REPORT TO THE LIBRARY BOARD
Meeting date: November 25, 2010

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<th>Session:</th>
<th>Public Session</th>
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<tr>
<td>Subject:</td>
<td>Internet Service Policy: Annual Review</td>
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<td>Prepared By:</td>
<td>Senior Team</td>
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<tr>
<td>Presented By:</td>
<td>Susanna Hubbard Krimmer</td>
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<td>Purpose of Report:</td>
<td>For Decision: Approval ☑</td>
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**Recommendation**

It is recommended that the London Public Library (LPL) Internet Service Policy, per Library Board motion LA 08/57 and as provided in Appendix 6 of this report, remain in effect and that no changes be made at this time.

It is also recommended that:

- Administration continue to monitor the progress of:
  - Ontario Provincial Parliament, Bill 66, *An Act to protect our children from pornography*, 2010; and
  - House of Commons of Canada, Bill C-22, *An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet Service*, 2010 and Bill C-209, *An act to prevent the use of the Internet to distribute pornographic material involving children*, 2009;

- Administration update the Library Board on matters related to the policy, as required; and

- the Library Board conducts its annual review of the policy in November 2011 according to the review date for the current policy.

**Purpose**

The Library Board is undertaking its annual review of the LPL *Internet Service Policy*. The purpose of this report is to provide information to assist in that process and specifically to:

- Provide an update on the legislative environment;
- Provide a monitoring and review of the application of the *Internet Service Policy*;
• Provide comprehensive background information from previous reports, due to the ongoing interest in the policy and its application;
• Identify supporting policies that address behavioral issues related to the public’s use of Internet services;
• Confirm the ongoing communications strategy regarding the policy and Internet safety; and
• Recommend any changes to the Internet Service Policy.

**Issue / Opportunity**

Libraries provide access to information, ideas and works of imagination in any medium and regardless of frontiers. They serve as gateways to knowledge, thought and culture, offering essential support for independent decision making, cultural development, research and lifelong learning by both individuals and groups.

From LPL’s point of view, the Internet is the ideal vehicle to:

• Enhance public access to information and expressions of creativity and thought;
• Expand the library’s collection of information resources;
• Provide users with the opportunity for remote dialogue with subject-matter experts and to engage with other people on an infinite variety of topics; and
• Enable collaborative research and study.

LPL’s Internet Service is consistent with its Vision, Mission, Value Promise and Service Excellence Model. LPL offers Internet access as part of its suite of services to the public in an effort to meet community needs in the areas of: Literacy, Learning, Culture, Leisure and Recreation, Information, and Community Meeting Place.

Any policy adopted by the LPL will be based on two fundamental principles: Providing the broadest Internet access possible to its patrons in a way that is in accord with the Canadian Charter of Rights and Freedoms and which includes due regard for the privacy of patrons who access the Internet.

In instances when exceptions to the above are necessary to protect others (i.e. minors) the restriction should be as minimally invasive as possible.

The challenge is to create balance between the rights of individuals to access a wide range of information resources with the rights of users and staff to work in a public environment.
Background & Review Summary

The current Internet Service Policy was adopted by the Library Board at its meeting of November 27, 2008 (L08/57) with the direction that the policy be reviewed annually or at such time within the annual framework as may be necessary.

Policy Development & Review

In developing the current policy, LPL reviewed:

- Philosophical context;
- Constitutional and legal context;
- Legal opinions, i.e. due diligence on Internet access in public libraries;
- Public policy context, e.g. policy statements of Canadian public libraries;
- Service best practices;
- Technology-based tools, e.g. filtering software; and
- Strategies for promotion of media awareness and safe surfing.

LPL has instituted a continual process of environmental scanning to ensure that we are current on all elements of the policy framework.

Highlights of the Current Internet Service Policy

Highlights of the current Internet Service Policy include:

- Incorporation of guiding principles;
- Incorporation of library, user and staff responsibilities;
- Provision of broad access to content;
- Access to content is limited only by the extent required for the protection of children and teens which will affect LPL filtering practice;
- A statement of consequences for inappropriate behaviour and/or unlawful activity; and
- A required annual review.

Consistent with the Internet Service Policy, LPL has in place:

- Privacy screens on monitors, privacy partitions;
- Complaints/Incident reporting process and procedures;
- Staffing training; and
- Web awareness tools and programming.

Users are responsible for:

- Following the Library's Charter of Use, Rules of Conduct and other policies related to conduct in library space;
- Respecting the rights of others when accessing Internet sites in library space;  
- Respecting the privacy of other library patrons; and  
- Determining the legality of any sites they access.

LPL provides a combination of unfiltered and filtered Internet access across the system and at each location:

- Computers specifically designated for use by children and/or teens, such as Homework Centre Computers, are filtered;  
- Computers in spaces specifically designed for use by children and/or teens are filtered;  
- Computers designated for specific functions, such as the Employment Resource Centre computers, are filtered; and  
- All other computers, including wireless connections, are unfiltered.

Note: Exceptions occur in cases in which all other methods of due diligence regarding the reasonable protection of children/teens cannot be achieved.

**REVIEW OF LEGISLATIVE ENVIRONMENT**

The legal framework within which the current *Internet Service Policy* was developed includes, for example: *Canadian Charter of Rights and Freedoms, Canadian Human Rights Act, Copyright Act, Criminal Code of Canada, Telecommunications Act, Broadcasting Act, Film Classification Act, Public Libraries Act* and City of London By-laws.

Currently, there are three pieces of proposed legislation at the provincial and federal levels which the Library is monitoring in terms of its potential impact on the Internet Service Policy.

(Ontario) Bill 66, *An Act to protect our children from pornography*, 2010

A bill before the Ontario Provincial Parliament, Bill 66, *An Act to protect our children from pornography* 2010 would amend both *Education Act* and *Public Libraries Act*. This bill was first introduced in the previous session as Bill 202, *Education Statute Law Amendment Act (Electronic Sexual Material)*. This bill would make it mandatory that “pornography” filtering systems be installed for all computers in schools and libraries in Ontario. On September 16, 2009, it passed first reading in the provincial legislature. The Bill was carried in second reading on October 1, 2009 and was been referred to the Standing Committee on Regulations and Private Bills. Upon the end of the previous parliamentary session, the Bill died. The amending act was subsequently re-introduced as Bill 66 and received First Reading on May 12, 2010.
The Federation of Ontario Public Libraries has voiced its concern to the government regarding implications to public library service.

In 2009, information packages were sent by London Public Library to local area Members of Provincial Parliament so that they were apprised of LPL’s policy and practices and how this shows public policy in action, i.e. how public library Internet service is offered in a practical setting.

See Appendix 1: Bill 66, Education Statute Law Amendment Act (Electronic Sexual Material), 2010

(Canada) Bill C-22 An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service, 2010

This federal bill was originally introduced in 2009 as Bill C-58. It achieved Second Reading and was sent to the House of Commons Standing Committee on Justice and Human Rights in November 2009. The Bill died when Parliament was prorogued early in 2010. Currently, Bill C-22 received Second Reading and has been referred to the Standing Committee on Justice and Human Rights on October 4, 2010. Bill C-22 is intended to fight Internet child pornography by requiring Internet service providers and other persons providing Internet services, such as Facebook, Google and Hotmail to report any incident, including notification of police, provision of Internet address and preserve computer data.

See Appendix 2: Bill C-22: An Act respecting the Mandatory reporting of Internet Child Pornography by Persons who provide an Internet Service, 2010

(Canada) Bill C-209 An Act to prevent the use of the Internet to distribute pornographic material involving children, 2008

This federal bill received First Reading in November 2008. The Bill did not die because of prorogation but was reinstated at the last stage, being First Reading, on March 3 2010. The purpose of this proposed act is to prevent the use of the Internet to unlawfully promote, display, describe or facilitate participation in unlawful sexual activity involving young persons. The Bill includes a section on the use of “all means that are reasonably available” to prevent access to materials deemed to be child pornography.

See Appendix 3: Bill C-209: An Act to prevent the use of the Internet to distribute pornographic material involving children, 2008
MONITORING AND REVIEW OF INTERNET SERVICES POLICY APPLICATION

We continue to monitor and review the application of the *Internet Service Policy* and its associated operational procedures and guidelines by:

- Reviewing the physical environment on an ongoing basis, including furniture and equipment placement, e.g. privacy screens for monitors, in response to issues and concerns raised by the public and staff;
- Ensuring that staff orientation and training programs and procedures are up to date and utilized;
- Responding to incidents as they arise, documenting and tracking incidents using incident management process/forms, and following up with appropriate actions;
- Tracking of and responding to public/staff comments and feedback; and
- Monitoring filtering software reports.

