

TRUSTEE

Library Trustee
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The Internet: Issues for the Library Board

This Trustee Tips will outline the main issues concerning Internet use in public libraries and discuss the experience of other libraries in dealing with some controversial aspects. With this information, the Library Board will be better equipped to develop an effective policy on Internet use and to concentrate on using the full potential of the Internet.

The Internet allows an individual to access a vast quantity of information on a wide variety of topics almost instantaneously. It also offers a library, especially the small library, enormous potential to expand its collection well beyond what local resources can support. At the same time, public Internet access requires the library to be prepared to defend its position on the principle of Intellectual Freedom. The call to defend this principle may be greater than challenges to an individual book. While there may be controversy, the potential of the Internet far outweighs any drawbacks.

The Internet is used by many to browse and search for useful and entertaining information (surfing); to subscribe to special information groups (listservs or newsgroups); participate in on-line discussions (discussion groups), exchange electronic mail with friends or colleagues (e-mail); and even shop (e-commerce).

From the library's perspective, the Internet is the ideal 'vehicle' to:

1. access information resources available via the Internet;
2. access the on-line catalogues and databases of libraries in the surrounding municipalities or around the world;
3. provide a full range of electronic services to persons with physical limitations through the library's own Web site - this gives a new meaning to Outreach Services;
4. give the public at large access to digitized special local collections;
5. participate in provincial and federal government initiatives favouring networking among information providers.
6. enable the library to participate in consortia initiatives aiming to provide more resources at a lower cost. (i.e., COOL, the Consortium of Ontario Libraries)

"Libraries have always provided access to information, but with the proliferation of electronic publishing the issue becomes one of intellectual access over physical access. The collection is made up of links to information, rather than items on shelves. The goals and the methods are very much the same."

Kansas City Public Library Technology Plan 1999-2003

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Although there is enormous potential to expand the library's collection using the Internet, there are accompanying risks in offering public access to the Internet. How can the library board minimize these risks and still provide unimpeded access to information? The board must set appropriate policy to govern the use of the Internet in the library.

**The role of the board:
to set policy**

The *Public Libraries Act, Revised Statutes of Ontario, 1990, chapter P.44* directs the Board to set policy:

"Section 23(4) - Subject to the regulations, a board may make rules, for the use of library services; for the admission of the public to the library; for the exclusion from the library of persons who behave in a disruptive manner or cause damage to library property; imposing fines for breaches of the rules; suspending library privileges for breaches of the rules; and regulating all other matters connected with the management of the library and library property."

At the same time, the Library Board represents the entire community and should ultimately establish policies that reflect the values of that community.

The *Public Libraries Act, R.S.O., 1990, chapter P.44* also recognizes the Public Library Board as a Corporation. As a Corporation, Board members are expected to exercise an appropriate standard of care in carrying out their duties. According to the *Sourcebook for Small Public Libraries*,

Administration 3: Directors' Liability (1994) this means that Board members are required to make decisions with honesty, loyalty, diligence, skill and prudence. In addition, the Library Board's overriding duty is to act in the best interest of the library. Consequently, if the Board makes its policy decisions regarding Internet use with these principles in mind, members may feel secure that they have acted responsibly if the policies are contested.

When establishing any type of policy, the Library Board should consider its overall mission statement, its goals and objectives, its partnership agreements and the needs of the entire community it serves. Policies regarding public access to the Internet should be developed from this same perspective.

"The question before libraries is how to protect an individual's right to access information without violating another individual's right to protection from objectionable information."

Public Library Services Newsletter, Manitoba Department of Culture, Heritage and Citizenship, no. 123, April 1999.

It is the role of the Library Board to develop an *Internet Services Policy* that addresses this paradox as well as facilitates service and supports the staff's position if they have to face any challenges from the public.

