. However, they must remain vigilant about clearly assigning responsibilities within their small teams.

"It's also crucial to be transparent with citizens, clearly explaining how their information will be used and protected, and how they can exercise their rights," she adds, stressing the importance of regular policy reviews and ongoing awareness for employees and elected municipal officials alike.

Watch out for penalties!

Although the Commission d'accès à l'information (CAI) has yet to impose severe penalties on municipalities, Ms. Provost reminds us that Law 25 provides for substantial fines of up to several thousand dollars for serious shortcomings, such as a lack of adequate policies or a breach of confidentiality.

"If some municipalities have fallen behind in implementing the requirements of Law 25, I would strongly recommend using the free tools and templates provided by the government to help with the compliance process."

And even once everything's done, Virginie Bernier advises us not to let our guard down. "Even when you've completed and implemented everything, it's important to establish a regular review and awareness process! All these tools and new procedures need to be kept alive and revisited regularly. DGs have no choice but to stay on top of things and make their teams aware of this new reality."

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