**Physical Environment**

LPL has continually reviewed furniture and equipment layout to help to minimize unintentional exposure to content being viewed on computer screens and to support user privacy. As necessary, changes are made to the placement of computer workstations. In 2009, a major review of the physical environment, placement of workstations, etc. was undertaken. Adjustments were made in almost all locations. Minor changes in a number of locations were made in 2010 as staff continues to seek improvements to address sightline and privacy issues.

In 2011, the LPL will undertake a review of the Central Library floor plans taking into consideration increased wireless/laptop and mobile device use in order to continue to balance sightlines and computer user privacy.

**Staff Training and Support**

Staff training and support are an essential component of the successful application of the *Internet Service Policy*. An e-learning module, procedure document and job aid are available to all staff through the Intranet. The corporate orientation program for new staff includes a component on the Internet Service Policy.

The following training goals are in place for staff:

- To ensure awareness of the Internet Service Policy;
- To understand the rights and obligations of users under the Policy; and
- To understand the processes and appropriate actions in the event the Policy is contravened by a user.
Following the Board's annual review of the Internet Service Policy, all public service supervisors will undertake a review of procedures and guidelines related to the application of the policy.

**Incident Reports Regarding the Viewing of Objectionable Content**

The following comparative statistics for 2009 and 2010 (projected) provide a context for Internet usage discussed in this report.

<table>
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<th>Table 1: Comparative Annual Computer Usage Indicators</th>
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<td>Indicator</td>
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<tr>
<td>Use of Internet workstations</td>
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<tr>
<td>Wireless usage</td>
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<tr>
<td>Total in-Library Internet Computer Usage</td>
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These numbers include only the computers that provide access to the Internet. CD-ROM workstations are not included. Catalogue workstations are included as they provide some access.

Incident reports are prepared by staff or security when infractions of Library policies have occurred or a patron has raised a concern about activity in the Library for which Library staff and/or security staff has been required to take some kind of action.

Appendix 4 contains a table of all incident reports filed relating to complaints from the public about viewing of objectionable content for 2009 and 2010 (to early-November). The table includes date, description, location and staff follow-up.

See Appendix 4: Internet Service Incidents, 2009-2010.

Table 2 below summarizes occurrences of incident reports.

<table>
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<th>Table 2: Incident Report Occurrences 2009 and 2010 Comparison of Objectionable Content Type and Total</th>
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<tr>
<td>Type</td>
</tr>
<tr>
<td>Objectionable Internet Content</td>
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<tr>
<td>Total Incidents</td>
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In 2009, we reported that the number of reported occurrences of viewing objectionable content had increased over previous years. It was believed that this increase was a result of heightened awareness, due to the arrest made in August 2009, related to the
alleged viewing of child pornography and this may have encouraged more patrons to voice concerns. In 2010, the number of incidents returned to previous levels.

Table 3 below compares the total number of incidents related to the viewing of objectionable content on the Internet compared to total Internet usage, measured by the number of log-ons, for the same time period.

| Table 3: Total Incidents Related to Viewing of Objectionable Content Compared to Internet usage, 2009-2010 |
|-------------------------------------------------|-----------------|-----------------|
| Total Incidents                                | 2009            | 2010            |
| Total Internet Usage (log-ons)                  | 614,470         | 657,000         |
| Percentage                                     | .004 %          | .001 %          |

The Library recognizes that, while the number of incidents is proportionately small compared with the total number of Internet uses, for individual users a single incident of exposure may be disturbing on a personal basis. Therefore, all information and feedback gathered as part of the incident reporting process is carefully reviewed to determine if there is anything we can do better in terms of technological and physical solutions to prevent unintentional exposure to content.

**Public Feedback**

LPL also receives feedback from library users and other members of the public about Library services either in person, through the “How Did We Do Today?” form, via e-mail, by the telephone, etc. The Library records all of this feedback in order to assist in gauging public response to services and taking appropriate steps on issues that may arise.

In 2010 we received two comments (one written and one by telephone) from members of the public with regards to LPL’s *Internet Service Policy* and practices. Comments relate to the viewing of “pornography” on computers in the Library, the potential impact on children using the Library and filtering. Library staff reviewed comments from the perspective of improving LPL’s procedures, training and physical environment in the provision of Internet service.

**Monitoring Filtering Software Reports**

*Net Alerts (URL Inquiries)*

LPL utilizes the “net alert” option provided by the filtering software, whereby users of filtered workstations, who encounter blocked sites that they believe have been incorrectly categorized as “pornography” (and therefore filtered), may send an alert to Netsweeper. Netsweeper’s process is to then review the categorization of the site. The Library receives notification of the net alert via e-mail.
Access to URLs categorized as Pornography

In the 2009 November report to the Library Board on the Internet Service Policy, graphs were presented which provided comparative data on the access to URLs categorized as “pornography”. The graphs compared the number of URLs accessed in selected categories and provided information on system-wide activity.


For this current review, Netsweeper data was reviewed for Sept 2009 and Sept 2010. The graphs provide a general comparison regarding the proportion of access to URLs categorized as “pornography” compared to other selected categories of uses of the Internet. In 2009, system-wide, access to sites categorized as “pornography” on unfiltered workstations ranked 11th. In 2010, system-wide access to these categorized sites ranked 10th overall, although the actual number of visits remained fairly constant. On filtered workstations, access to sites categorized as “pornography” remained at 16th, although the actual number of attempted visits (and where access was denied) was reduced significantly from the previous year.

A further analysis of overall URL access is presented in Table 4 below. The analysis is based on the study parameters presented in Appendix 5.

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<th>Table 4: Comparison of Recorded Traffic on Unfiltered Workstations, Sept 2009 and Sept 2010</th>
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<td>(Using selected categories related to information and social networking) (Source: Netsweeper)</td>
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<td>System-Wide</td>
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<td></td>
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<tr>
<td>Unfiltered Workstations: Total URLs</td>
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<tr>
<td>Unfiltered Workstations: URLs categorized as Pornography</td>
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<tr>
<td>% of URLs categorized as Pornography</td>
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</table>

It should be noted that this comparison of data for September 2009 and 2010 is a snapshot study and cannot be used to draw overall conclusions about specific aspects of Internet usage. Nevertheless the overall general indication is that access to URLs, categorized as “pornography”, is not a comparatively high percentage of Internet usage system-wide.

LPL Web Awareness and Internet Safety in Programs

LPL has continued to undertake web awareness initiatives. Branch locations offer specific programs such as Home School Visit (Home Learning Connection) "Intro to
the Library and Internet Safety" (my account, homework help, databases, website authority, security on Facebook and other social media sites/blogs etc).

A component of web safety and web awareness is included in “one on one” sessions for computer instruction. General tours, such as “Your Library” sessions, include a brief talk about web awareness and safety. Class visits to the Central Library include a component on web awareness and safety.

Brian Rhoden, Literacy Coordinator, represents the Library on the Community Safety and Crime Prevention Advisory Committee for the City.

Best Practice Review

LPL staff have been approached by and provided several libraries with information and advice in the area of web awareness and media literacy. LPL’s Internet Service Policy and practices continue to be cited as a best practice for public libraries in Canada.

Communications

LPL’s Communications Strategy to inform community stakeholders, including partners, of about the Library’s Internet Services includes the following key elements:

• Create awareness and understanding about LPL’s valuable Internet Service and its benefits to the user;
• Convey information about the LPL Internet Service Policy and its context;
• Provide information about any changes that will affect users and staff;
• Engage staff and community partner participation in the creation and implementation of new practices to ensure that the service is relevant, accessible and high quality and effective and efficient from an internal perspective;
• Encourage user media awareness and Internet safety;
• Ensure staff knowledge, capabilities, empowerment and confidence in providing information, answering questions and responding to queries, concerns and complaints; and
• Provide opportunities for public feedback on the LPL Internet service.

SUPPORTING POLICIES THAT ADDRESS BEHAVIOURAL ISSUES RELATED TO THE INTERNET SERVICE POLICY

London Public Library endeavours to provide a welcoming and safe environment for the enjoyment of the public and staff so that all persons may enjoy the benefits of the Library. The LPL Charter of Library Use and all related policies require that individuals using Library services and resources are expected to act with respect and consideration for others and for Library property. Library Staff are entrusted with the obligation to ensure that policies for Library use are followed and will apply these policies in a fair, dignified and positive manner for the benefit of all. Any person
violating Library rules risks suspension of Library privileges, exclusion from the Library, cost-recovery damages and prosecution. The policies empower and require staff to respond to inappropriate behaviours that may occur when people are using any of the services provided by the Library.

Each of the Charter of Library Use policies, below, applies to people using LPL’s Internet Service. The clarity around this in our staff procedures and training has resulted in more timely, effective and appropriate follow up on issues. We have also endeavoured to communicate publicly that there are consequences for inappropriate behaviours (including those by someone using the Internet in a library location) to underscore that LPL is working hard to create a welcoming and safe environment for everyone.