Library boards may be forced to address public access to the Internet, in response to public reaction. They need not be reluctant to deal with the difficult aspects of *Internet Acceptable Use Policies*. A good deal of the pioneering work has already been done by the Board and staff of the Burlington Public Library. In 1998, the Library, along with the Ontario Library Association, commissioned the law firm Morris/Rose/Ledgett Barristers & Solicitors, to prepare a "*Legal Opinion on Internet Access*". Library boards may want to base their own Internet-related policies on this opinion.

The Burlington Public Library Opinion

In 1996, when the Burlington Public Library (BPL) installed its first public access Internet terminals, it also established an Internet use policy which stated that parents were responsible for monitoring their children's Internet access. In 1998, a patron's young child was inadvertently exposed to unsuitable images left on the screen of a nearby terminal. At a Board meeting soon after, this patron asked that the Board consider instituting stronger safeguards to prevent such situations from happening again. At this same meeting, a representative of an organization known as Electronic Frontier Canada argued against censorship of any kind. Recognizing that both arguments had merit, the BPL Board asked the library staff to review and make changes to the library's Internet policy.

Since it had already been decided that filtering infringed upon the intellectual rights of individuals, the library staff suggested a number of alternatives to filtered terminals. Before it considered any of these alternatives, the BPL Board decided to seek a legal opinion.

The 'Burlington opinion' cites the *Public Libraries Act, R.S.O., 1990, chapter P.44* noting that it gives Library Boards the power to make rules for services that would include the use of Internet workstations. The Library Board should realize that it is legally empowered to set policies to meet the library needs of the community.

Library Boards are also subject to the *Criminal Code*, including the provisions concerning obscenity, child pornography, hate literature and sedition. They can minimize their liability under the *Criminal Code* by exercising 'due diligence' in using a combination of filtering and privacy screens, producing user documentation, clearing caches, providing staff supervision and responding quickly to complaints.

This opinion states that "there is a significant possibility that the *Canadian Charter of Rights and Freedoms* applies to public libraries, and so a library would be prudent to conduct its affairs in accordance with the *Charter*."¹

The opinion further states that "BPL can maintain freedom of expression by providing a reasonable number of unfiltered Internet terminals, as well as filtered terminals."² It goes on to say that the filtering software used should exclude materials defined as obscene or illegal under the *Criminal Code*.

The opinion also examines whether the library should act 'in loco parentis' when children use the library. 'In loco parentis' is the Latin legal term for 'in place of the parent'.

The Burlington Public Library *Internet Policy* is posted on the library's Web site. The Web address for BPL, and for other Internet resource sites, are printed in the resource list on page 6. The BPL policy has also been reproduced here with permission. A printed copy of the Burlington Public Library *Legal Opinion on Internet Access* can be purchased from the Ontario Library Association.

Issue 1: To filter or not to filter

Karen G. Schneider, an American librarian and Web consultant, defines filters as:

"mechanical tools wrapped around subjective judgement. They are designed to block content - usually content a company has identified and categorised. Some filters try to block keywords; some try to block sites; some use a combination of these and other features."

"Figuring Out Filters: a quick guide to help demystify them"
by Karen G. Schneider in *School Library Journal*, February 1998.

When a library decides to install filtering software on a public access terminal, it automatically restricts a user's access to information by filtering the incoming information through a pre-set list of restricted terms. The user may not be aware of what he is not allowed to view. The restrictions set by the software developer may be so strict that the user will be prevented from obtaining valuable legitimate information. For example, on a filtered workstation, a search on the word 'breast' could exclude all references to 'breast cancer' and 'breastfeeding'.

The Library Board should consider that public library service is based on the principle of intellectual freedom. This principle is reflected in the *Ontario Library Association Statement on the Intellectual Rights of the Individual*, 1998. The BPL opinion also states that total filtering is counter to the *Canadian Charter of Rights and Freedoms*.

¹ *Legal Opinion on Internet Access*. Prepared by Morris/Rose/Ledgett Barristers & Solicitors, October, 1998. page 11.