**Rules of Conduct**

The purpose of this policy is to address expectations and issues regarding behavior of patrons in the Library. It sets out expectations regarding mutual respect, safety of children, respect for library property, and accessing and using intellectual content and establishes consequences for violation of the rules including loss of library privileges, banning and prosecution.

Members of the public and staff are expected to act with respect and consideration for others. Behaviour that is disruptive, intrusive, lewd, abusive, harassing or threatening to Library users or staff is not permitted. Abusive or obscene language is not permitted.

**Unattended Children Policy**

The purpose of this policy is to address the issue of children left unattended in the Library. An unattended child is a child left without visible supervision within the library. This policy applies to all children, under the age of 12, in all locations across the London Public Library system. Parents, guardians or caregivers are responsible for providing supervision and care of their children while a child is on the premises of London Public Library. It is the responsibility of the parent or caregiver to monitor both the whereabouts and behaviour of their children while on Library premises. Library staff cannot care for nor take responsibility for children left unattended at the Library.

**Computer Use Policy**

This policy was updated in 2009 (review date: January 2012) and pertains to the use of computer hardware, software, networks, vendor software licenses, and other related entities. The purpose of this policy is to outline: the Library’s responsibilities in providing computers for public use; the user’s responsibilities in using library computer hardware, software and related equipment; staff responsibilities in
response to situations; and consequences of inappropriate behaviour and/or illegal activity by users.

**SUMMARY AND RECOMMENDATION**

In November 2008 (and reviewed in November 2009), the Library Board instituted the *Internet Service Policy* based on the principles of:

- Providing the broadest Internet access possible to its patrons in a way that is in accordance with the Charter, which includes due regard for the privacy of patrons who access the Internet through unfiltered terminals; and
- In instances when exceptions to the above general principle are necessary to protect others (i.e. minors) the restriction should be as minimally invasive as possible.

In order to comply with these principles, the Board policy includes a mix of computers with filtered and unfiltered Internet access. Staff monitor and adjust computer placement and install privacy equipment in all locations, putting in place measures to minimize the risk of inadvertent exposure to content being viewed by computer users, to protect the privacy of individuals and to provide good library customer services. Staff receive training in the policies and procedures, including procedures for dealing with complaints/concerns.

Given that the federal and provincial bills are still progressing through the parliamentary and legislative processes, it is recommended to await the outcome before considering any revisions to the current policy. Administration will continue to monitor this situation closely and report back to the Library Board as required.
Bill 66

An Act to protect our children from pornography

Mr. Martiniuk

Private Member’s Bill

1st Reading May 12, 2010
2nd Reading
3rd Reading
Royal Assent

Printed by the Legislative Assembly of Ontario
EXPLANATORY NOTE

*Education Act*

The Bill amends the *Education Act* to require every school board to ensure that every school of the board has in place technology measures on all of the school’s computers to which a person under the age of 18 years has access. The technology measures must do the following:

1. They must block access on the Internet to any material, including written material, pictures and recordings, that is obscene or sexually explicit or that constitutes child pornography.
2. They must block access to any form of electronic communication, including electronic mail and chat rooms, if the communication could reasonably be expected to contain any material, including written material, pictures and recordings, that is obscene or sexually explicit or that constitutes child pornography.
3. They must block access to any site on the Internet or to any form of electronic communication, including electronic mail and chat rooms, if the school has not authorized users of the computers to access the site or the communication or if the site or the communication could reasonably be expected to contain material that includes personal information about a person under the age of 18 years.

A school is required to have a policy on who are authorized to use its computers to which a person under the age of 18 years has access and to monitor the use that persons under the age of 18 years make of those computers.

*Public Libraries Act*

The Bill amends the *Public Libraries Act* to make amendments that are similar to those that the Bill makes to the *Education Act*, except that the duties of a school board are those of a board with respect to every library under its jurisdiction and the duties of a school are those of a public library.

NOTE EXPLICATIVE

*Loi sur l’éducation*

Le projet de loi modifie la *Loi sur l’éducation* de façon à obliger les conseils scolaires à veiller à ce que chacune de leurs écoles dote tous ses ordinateurs auxquels ont accès des personnes de moins de 18 ans de moyens technologiques qui font ce qui suit :

1. Bloquer l’accès sur Internet à des documents — écrits, images et enregistrements — qui sont obscènes ou sexuellement explicites ou qui constituent de la pornographie juvénile.
2. Bloquer l’accès à toute forme de communication électronique, notamment le courrier électronique et les clavardoirs, dont il serait raisonnable de s’attendre à ce qu’elle contienne des documents — écrits, images et enregistrements — qui sont obscènes ou sexuellement explicites ou qui constituent de la pornographie juvénile.
3. Bloquer l’accès à tout site Internet ou à toute forme de communication électronique, notamment le courrier électronique et les clavardoirs, auquel l’école n’a pas autorisé les utilisateurs des ordinateurs à avoir accès ou dont il serait raisonnable de s’attendre à ce qu’il contienne des documents où figurent des renseignements personnels concernant une personne de moins de 18 ans.

Les écoles doivent également adopter une politique permettant de préciser qui est autorisé à utiliser ses ordinateurs auxquels ont accès des personnes de moins de 18 ans et de surveiller l’usage que celles-ci en font.

*Loi sur les bibliothèques publiques*

Le projet de loi modifie la *Loi sur les bibliothèques publiques* pour y apporter des modifications semblables à celles qu’il apporte à la *Loi sur l’éducation*, sauf que les obligations d’un conseil scolaire sont celles d’un conseil à l’égard des bibliothèques relevant de sa compétence et les obligations des écoles sont celles des bibliothèques publiques.
An Act to protect
our children from pornography

Note: This Act amends or repeals more than one Act. For the legislative history of these Acts, see the Table of Consolidated Public Statutes — Detailed Legislative History at www.e-Laws.gov.on.ca.

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

EDUCATION ACT

1. Section 230 of the Education Act is amended by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding the following clause:

(d) contravenes section 321, 322 or 323.

2. The Act is amended by adding the following Part:

PART XIII.2
PROHIBITING ACCESS TO ELECTRONIC FORMS
OF SEXUAL MATERIAL

Blocking access to sexual material

321. (1) In this section,

“sexually explicit material” means material of which a principal feature or characteristic is the nudity or partial nudity of any person and that is designed to appeal to erotic or sexual appetites or inclinations.

(2) A board shall ensure that every school of the board has in place technology measures on all of the school’s computers to which a minor may have access that,

(a) block access on the Internet to any material, including written material, pictures and recordings, that is obscene within the meaning of subsection 163 (8) of the Criminal Code (Canada) or sexually explicit or that constitutes child pornography within the meaning of section 163.1 of the Criminal Code (Canada); and

(b) block access to any form of electronic communication, including electronic mail and chat rooms, if the communication could reasonably be expected to contain any material, including written material, pictures and recordings, that is obscene within the

Loi visant à protéger nos enfants contre la pornographie


Sa Majesté, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, édicte :

LOI SUR L’ÉDUCATION

1. L’article 230 de la Loi sur l’éducation est modifié par adjonction de l’alinéa suivant :

d) contravient à l’article 321, 322 ou 323.

2. La Loi est modifiée par adjonction de la partie suivante :

PARTIE XIII.2
INTERDICTION D’ACCÈS À DES DOCUMENTS ÉLECTRONIQUES À CARACTÈRE SEXUEL

Accès bloqué : documents à caractère sexuel

321. (1) La définition qui suit s’applique au présent article.

«documents sexuellement explicites» Documents dont une des caractéristiques principales est la nudité intégrale ou partielle d’une personne et qui sont conçus pour stimuler les appétences ou les tendances sexuelles ou érotiques.

(2) Le conseil veille à ce que chacune de ses écoles dote tous ses ordinateurs auxquels peuvent avoir accès des personnes mineures de moyens technologiques qui :

a) d’une part, bloquent l’accès sur Internet à des documents — écrits, images et enregistrements — qui sont obscènes, au sens du paragraphe 163 (8) du Code criminel (Canada), ou sexuellement explicites ou qui constituent de la pornographie juvénile, au sens de l’article 163.1 du Code criminel (Canada);

b) d’autre part, bloquent l’accès à toute forme de communication électronique, notamment le courrier électronique et les clavardoirs, dont il serait raisonnable de s’attendre à ce qu’elle contienne des documents — écrits, images et enregistrements —
meaning of subsection 163 (8) of the Criminal Code (Canada) or sexually explicit or that constitutes child pornography within the meaning of section 163.1 of the Criminal Code (Canada).

Blocking access to unauthorized material

322. (1) A board shall ensure that every school of the board has in place technology measures on all of the school’s computers to which a minor may have access that block access to any site on the Internet or to any form of electronic communication, including electronic mail and chat rooms, if,

(a) the school has not authorized users of the computers to access the site or the communication; or

(b) the site or the communication could reasonably be expected to contain material that includes personal information within the meaning of the Freedom of Information and Protection of Privacy Act about a minor.

Policy for authorized access

(2) A board shall ensure that,

(a) every school of the board has a policy to determine what minors or class of minors are authorized to use the school’s computers to access what sites on the Internet and what forms of electronic communication, including electronic mail and chat rooms;

(b) the policy described in clause (a) meets the requirements, if any, prescribed by the regulations; and

(c) every school of the board publishes a notice setting out the policy described in clause (a) in conspicuous places in the school, as the school determines and the regulations require.

Monitoring electronic access by minors

323. A board shall ensure that every school of the board,

(a) monitors the use by minors of any or all of the school’s computers to access the Internet or any form of electronic communication, including electronic mail or chat rooms for the purpose of allowing the board to determine whether it has met its obligations under section 321 or 322; and

(b) has in place technology measures that permit the school to perform the monitoring described in clause (a).

Regulations

324. (1) The Minister may make regulations,

(a) specifying standards that technology measures must meet for a board to comply with its requirements in section 321, 322 or 323;
jurisdiction has in place technology measures on all of the library’s computers to which a minor may have access. The library can block access to unauthorized material, which includes written material, pictures and recordings, that are obscene within the meaning of section 163.1 of the Criminal Code (Canada); and

(b) prescribing or specifying anything that this Part describes as being prescribed or required in the regulations.

General or specific application

(2) A regulation made under this section may be of general application or specific to any person, persons, thing or things, or class or classes in its application.

Classes

(3) A class described in the regulations made under this section may be described according to any characteristic or combination of characteristics and may be described to include or exclude any specified member, whether or not with the same characteristics.

PUBLIC LIBRARIES ACT

3. Part III of the Public Libraries Act is amended by adding the following sections:

Blocking access to sexual material

31. (1) In this section, “sexually explicit material” means material of which a principal feature or characteristic is the nudity or partial nudity of any person and that is designed to appeal to erotic or sexual appetites or inclinations.

Same

(2) A board shall ensure that every library under its jurisdiction has in place technology measures on all of the library’s computers to which a minor may have access that,

(a) block access on the Internet to any material, including written material, pictures and recordings, that is obscene within the meaning of subsection 163 (8) of the Criminal Code (Canada) or sexually explicit or that constitutes child pornography within the meaning of section 163.1 of the Criminal Code (Canada); and

(b) block access to any form of electronic communication, including electronic mail and chat rooms, if the communication could reasonably be expected to contain any material, including written material, pictures and recordings, that is obscene within the meaning of subsection 163 (8) of the Criminal Code (Canada) or sexually explicit or that constitutes child pornography within the meaning of section 163.1 of the Criminal Code (Canada).

Blocking access to unauthorized material

32. (1) A board shall ensure that every library under its jurisdiction has in place technology measures on all of the library’s computers to which a minor may have access that block access to any site on the Internet or to any form of electronic communication, including electronic mail and chat rooms, if,

(a) the library has not authorized users of the computers to access the site or the communication; or

(b) prescribe or précisiser tout ce que la présente partie mentionne comme étant prescrit ou exigé dans les règlements.

Portée générale ou particulière

(2) Les règlements pris en application du présent article peuvent avoir une portée générale ou ne s’appliquer qu’à des personnes, objets ou catégories particuliers.

Catégories

(3) Une catégorie visée dans les règlements pris en application du présent article peut être décrite selon qu’il importe quelle caractéristique ou combinaison de caractéristiques, et peut être décrite comme une catégorie incluant ou excluant tout membre précisé, que celui-ci soit doté ou non des mêmes caractéristiques.

LOI SUR LES BIBLIOTHEQUES PUBLIQUES

3. La partie III de la Loi sur les bibliothèques publiques est modifiée par adjonction des articles suivants :

Accès bloqué : documents à caractère sexuel

31. (1) La définition qui suit s’applique au présent article.

«documents sexuellement explicites» Documents dont une des caractéristiques principales est la nudité intégrale ou partielle d’une personne et qui sont conçus pour stimuler les appétences ou les tendances sexuelles ou érotiques.

Idem

(2) Le conseil veille à ce que chaque bibliothèque relevant de sa compétence dote tous ses ordinateurs auxquels peuvent avoir accès des personnes mineures de moyens technologiques qui :

a) d’une part, bloquent l’accès sur Internet à des documents — écrits, images et enregistrements — qui sont obscènes, au sens du paragraphe 163 (8) du Code criminel (Canada), ou sexuellement explicites ou qui constituent de la pornographie juvénile, au sens de l’article 163.1 du Code criminel (Canada);

b) d’autre part, bloquent l’accès à toute forme de communication électronique, notamment le courrier électronique et les clavardoirs, dont il serait raisonnable de s’attendre à ce qu’elle contienne des documents — écrits, images et enregistrements — qui sont obscènes, au sens du paragraphe 163 (8) du Code criminel (Canada), ou sexuellement explicites ou qui constituent de la pornographie juvénile, au sens de l’article 163.1 du Code criminel (Canada).

Accès bloqué : documents non autorisés

32. (1) Le conseil veille à ce que chaque bibliothèque relevant de sa compétence ait doté tous ses ordinateurs auxquels peuvent avoir accès des personnes mineures des moyens technologiques qui bloquent l’accès à tout site Internet ou à toute forme de communication électronique, notamment le courrier électronique et les clavardoirs :

a) soit auquel la bibliothèque n’a pas autorisé les utilisateurs des ordinateurs à avoir accès;
(b) the site or the communication could reasonably be expected to contain material that includes personal information within the meaning of the Freedom of Information and Protection of Privacy Act about a minor.

Policy for authorized access
(2) A board shall ensure that,
(a) every library under its jurisdiction has a policy to determine what minors or class of minors are authorized to use the library’s computers to access what sites on the Internet and what forms of electronic communication, including electronic mail and chat rooms;
(b) the policy described in clause (a) meets the prescribed requirements, if any; and
(c) every library under its jurisdiction publishes a notice setting out the policy described in clause (a) in conspicuous places in the library, as the library determines and the regulations require.

Monitoring electronic access by minors
33. A board shall ensure that every library under its jurisdiction,
(a) monitors the use by minors of any or all of the library’s computers to access the Internet or any form of electronic communication, including electronic mail or chat rooms for the purpose of allowing the board to determine whether it has met its obligations under section 31 or 32; and
(b) has in place technology measures that permit the library to perform the monitoring described in clause (a).

Minister’s regulations
34. (1) The Minister may make regulations,
(a) specifying standards that technology measures must meet for a board to comply with its requirements in section 31, 32 or 33;
(b) specifying anything that section 32 describes as being prescribed or required in the regulations.

General or specific application
(2) A regulation made under this section may be of general application or specific to any person, persons, thing or things, or class or classes in its application.

Classes
(3) A class described in the regulations made under this section may be described according to any characteristic or combination of characteristics and may be described to include or exclude any specified member, whether or not with the same characteristics.

(b) soit dont il serait raisonnable de s’attendre à ce qu’il contienne des documents où figurent des renseignements personnels au sens de la Loi sur l’accès à l’information et la protection de la vie privée concernant une personne mineure.

Politique concernant l’accès autorisé
(2) Le conseil veille à ce qui suit :
(a) chaque bibliothèque relevant de sa compétence adopte une politique permettant de préciser les personnes mineures ou catégories de personnes mineures qui sont autorisées à utiliser ses ordinateurs pour avoir accès à des sites Internet ou à des formes de communication électronique, notamment le courrier électronique et les clavardoirs, et les sites et formes de communication concernés;
(b) la politique visée à l’alinéa a) satisfait aux exigences éventuelles prescrites par les règlements;
(c) chaque bibliothèque relevant de sa compétence publie un avis énonçant la politique visée à l’alinéa a) à des endroits bien en vue dans la bibliothèque, selon ce que décide la bibliothèque et ce qu’exigent les règlements.

Surveillance : accès électronique par les personnes mineures
33. Le conseil veille à ce que chaque bibliothèque relevant de sa compétence :
(a) d’une part, surveille l’usage que font les personnes mineures de ses ordinateurs pour avoir accès à Internet ou à toute forme de communication électronique, notamment le courrier électronique et les clavardoirs, de façon à permettre au conseil d’établir s’il a rempli les obligations que lui impose l’article 31 ou 32;
(b) d’autre part, se dote des moyens technologiques qui lui permettent de procéder à la surveillance visée à l’alinéa a).

Règlements du ministre
34. (1) Le ministre peut, par règlement :
(a) préciser les normes auxquelles doivent satisfaire des moyens technologiques pour que le conseil se conforme aux exigences de l’article 31, 32 ou 33;
(b) préciser tout ce que l’article 32 mentionne comme étant prescrit ou exigé dans les règlements.

Portée générale ou particulière
(2) Les règlements pris en application du présent article peuvent avoir une portée générale ou ne s’appliquer qu’à des personnes, objets ou catégories particuliers.