² *Ibid.*, page 16.

When it comes to providing access to all types of library information, public libraries are strong proponents of the individual's right to intellectual freedom. Internet-based information is not generally considered an exception to this right. If policy is set to provide some filtered access to the Internet, however, appropriate signage should be posted at the designated workstations to indicate that they are filtered.

The censorship debate occurs at the local level and is often spurred on by community objections. Contentious situations occur at the workstation because once the user goes beyond the library's Web site, the sites visited are not controlled by the library.

On one hand, the library staff can ensure that the print collection has been professionally selected to offer a broad, but balanced, viewpoint. On the other hand, however, library staff cannot know the entire Internet 'collection'. The user should not necessarily expect that the results of his search will present a balanced viewpoint. This lack of control of the materials offered is the root of the problem for libraries which offer public access to the Internet.

"In short, even though you are not expected to have on hand every magazine and every book in the world, you are expected by many to provide access to the full Internet"

Michael A. Banks, "Filtering the Net in Libraries; The Case (Mostly) in Favor", *Computers in Libraries*, March 1998

Library boards could adopt the *Ontario Library Association Statement on the Intellectual Rights of the Individual* as their policy. Section 2 of this statement lends support to such a policy decision.

"2) That intellectual freedom requires freedom to examine other ideas and other interpretations of life than those currently approved by the local community or by society in general, and including those ideas and interpretations which may be unconventional or unpopular."

The Board could inform the patron of his personal responsibility in these matters. The Burlington Public Library's *Internet Policy* includes a clear statement to that effect:

"Not all sources provide accurate, complete, age appropriate or current information, so users should evaluate Internet sources as they would printed publications. It is the user's responsibility to question the validity of any information."

Issue 2: Children and the Internet: what is the public library's responsibility in this regard?

The *Public Libraries Act, R.S.O. 1990, chapter P.44* does not specifically refer to children as users, and as such does not say that the library must protect children. However, this does not mean that Board and Staff are indifferent to the concerns of parents and the community in general or the safety of children on the Internet. The principle of intellectual freedom and the protection of children need not be at odds with each other. It is the Board's responsibility to address these issues.

In taking action to reassure concerned users, the library can maintain its position on intellectual freedom as the cornerstone of any discussion on policy. The Board can do this by developing an *Internet Acceptable Use Policy* explaining the measures the library intends to take to ensure safe use of the Internet by children.

The situation will be less straightforward where public libraries share facilities and services with a school. Responsibility for supervision, monitored access and filters will need to be considered from both the school and the public library's perspectives.

If called upon to defend its stand for 'free access', the Library Board might also refer to the *OLA Position on Children's Rights in the Public Library*.

Another difficulty could arise if a public library has only one Internet workstation. According to the 'Burlington opinion', unless a public library offers "a reasonable number of unfiltered Internet terminals", it may impinge on freedom of expression. All users may be reassured that the public libraries' liberal approach to intellectual freedom does not mean that they wash their hands of all responsibilities. The Board must set policies that will support staff action and provide information that warns the users and the parents of users about the pitfalls of navigating the Internet.

Some public library home pages provide links to safe surfing sites as part of their own Internet use policies. The Kingston Public Library refers its users to guidelines for Safe Surfing. The Hamilton Public Library offers surfing guidance by suggesting a 'list of chosen web-sites that provide quality information resources'. The Ontario Library Service's Web pages entitled *Professional Information* and

Cybersites for Children provide links that can be helpful to children, parents, laypersons and/or professionals who are interested in learning how to navigate the Web in safety.