Catégories
(3) Une catégorie visée dans les règlements pris en application du présent article peut être décrite selon n’importe quelle caractéristique ou combinaison de caractéristiques, et peut être décrite comme une catégorie incluant ou excluant tout membre précisé, que celui-ci soit doté ou non des mêmes caractéristiques.
COMMENCEMENT AND SHORT TITLE

4. This Act comes into force on the day it receives Royal Assent.

5. The short title of this Act is the Education Statute Law Amendment Act (Electronic Sexual Material), 2010.

ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ

4. La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

5. Le titre abrégé de la présente loi est Loi de 2010 modifiant des lois en ce qui a trait à l'éducation (documents électroniques à caractère sexuel).
BILL C-22

An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service

FIRST READING, MAY 6, 2010

MINISTER OF JUSTICE

SUMMARY

This enactment imposes reporting duties on persons who provide an Internet service to the public if they are advised of an Internet address where child pornography may be available to the public or if they have reasonable grounds to believe that their Internet service is being or has been used to transmit a child pornography offence. This enactment makes it an offence to fail to comply with the reporting duties.

Also available on the Parliament of Canada Web site at the following address:
http://www.parl.gc.ca

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**BILL C-22**

An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

**SHORT TITLE**

1. This Act may be cited as the Protecting Children from Online Sexual Exploitation Act.

**INTERPRETATION**

2. (1) The following definitions apply in this Act.

“child pornography” has the same meaning as in subsection 163.1(1) of the Criminal Code.

“child pornography offence” means an offence under any of the following provisions of the Criminal Code:

(a) subsection 163.1(2) (making child pornography);
(b) subsection 163.1(3) (distribution, etc., of child pornography);
(c) subsection 163.1(4) (possession of child pornography); or
(d) subsection 163.1(4.1) (accessing child pornography).

“computer data” means representations, including signs, signals or symbols, that are in a form suitable for processing in a computer system.

“Internet service” means Internet access, Internet content hosting or electronic mail.

“person” means an individual, a corporation, a partnership or an unincorporated association or organization.

(2) The descriptive words in parentheses that follow the reference to a provision of the Criminal Code in the definition “child pornography offence” in subsection (1) do not form part of that definition but are inserted for clarity.

**DEFINITIONS**

2. (1) Les définitions qui suivent s’appliquent à la présente loi.

« données informatiques » Significations, notamment signes, signaux ou symboles, qui sont sous une forme qui en permet le traitement par un ordinateur.

« infraction relative à la pornographiejuvenile » Infraction à l’une des dispositions ci-après du Code criminel :

(a) paragraphe 163.1(2) (production de pornographie juvénile);
(b) paragraphe 163.1(3) (distribution de pornographie juvénile);
(c) paragraphe 163.1(4) (possession de pornographie juvénile);
(d) paragraphe 163.1(4.1) (accès à la pornographie juvénile).

« personne » Personne physique ou morale, société de personnes ou organisation ou association non dotée de la personnalité morale.


« services Internet » Services d’accès à Internet, d’hébergement de contenu sur Internet ou de courrier électronique.

(2) Les mots entre parenthèses qui suivent le renvoi à une disposition du Code criminel dans la définition de « infraction relative à la pornographie juvénile » au paragraphe (1) ne font pas partie de celle-ci et ne sont cités que pour des raisons de commodité.

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for convenience of reference only.

DUTIES

3. If a person is advised, in the course of providing an Internet service to the public, of an Internet Protocol address or a Uniform Resource Locator where child pornography may be available to the public, the person must report that address or Uniform Resource Locator to the organization designated by the regulations, as soon as feasible and in accordance with the regulations.

4. If a person who provides an Internet service to the public has reasonable grounds to believe that their Internet service is being or has been used to commit a child pornography offence, the person must notify an officer, constable or other person employed for the preservation and maintenance of the public peace of that fact, as soon as feasible and in accordance with the regulations.

5. (1) A person who makes a notification under section 4 must preserve all computer data related to the notification that is in their possession or control for 21 days after the day on which the notification is made.

(2) The person must destroy the computer data that should not be retained in the ordinary course of business and any document that is prepared for the purpose of preserving computer data under subsection (1) as soon as feasible after the expiry of the 21-day period, unless the person is required to preserve the computer data by a judicial order made under any other Act of Parliament or the legislature of a province.

6. A person must not disclose that they have made a report under section 3 or a notification under section 4, or disclose the contents of a report or notification, if the disclosure could prejudice a criminal investigation, whether or not a criminal investigation has begun.

7. Nothing in this Act requires or authorizes a person to seek out child pornography.

8. A civil proceeding cannot be commenced against a person for making a report in good faith under section 3 or for making a notification in good faith under section 4.

9. For greater certainty, nothing in this Act affects any right of a person to be protected against self-incrimination.

10. A person who has reported information in compliance with an obligation to report child pornography under the laws of a province or a foreign jurisdiction is deemed to have complied with this Act in relation to that information.

OFFENCES AND PUNISHMENT

11. Every person who knowingly contravenes any of sections 3 to 6 is guilty of an offence and liable on summary conviction,

(a) in the case of an individual,

(i) for a first offence, to a fine of not more than $1,000,

(ii) for a second offence, to a fine of not more than $5,000, and

(iii) for each subsequent offence, to a fine of not more than $10,000 or to imprisonment for a term of not more than six months, or to both; and

(b) in all other cases,

(i) for a first offence, to a fine of not:

for des raisons de commodité.

OBLIGATIONS

3. La personne qui est avisée, dans le cadre des services Internet qu'elle fournit au public, d'une adresse de protocole Internet ou d'une adresse URL où pourrait se trouver de la pornographie juvénile accessible au public, communique l'adresse dans les meilleurs délais, selon les modalités réglementaires, à l'organisme désigné par les règlements.

4. Si la personne qui fournit des services Internet au public a des motifs raisonnables de croire que ses services Internet sont ou ont été utilisés pour la perpétration d'une infraction relative à la pornographie juvénile, elle en avisera dans les meilleurs délais, selon les modalités réglementaires, un agent de police ou toute autre personne chargée du maintien de la paix publique.

5. (1) La personne qui a donné l'avis prévu à l'article 4 préserve les données informatiques afférentes en sa possession ou à sa disposition pendant vingt et un jours après la date de l'avis.

(2) Elle est tenue de détruire les données informatiques qui ne seraient pas conservées dans le cadre normal de son activité commerciale et tout document établi en vue de les préserver en application du paragraphe (1) dans les meilleurs délais après l'expiration des vingt et un jours, à moins qu'elle ne se voie assujettie à une ordonnance de préservation rendue en vertu d'une autre loi fédérale ou provinciale à l'égard de ces données.

6. Nul ne peut, si cela est susceptible de nuire à une enquête criminelle en cours ou à venir, révéler qu'il a fait une communication en application de l'article 3 ou donne un avis en application de l'article 4 ou dévoiler leur contenu.

7. La présente loi n'a pas pour effet d'autoriser ou d'obliger quiconque à chercher de la pornographie juvénile.

8. Nul ne peut être poursuivi au civil pour avoir, de bonne foi, communiqué une adresse au titre de l'article 3 ou donné un avis au titre de l'article 4.

9. Il demeure entendu que la présente loi ne porte atteinte à aucun droit de la personne en matière de protection contre l'autocommunication.

10. La personne qui communique des renseignements en application de la loi d'une province ou d'un État étranger sur la déclaration obligatoire de la pornographie juvénile est reçue à être conformée à la présente loi à l'égard de ces renseignements.

INFRACTIONS ET PEINES

11. Quiconque comitent sciemment à l'un des articles 3 à 6 commit une infraction et encourt, sur déclaration de culpabilité par procédure sommaire :

a) dans le cas d'une personne physique :

(i) pour la première infraction, une amende maximale de mille dollars,

(ii) pour la deuxième infraction, une amende maximale de cinq mille dollars,

(iii) pour chaque récidive subdiluque, une amende maximale de dix mille dollars et un emprisonnement maximal de six mois, ou l'une de ces peines;

b) dans les autres cas :

http://www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=4501430&file=4

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more than $10,000,  
(ii) for a second offence, to a fine of not  
more than $50,000, and  
(iii) for each subsequent offence, to a  
fine of not more than $100,000.

12. A prosecution for an offence under this  
Act cannot be commenced more than two  
years after the time when the act or  
 omission giving rise to the prosecution occurred.

REGULATIONS  
13. The Governor in Council may make  
regulations  
(a) designating an organization for the  
purpose of section 3;  
(b) respecting the role, functions and  
activities of the designated organization in  
relation to information received under this  
Act, including any security measures to be  
taken;  
(c) respecting the making of a report under  
section 3;  
(d) respecting a notification under section  
4;  
(e) respecting security measures to be  
taken in relation to computer data  
preserved under section 5; and  
(f) generally, for carrying out the purposes  
and provisions of this Act.

COMING INTO FORCE  
14. This Act comes into force on a day to  
be fixed by order of the Governor in Council.

Prescriptions  
12. Les poursuites visant les infractions  
prevues par la présente loi se prescrivent par  
deux ans à compter de leur perpétration.

RÈGLEMENTS  
13. Le gouverneur en conseil peut, par  
règlement :  
a) désigner un organisme pour  
 l'application de l'article 3;  
b) régir les fonctions, le rôle et les activités  
de l'organisme désigné relativement aux  
renseignements qui lui sont communiqués  
au titre de la présente loi, notamment les  
mesures de sécurité à prendre à l'égard de  
ceux-ci;  
c) régir la communication prévue à l'article 3;  
d) régir l'avis prévu à l'article 4;  
e) régir les mesures de sécurité à prendre à  
de l'égard des données préservées au titre de  
l'article 5;  
f) prendre toute autre mesure d'application  
de la présente loi.

ENTRÉE EN VIGUEUR  
14. La présente loi entre en vigueur à la  
date fixée par décret.
HOUSE OF COMMONS OF CANADA

BILL C-209

An Act to prevent the use of the Internet to distribute pornographic material involving children

FIRST READING, NOVEMBER 21, 2008

NOTE
3rd Session, 40th Parliament
This bill was introduced during the First Session of the 40th Parliament. Pursuant to the Standing Orders of the House of Commons, it is deemed to have been considered and approved at all stages completed at the time of prorogation of the Second Session. The number of the bill remains unchanged.

MR. STOFFER

SUMMARY
This enactment provides for the licensing of Internet service providers by the Canadian Radio-television and Telecommunications Commission (CRTC) on conditions to be set by the Minister of Industry by regulation. It also requires service providers to cooperate in maintaining the use of the Internet for the publication or production of child pornography or the facilitation of a sex offence involving a child.

Anyone who uses the Internet to facilitate any of the designated sex offences involving children is guilty of an offence.

Internet service providers may be required to block access to identified portions of the Internet that carry child pornography.

The Minister may enter into agreements with provinces or foreign states to assist in achieving the purposes of the Act. Special powers under search warrants may be prescribed by the Minister to facilitate electronic searches.


C-209

CHAMBER DES COMMUNES DU CANADA

PROJET DE LOI C-209

Loi visant à interdire l'utilisation d'Internet pour la diffusion de documents pornographiques impliquant des enfants

PREMIÈRE LECTURE LE 21 NOVEMBRE 2008

NOTE
3e session, 40e législature
Le présent projet de loi a été présenté lors de la première session de la 40e législature. Conformément aux dispositions du Règlement de la Chambre des communes, il est réputé avoir été examiné et approuvé à toutes les étapes franchies avant la prorogation de la deuxième session. Le numéro du projet de loi demeure le même.

M. STOFFER

SOMMAIRE
Le texte retient le décret de licence aux fournisseurs d'accès Internet par le Conseil de la radiodiffusion et des télécommunications canadiennes (CRTC) à des conditions fixées par le ministre de l'industrie par règlement. Il rend obligatoire l'intervention des fournisseurs d'accès afin de restreindre la mise en œuvre pour publier ou diffuser la pornographie juridique ou pour faciliter la prévention d'actes infructueux sexueux impliquant un enfant.

Est coupable d'une infraction spéciale n'aucun qui utilise Internet pour faciliter l'infraction d'actes infructueux sexuels visant un enfant.

Les fournisseurs d'accès Internet pourront être tenus d'intervenir à certaines erreurs d'Internet qui comportent la pornographie juridique.

Le ministre peut conclure des accords avec les provinces ou des États étrangers pour aider à l'application de la loi. Il peut accorder par règlement les pouvoirs spéciaux nécessaire à l'exécution de mandats pour permettre la facilité de contrôle électronique.


10/21/2010
An Act to prevent the use of the Internet to distribute pornographic material involving children.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE
1. This Act may be cited as the Internet Child Pornography Prevention Act.

INTERPRETATION
2. The definitions in this section apply in this Act.

“child pornography” means material that is prohibited under the Criminal Code;

“Commission” means the Canadian Radio-television and Telecommunications Commission established by the Canadian Radio-television and Telecommunications Act;

“designated offence involving a child” means an offence under any of the following provisions of the Criminal Code, where the victim was 14 years of age or more but under the age of 18 years at the time of the commission of the offence, and the offender was in a position of trust or authority towards the victim or was a person with whom the victim was in a relationship of dependency or where the victim was under the age of 14 years at the time of the commission of the offence:

(a) section 151 (sexual interference);
(b) section 152 (invitation to sexual touching);
(c) section 153 (sexual exploitation);
(d) section 155 (incest);
(e) section 159 (anal intercourse);
(f) subsection 160(2) or (3) (compelling commission of bestiality or bestiality in presence of or by child);
(g) section 170 (parent or guardian procuring sexual activity);
(h) section 172 (corrupting children);
(i) subsection 173(2) (exposure to person under age of 16 years);
(j) section 271 (sexual assault);
(k) section 272 (sexual assault with a weapon, threats to a third party or causing bodily harm); and
(l) section 273 (aggravated sexual assault).

“Internet service provider” means a person who provides a service that facilitates access to the Internet, whether or not the service is provided free or for a charge.

“Minister” means the Minister of Industry.

“prescribed” means prescribed by regulation.

“subscriber” means a person who contracts with or uses the services of an Internet service provider to obtain access to the Internet.

PURPOSE
3. The purpose of this Act is to prevent the use of the Internet to unlawfully promote, display, describe or facilitate participation in


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unlawful sexual activity involving young persons.

**Licence**

4. (1) No person shall offer the services of, or controlled by, an Internet service provider unless the person has been granted a licence to operate as an Internet service provider in accordance with subsection (2).

(2) The Commission shall grant a licence to operate as an Internet service provider to any applicant who meets the prescribed requirements and who has submitted to the Commission

(a) an application in the prescribed form and manner; and

(b) a written undertaking to report the prescribed information in accordance with the regulations.

Licence cancelled

(3) The Commission may cancel a licence granted under subsection (2) if the licencee or, where the licencee is a corporation, a director or officer of the corporation is convicted of an offence under section 163.1 of the *Criminal Code* or a designated offence involving a child, or commits an offence under this Act.

**Prohibition**

5. (1) No Internet service provider shall knowingly permit the use of its service

(a) for placing child pornography on the Internet or for viewing, reading, copying or retrieving child pornography from the Internet;

(b) by any person who the provider knows has been convicted of an offence under this Act within the previous seven years; or

(c) by any person who the provider knows has used the Internet within the previous seven years for a purpose that would be an offence under this Act.

**Use of Internet for child pornography**

(2) No person shall place child pornography on the Internet or for viewing, reading, copying or retrieving child pornography from the Internet.

**Possession of child pornography**

(3) No person shall possess any child pornography retrieved from the Internet.

**Use of Internet to contact person**

(4) No person shall use the Internet to contact a person for the purpose of facilitating a designated offence involving a child.

**Person contacted**

(5) No person shall respond to a contact that is made using the Internet for the purpose of facilitating a designated offence involving a child.

**Offence and conviction**

6. (1) A person who contravenes subsection 5(1), (2), (3), (4) or (5) is guilty of an offence and liable on summary conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding two years, or to both.

**Directors and officers**

(2) A director or officer of a corporation that commits an offence under subsection (1) who is aware of the circumstances on which the offence is based before it is committed, or becomes aware of them while it is being committed, is also guilty of the offence and

activités sexuelles illicites impliquant des enfants ou pour faciliter la participation à de telles activités.

**Licence**

4. (1) Nul ne peut offrir des services de fournisseur d'accès Internet ou exploiter une entreprise offrant ces services s'il n'a obtenu une licence pour exploiter une entreprise de services d'accès Internet conformément au paragraphe (2).

(2) Le Conseil délivre une licence pour exploiter une entreprise offrant des services de fournisseur d'accès Internet à tout demandeur qui répond aux exigences réglementaires et qui a soumis au Conseil :

(a) une demande selon la procédure et la forme réglementaires;

(b) un engagement écrit de fournir les renseignements réglementaires conformément aux règlements.

(3) Le Conseil peut annuler la licence délivrée aux termes du paragraphe (2) si le titulaire — ou un dirigeant ou un administrateur du titulaire, si celui-ci est une personne morale — est déclaré coupable d'une infraction à l'article 163.1 du *Code criminel* ou d'une infraction dérivée concernant un enfant, ou s'il commet une infraction à la présente loi.

**Interdiction**

5. (1) Il est interdit à tout fournisseur d'accès Internet de permettre sciemment que ses services :

(a) servent à la diffusion, la visualisation, la lecture, la reproduction ou la récupération de pornographie juvénile par Internet;

(b) soient utilisés par une personne qu'il sait avoir été reconnue coupable d'une infraction à la présente loi au cours des sept années précédentes;

(c) soient utilisés par une personne qu'il sait avoir utilisé Internet au cours des sept années précédentes à des fins qui seraient considérées comme une infraction à la présente loi.