Many excellent Web resources have been designed specifically to illustrate the pitfalls of surfing the Internet. The *Media Awareness Network (MNet)*, a Canadian initiative, of which the Ontario Library Service is a participant, is dedicated to gathering helpful advice on safe use of the Web, for children, their parents, guardians, teachers and librarians. A section of this Web site, entitled *Managing the Net at the Public Library*, explains acceptable use policies and filtering and refers the user to other resources on these subjects. To help parents, librarians and educators become more aware of Internet safety issues, *MNet* has prepared training materials which non-profit organizations can download. One of these is a PowerPoint presentation entitled, *Safe Passage: Online Safety and Offensive and Inappropriate Content*

These initiatives are good examples of the pro-active approach libraries are taking in order to protect the rights of children accessing information that meets their needs.

Issue 3: Exercising “due diligence”

‘Due diligence’ means that the library has taken all reasonable precautions under the circumstances to avoid participating in an illegal activity. Aside from providing access to documentation and resources about Web safety, Library Boards may demonstrate ‘due diligence’ in their policies by ensuring that there will be staff supervision around Internet workstations. They may want to install special screens to ensure the user’s privacy. Board policies may state that children’s Internet workstations be placed in proximity of information, reference or circulation desks to encourage the use of staff assistance as well as to facilitate monitoring.

Board policies may also want to specify the ‘due diligence’ efforts undertaken to support the staff’s monitoring of the search history of each Internet session and the regular clearing of caches (information that is automatically saved during an Internet session). These policies should help to prevent the library from unwittingly storing illegal materials and should reduce its liability under the *Criminal Code*.

Issue 4: Dealing with ‘front line’ situations

“The library’s response to incidents is important. Problems may develop if the library is perceived to have a cavalier approach to a concern.”

“Internet Content and Library Liability: Internet Access”
in *Public Library Services Newsletter*;
Manitoba Culture, Heritage & Citizenship, no. 123 April 1999

Having to confront patrons who are abusing their library privileges by viewing illegal materials, is a major issue for public services staff. It is very important that the staff be well advised and well trained in how to handle such incidents. Library policies should support the staff in these situations. For example, policies should state at what point a staff member can ask a patron to leave or when to call in the police. The Burlington Public Library policy is very explicit in this matter. It states that:

“Violation of the library’s Internet access and use guidelines may result in the loss of Internet privileges and/or removal from the library. Any library users involved in illegal activities will be subject to prosecution.”

If staff must monitor search histories and ‘caches’ on the Internet workstations, they need to be briefed on what violates the *Criminal Code*, so that they can report illegal activities or sites to the police. And, staff must be familiar with the principle of intellectual freedom so that they do not needlessly infringe on an individual’s rights. Specific information on how to report online crime can be found on the *MNet* site under the heading, *Reporting Illegal Internet Content to the Police*.

Reporting Internet-related crime to the police is an important responsibility. Library staff may hesitate to assume these duties unless they can be sure that a policy has been established and that the Library Board is prepared to defend their actions. Clearly-defined policies must be put in place to minimize as well as to respond efficiently to complaints by users. Signage warning users of the dangers of the Internet may prevent objectionable incidents. Brochures stating the basis for the library’s stand on freedom of information, should also help staff to enforce library policies. Finally patrons may be asked to acknowledge acceptance of the policy before using the library’s Internet services.

Staff need to be trained in good customer relations as well as in the use of the technology they are asked to support. It should be a Board policy to encourage and include extensive and on-going staff training in the budget.

The bottom line

“Over the last few years information technology has become essential in our society and it is now the catalyst for major shifts occurring in libraries. ... The important thing is not whether we offer information technology services, but the quality of the services we provide.”

Kansas City Public Library Technology Plan 1999-2003, p.23.

The role of the Library Board is to ensure that the library achieves its vision and mission. Paying close attention to the issues relating to public access to the Internet in libraries and establishing policies to address these issues is another example of the contribution the Library Board can make to the community as a whole.

While the Library Board may want to uphold strong liberal views, it will have to be prepared to review its policy in order to respond to community pressure. The Burlington Public Library’s *Internet Access and Use Policy* offers an example of a balanced view which respects the intellectual rights of the individual while responding to the needs of the community.