(2) Nul ne peut diffuser de la pornographie juvénile dans Internet pour la communiquer à quelqu'un ou pour permettre à quelqu'un de la visualiser, la lire, la reproduire ou la récupérer, que l'accès en soit libre ou restreint de quelque façon.

(3) Il est interdit de posséder de la pornographie juvénile provenant d'Internet.

(4) Il est interdit de contacter par Internet une personne en vue de faciliter la perpétration d'une infraction dérivée concernant un enfant.

(5) Il est interdit de répondre à un contact établi par Internet pour faciliter la perpétration d'une infraction dérivée concernant un enfant.

**Infraction**

6. (1) Toute personne qui contrevient aux paragraphes 5(1), (2), (3), (4) ou (5) est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire et passible d'une amende maximale de 100 000 $ et d'un emprisonnement maximal de deux ans, ou de l'une de ces peines.

(2) Tout administrateur ou dirigeant d'une personne morale qui a connaissance des circonstances dans lesquelles cette personne morale commet une infraction au paragraphe (1), avant qu'elle soit commise ou pendant qu'elle est commise, est lui-même coupable.
de l’infraction et passible des peines prévues à ce paragraphe.

3. N’est pas coupable d’une infraction visée au paragraphe (1) le fournisseur d’accès Internet qui apprend qu’une personne utilise ses services pour commettre une infraction à la présente loi et qui, sans tarder :
   a) interrompt ses services auprès de cette personne;
   b) prend toutes les mesures raisonnables pour supprimer d’Internet tout document qui s’y trouve illicITEMENT ou pour en interdire l’accès;
   c) informe le ministre de l’identité de la personne, de la nature du document et des moyens d’accès dont d’autres peuvent disposer.

7. Le ministre peut ordonner au fournisseur d’accès Internet de prendre tous les moyens raisonnables à sa disposition pour empêcher les abonnés d’avoir accès à tout document qui se trouve dans Internet et que le ministre déclare, après enquête raisonnable, être de la pornographie juvénile.

8. (1) Tout fournisseur d’accès Internet qui refuse ou ommet de se conformer à l’ordre donné en vertu de l’article 7 est coupable d’un infraction punissable sur déclaration de culpabilité par procédure sommaire et passible d’une amende maximale de 50 000 $ et d’un emprisonnement maximal d’un an, ou de l’une de ces peines.
   
   (2) Tout administrateur ou dirigeant d’une personne morale qui est un fournisseur d’accès Internet et qui commet une infraction au paragraphe (1) est lui-même coupable d’une infraction et passible des peines prévues à ce paragraphe.

9. Le ministre peut conclure des accords de collaboration et d’échange de renseignements avec les provinces ou des États étrangers dans le but de prévenir ou de réduire l’utilisation d’Internet pour publier ou diffuser de la pornographie juvénile pour faciliter la perpétuation d’une infraction au Code criminel ou à la présente loi ou une loi semblable de la province ou de l’État étranger.

10. (1) Le ministre peut prévoir, par règlement, les pouvoirs spéciaux qu’il juge raisonnablement nécessaires pour faciliter les recherches dans les données, les mémoires ou les systèmes informatiques lors de l’exécution d’un mandat de perquisition délivré en vertu de l’article 487 du Code criminel relativement à une infraction constatée ou prouvée à la présente loi.
   
   (2) La délivrance d’un mandat comportant les pouvoirs visés au paragraphe (1) est soumise aux mêmes principes relatifs à l’autorisation et aux motifs de soupçon, et aux mêmes procédures et conditions de délivrance qu’un mandat de perquisition aux termes du Code criminel.

11. Le ministre peut, par règlement, prévoir :
   a) la procédure et la forme des demandes de licence visées à l’article 4;
   b) les ressources financières et techniques dont le demandeur doit faire état devant le Conseil pour obtenir la licence visée à l’article 4;
   c) les renseignements que les titulaires d’une licence visée à l’article 4 doivent fournir au Conseil pour l’application de la
the purposes of this Act,
(d) any special powers that may be
cornered by a search warrant for the
purposes of subsection 10(1); and
(e) anything that by this Act is to be
prescribed.

(n) les pouvoirs spéciaux nécessaires à
l'exécution des mandats de perquisition
délivrés en application du paragraphe 10
(1);
(e) toute autre mesure d'ordre réglementaire
prévue par la présente loi.
## Internet Service Incidents, 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
<th>Information</th>
<th>Policy/ Guidelines associated</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Feb 6</td>
<td>Masonville</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Sightline problems that have been addressed in physical layout of computers.</td>
</tr>
<tr>
<td>April 7</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content on an ERC computer</td>
<td>ERC Use Guidelines</td>
<td>Staff explained that ERC computers are for job search purposes only.</td>
</tr>
<tr>
<td>April 22</td>
<td>Central</td>
<td>Complaint re: content on personal laptops using “LimeWire”</td>
<td></td>
<td>IT staff followed up re: file sharing protocol involved and met with patrons.</td>
</tr>
<tr>
<td>May 19</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content on an ERC computer</td>
<td>ERC Use Guidelines</td>
<td>Staff explained that ERC computers are for job search purposes only.</td>
</tr>
<tr>
<td>May 20</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content on an ERC computer</td>
<td>ERC Use Guidelines</td>
<td>Staff explained that ERC computers are for job search purposes only.</td>
</tr>
<tr>
<td>May 22</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content on an ERC computer</td>
<td>ERC Use Guidelines</td>
<td>Staff explained that ERC computers are for job search purposes only.</td>
</tr>
<tr>
<td>May 28</td>
<td>Beacock</td>
<td>Complaint re: viewing of objectionable content on filtered Homework computer</td>
<td></td>
<td>Staff confirmed that the computer was filtered. Staff spoke to the patron involved and reminded in a public area.</td>
</tr>
<tr>
<td>June 9</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff reminded patron that he was in a public place. Patron apologized.</td>
</tr>
<tr>
<td>June 17</td>
<td>Beacock</td>
<td>Complaint re: viewing of objectionable content on 20</td>
<td></td>
<td>Problem was a sightline issue. Placement of the</td>
</tr>
<tr>
<td>Date</td>
<td>Location</td>
<td>Information</td>
<td>Policy/ Guidelines associated</td>
<td>Response</td>
</tr>
<tr>
<td>---------</td>
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<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Aug 17</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Patron filled out comment card. Staff unable to talk to computer user because the concern was reported after patron had left. Patron called Administration. Policies explained.</td>
</tr>
<tr>
<td>Sept 3</td>
<td>Landon</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff member reminded patron that he is in a public place. He apologized and stopped his computer session.</td>
</tr>
<tr>
<td>Sept 5</td>
<td>Byron</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff member reminded patron that he is in public place.</td>
</tr>
<tr>
<td>Sept 17</td>
<td>Central</td>
<td>Patron in passing reported questionable viewing</td>
<td></td>
<td>Staff reminded patron that he is in a public place. Patron logged off and left.</td>
</tr>
<tr>
<td>Sept 26</td>
<td>Central</td>
<td>Patron using ERC computer to print objectionable images</td>
<td>ERC Use guidelines</td>
<td>Patron asked by staff to leave the area. Computers for job search purposes only.</td>
</tr>
<tr>
<td>Oct 1</td>
<td>Central</td>
<td>Complaint from visitors to Pillar office re: viewing objectionable content on computer in the area</td>
<td></td>
<td>Patron left before the incident was reported.</td>
</tr>
<tr>
<td>Oct 5</td>
<td>Central</td>
<td>Complaint from Pillar staff re: viewing of objectionable images</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.</td>
</tr>
<tr>
<td>Date</td>
<td>Location</td>
<td>Information</td>
<td>Policy/ Guidelines associated</td>
<td>Response</td>
</tr>
<tr>
<td>--------</td>
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<td>------------------------------------------------------------------------------</td>
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<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Oct 6</td>
<td>Central</td>
<td>Complaint from Pillar staff re: viewing of objectionable images</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.</td>
</tr>
<tr>
<td>Oct 6</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable images</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.</td>
</tr>
<tr>
<td>Oct 7</td>
<td>East London</td>
<td>Complaint re: viewing of objectionable images</td>
<td></td>
<td>Problem with sightlines that have been addressed by changing physical layout of Internet computers. Discovered a problem with equipment. Problem has been addressed.</td>
</tr>
<tr>
<td>Oct 21</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable images</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.</td>
</tr>
<tr>
<td>Oct 22</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable images</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.</td>
</tr>
<tr>
<td>Oct 23</td>
<td>Westmount</td>
<td>Complaint re: alleged inappropriate touching in a public place</td>
<td>Code of Conduct</td>
<td>Incident was not reported until hours later. The patron involved had left by this time. If report had been made at the time of the incident, staff would have called the Police.</td>
</tr>
<tr>
<td>Nov 9</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable images</td>
<td></td>
<td>The patron had left by the time the staff were notified.</td>
</tr>
<tr>
<td>Nov 13</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.</td>
</tr>
<tr>
<td>Date</td>
<td>Location</td>
<td>Information</td>
<td>Policy/ Guidelines associated</td>
<td>Response</td>
</tr>
<tr>
<td>--------</td>
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<td>-------------------------------</td>
<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Nov 21</td>
<td>Westmount</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.</td>
</tr>
</tbody>
</table>

2009 Total: 26
<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
<th>Information</th>
<th>Policy/ Guidelines associated</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan 27</td>
<td>East London</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff reminded patron that he was in public place.</td>
</tr>
<tr>
<td>April 7</td>
<td>Crouch</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff reminded patron that he was in public place.</td>
</tr>
<tr>
<td>April 27</td>
<td>Central</td>
<td>Staff called Police due to suspected child pornography viewing</td>
<td>Criminal Code of Canada</td>
<td>Police called. Administration notified and assisted Police.</td>
</tr>
<tr>
<td>June 5</td>
<td>Central</td>
<td>Complaint re: patron viewing objectionable content on laptop in public washroom stall</td>
<td></td>
<td>Security received complaint. Security reminded patron that behavior not appropriate for a public building and asked patron to leave for the day. Patron complied.</td>
</tr>
<tr>
<td>July 12</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.</td>
</tr>
<tr>
<td>August 4</td>
<td>Sherwood</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.  Patron apologized and left.</td>
</tr>
<tr>
<td>August 10</td>
<td>Jalna</td>
<td>Complaint re: viewing of objectionable content on computer in Homework /Children's area</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing is inappropriate to the setting. IT confirmed that the computer being used is filtered. Staff in future will ask patron to relocate to a computer in another section of the library.</td>
</tr>
<tr>
<td>Date</td>
<td>Location</td>
<td>Information</td>
<td>Policy/ Guidelines associated</td>
<td>Response</td>
</tr>
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<td>------------</td>
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<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>September 28</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Staff reminded patron that he is in a public place and what he is viewing might be inappropriate to the setting.</td>
</tr>
<tr>
<td>October 4</td>
<td>Central</td>
<td>Complaint re: viewing of objectionable content on several occasions</td>
<td></td>
<td>Internet policy and steps that staff takes when they receive a complaint explained.</td>
</tr>
<tr>
<td>Nov 3</td>
<td>East London</td>
<td>Complaint re: viewing of objectionable content</td>
<td></td>
<td>Patron left before staff could address; confirmed that workstation was filtered</td>
</tr>
</tbody>
</table>

**Total to November 3, 2010 : 10**
APPENDIX 5

System-wide Filtered and Unfiltered Top Ten Categories

September 2009-2010
Purpose: London Public Library (LPL) Internet Service is consistent with its Vision, Mission, Value Promise and Service Excellence Model. LPL offers Internet access to library customers in an effort to meet community needs in the areas of: Literacy; Learning; Culture, Leisure and Recreation; Information; and Community Meeting Place.

The purpose of this policy is to outline: Library responsibilities in providing this public service; library use of filters; user responsibilities in accessing LPL Internet Service; staff responsibilities; and consequences of inappropriate behaviour or illegal activity by users.

Definitions:

Internet is a worldwide interconnected network of computers that allows the "sharing" or "networking" of information at remote sites from other academic institutions, research institutes, private companies, government agencies, and individuals.

Scope:

As part of its suite of services to the public, LPL offers Internet Service. From LPL’s point of view, the Internet is the ideal vehicle to:

- Enhance public access to global information and expressions of creativity and thought;
- Expand the library’s collection of information resources;
- Provide users with the opportunity for remote dialogue with subject-matter experts and to engage with other people on an infinite variety of topics; and
- Enable collaborative research and study.

LPL recognizes that in addition to the many valuable resources available on the Internet, some resources are illegal, misleading and/or inaccurate. Others may be considered by some people to be offensive, objectionable and/or intimidating.

In provision of access to content and communication media through its Internet Service, LPL will act in accordance with the Canadian Charter of Rights and Freedoms which states that everyone has freedom of thought, belief, opinion and expression.
POLICY STATEMENT:

1. Library Responsibilities

LPL will proactively facilitate and promote public access to quality information for all users, through various means such as information and referral services so that people may benefit from the use of the Internet.

LPL will proactively promote user education, media awareness and Internet safety.

LPL will respect the right of users to privacy and confidentiality with regards to information sought or received and resources consulted, acquired or transmitted.

In respect of the range of sensibilities and viewpoints of its diverse clientele, LPL will endeavour to minimize the opportunity for unintentional exposure by people using library space to content being accessed by another library user.

Due to the constraints/limitations of space at library locations, LPL will advise users that they are in a public space and will encourage all users to be respectful of the rights and sensibilities of others.

LPL will support the right and responsibility of parents or legal guardians to determine, monitor and guide their children’s use of library materials and resources. The Library does not act in place of or in the absence of a parent. LPL will endeavour to proactively support children, parents and guardians in safe use of the Internet.

LPL will endeavour to minimize unintentional exposure by children and teens to Internet content that is age inappropriate. LPL tailors physical and virtual environments to support the needs and expectations of children and teens. LPL will ensure Internet services in such spaces facilitate and promote appropriate access.
2. Internet Filtering

LPL will not limit access to Internet content except as outlined below.

The London Public Library will filter the following categories of computers:

- Computers specifically designated for use by children and/or teens, such as Homework Centres;
- Computers in spaces specifically designed for use by children and/or teens; and
- Computers designated for specific functions, such as the Employment Resource Centre computers.

LPL will encourage user awareness that filters are not 100% effective. The Library assumes no liability in the event that a user reaches a site assumed to be filtered.

3. User Responsibilities

Users are responsible for any access points they reach and appropriate use of the resource.

Users are responsible for determining the reliability, currency and accuracy of sites accessed and information found using the Internet.

All customers of London Public Library, including those using the Library's Internet services, are responsible for following the Library's Charter of Use and Rules of Conduct which are designed to provide a welcoming and safe environment for the enjoyment of the public and staff so that all persons may enjoy the benefits of the Library.

Users are responsible for respecting the rights of others when accessing Internet sites in library space. Users must be aware that library computer workstations are in public areas shared by people of all ages and sensibilities. Some content is age inappropriate for children. Some content may be offensive, objectionable and/or intimidating to other Library customers and/or staff.

Users are responsible for respecting the privacy of other library customers.

Users are responsible for determining the legality of any sites they access. Users are subject to federal, provincial and municipal legislation regulating Internet use and must not use the
Internet for illegal purposes including copyright violation, obscenity, child pornography, sedition and the incitement of hate. The use of the Library’s Internet services for illegal purposes is prohibited.

Users must be aware that the Internet is not a secure medium and that third parties may be able to obtain information about their activities or themselves. Users are responsible for any fees, losses or damages that occur as a result of any online transactions they conduct on the Internet. The Library assumes no responsibility for the security and privacy of online transactions.

4. Staff Responsibilities

LPL staff are active intermediaries between users and Internet resources and are essential to the provision of relevant, accessible, high quality library services. Staff will support the user in effective, efficient and responsible use of the library Internet service. Staff can help users determine the reliability, currency and accuracy of sites accessed and information found using the Internet.

Staff do not monitor nor censor content.

Library staff are entrusted with the obligation to ensure that all rules of computer use and Internet service are followed. Staff will advise customers of appropriate conduct as required and state consequences of not following the rules of conduct should unacceptable behaviour continue or be repeated.

5. Consequences of Misuse of the LPL Internet Service

The Library will take action on any inappropriate behaviours related to use of the LPL Internet Service, such as intimidation, harassment, bullying, etc., according to the library’s Code of Conduct.

LPL will take action in a situation where unlawful activity occurs, and will contact the police. For legal reasons, complaints from patrons that a user is accessing legally prohibited material may also result in LPL contacting the police.

Any person violating Library rules for Internet Service risks suspension of Library privileges, exclusion from the Library for a period of time, banning and/or prosecution.
Title: Internet Service Access
Policy Category: Means
Policy No.: C-C-04
Issuing Date: November 19, 2009
Review: November 25, 2010

INQUIRIES:
Manager, Services and Operations
CEO & Chief Librarian

KEYWORDS:

RELATED DOCUMENTS:
Charter of Library Use: Rules of Conduct
Charter of Library Use: Unattended Children
Privacy Policy

DOCUMENT CONTROL:
Approved: January 26, 1997
Reviewed: September 24, 1997
March 25, 1998
September 26, 2001
November 21, 2007
November 19, 2008
November 19, 2009
November 25, 2010