"Libraries are thus at a crossroads, for they must adjust their traditional values and services to the digital age. But there is good reason for optimism as libraries and their communities take up this challenge."

Buildings, Books and Bytes; libraries and communities in the digital age. Benton Foundations. 1996.

When faced with developing *Acceptable Use* policy for the Internet, board members will have to consider all sides of the question. The individual board member’s personal convictions can contribute to the discussion, along with the views of other community members. Once the policy is set, however, the Board speaks with one voice.

Resources (Web site addresses current as of December 3, 1999)

Burlington Public Library. *Internet Policy*. Approved by the Burlington Public Library Board, May 16, 1996. **See insert**. It can also be found at <http://www.hhpl.on.ca/library/bpl/policy/htm>

Canadian Charter of Rights and Freedoms
<http://www.pch.gc.ca/ddp-hrd/english/charter/contents.htm>

“Filtering the Net in Libraries: The Case (Mostly) in Favor” by Michael A. Banks in *Computers in Libraries*, March 1998, pp. 50-54.

Hamilton Public Library. *Internet Use Policy*. Approved by the Library Board, April 1, 1998.
<http://www.hpl.hamilton.on.ca/NET/Internet.htm>

“Internet Content and Library Liability: Internet Access” in *Public Library Services Newsletter*; Manitoba, Department of Culture, Heritage and Citizenship, no. 123 April 1999.

“Internet Policies: Managing in the Real World” by Karen Hyman in *American Libraries*, November 1997, pp. 61-62.

Kingston Frontenac Public Library. *Internet policy*. Updated January 1999. <http://www.kpl.library.on.ca/kintpol.htm>

Media Awareness Network <http://www.media-awareness.ca>
The address for *Managing the Net at the public library*:
<http://media-awareness.ca/eng/webaware/librarians/Imanage.htm>
The address for the PowerPoint presentation, *Safe passage: Online safety and offensive and inappropriate content* is:
<http://www.media-awareness.ca/eng/webaware/workshops/worksafe.htm>
The address for the section, *Reporting Illegal Internet Content to the Police* is:
<http://media-awareness.ca/eng/webaware/tipsheets/reportp.htm>

Ontario Library Association

Legal Opinion on Internet Access, as commissioned by Burlington Public Library and the Ontario Library Association. Available for purchase from the OLA for \$25.00. The Web address for the OLA marketplace is <http://accessola.org/market>

OLA Position on Children's Rights in the Public Library.
<http://www.accessola.org/action/positions/children.html>

Ontario Library Association Statement on the Intellectual Rights of the Individual. http://www.accessola.org/action/positions/intellectual_rights.html

“To Filter or Not To Filter? Burlington Library Seeks Legal Opinion” by Derek Weiler in *Quill & Quire*, March 1999.

Sourcebook for Small Public Libraries. Administration 3: Directors' Liability, 1994.

Burlington Public Library Internet Access and Use Policy

Internet Access Policy

While recognizing that the Internet provides access to a vast array of tools and resources for different age levels and points of view, Burlington Public Library does not act in place or in absence of a parent and is not responsible for enforcing any restrictions which a parent or guardian may place on a minor's use of this resource.

- Burlington Public Library Board, May 1996 -

Children and the Internet at BPL

The Internet is a tool for lifelong learning. Through the World Wide Web, a wealth of information is at our fingertips. But, like all resources, not all material is suitable for all age levels or tastes.

As with books, magazines, videos and television programs, there will be some items which you may find controversial or inappropriate, for yourselves and especially for your children. Parents are encouraged to supervise their child's Internet sessions, and to inform the child if there are resources they don't want the child to access.

The library provides a mix of filtered and unfiltered Internet workstations. On filtered workstations a commercial filtering software, aimed at blocking sites that contain pornography and graphic sexual images, has been installed. The library assumes no liability in the event the filter is not 100% effective. Unfiltered workstations are equipped with a privacy screen. It is the parent's decision as to which workstation their child may use.

Not all sources provide accurate, complete, age appropriate or current information, so users should evaluate Internet sources as they would printed publications. It is the user's responsibility to question the validity of any information.

Internet Access and Use Guidelines

◆ Service Philosophy

Internet access is provided at Burlington Public Library locations in keeping with the Library's mission to enrich, inform and educate the Burlington community. The Library considers Internet resources an extension of our material collections for library users. The Internet is one of the richest information resources available to our customers

◆ Library Responsibilities

The Library and its staff will:

- Use reasonable efforts to ensure compliance with Internet use guidelines and procedures.
- Make users aware of our Internet access and use policies and guidelines through signage and brochures.
- Take reasonable measures to ensure the privacy and confidentiality of Internet users. This includes the installation of privacy screens on unfiltered workstations and location of PCs.
- Offer a mix of filtered and unfiltered Internet workstations. On filtered workstations install commercial filtering software aimed at blocking sites that contain sexually explicit or hate speech material.
- Install updates provided by the filtering company to its list of blocked sites.
- Make all workstations available to all members of the public, regardless of age.
- Provide staff assistance to library Internet users whenever time and knowledge permits.
- Develop Web pages and brochures to assist users in navigating the Internet.
- Offer introductory training sessions to the Internet for a fee as resources permit.
- Inspect and report suspected illegal sites.

Given the nature of the Internet:

- The library assumes responsibility only for the information provided on its web pages.
- The library cannot control the availability of information links that often change rapidly.
- Burlington Public Library assumes no responsibility for any direct or indirect damages arising from the use of its connection to Internet services.
- No filtering product can block all offensive sites. The Library assumes no liability in the event the filter is not 100% effective. The Library assumes no responsibility for the currency of the filter or the content provided through it.

◆ Customer Responsibilities

All users of the Internet are expected to use this resource in a responsible manner and comply with these Internet access and use guidelines:

- Not all Internet sources provide accurate, complete, age appropriate or current information. It is the user's responsibility to question the validity of any information.
- All members of the public, regardless of age may use any of the public workstations.
- Parents or guardians are responsible for monitoring their children's Internet activity and choice of workstation. Filtering software does not replace the need for parental guidance.
- Be aware that the workstations are in public areas shared by people of all ages and sensibilities. Although the Library has taken measures to increase privacy, complete privacy cannot be guaranteed. Each user is ultimately responsible for the selection of sites and should be aware that other library users may be involuntarily exposed to what is displayed.
- Respect the privacy of others using public access workstations.
- Use is limited to thirty minutes if others are waiting to use an Internet workstation.
- Unless participating in a library tutorial, no more than two people are permitted at an Internet workstation at one time.
- Where permitted by copyright, users may print their information at the posted rate.
- At the end of Internet sessions users must exit the Internet by clicking on the "X" in the upper right hand corner of the screen.

The following activities are prohibited:

- Use of workstations for illegal, actionable or criminal purposes or to seek access to unauthorized areas.
- Infringement of copyright and other intellectual property rights.
- Use of FTP.
- Use of personal disks and software programs.
- Subverting or attempting to subvert any security devices in either software or hardware format which the library has installed on its Internet workstations.
- Installing or attempting to install viruses or other programs designed to damage or alter software on the workstations, the local area network or the Internet, or seeking unauthorized access to any computer system.
- Sending unsolicited commercial material or spamming.
- Misrepresenting oneself as another user.
- Attempting to modify or gain access to files, passwords or data belonging to others.
- Vandalism or theft of library property.

◆ Consequences of Violating Internet Access and Use Guidelines

Users in violation of the library's Internet access and use guidelines may have their Internet privileges revoked. Repeated violations will result in removal from the library.

Misuse or abuse of computers or programs is not acceptable. Offenders may be required to leave the library.

Customers using the library's Internet workstations for illegal purposes will be subject to prosecution. Vandalism or theft of library property is illegal and will be reported to the police.