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Access to Information Implementation Notice 2022-01: Inter-institutional Consultations

1. Effective Date

This implementation notice takes effect on September 27, 2022.

2. Authorities

This implementation notice is issued pursuant to paragraph 70(1)(c) of the *Access to Information Act* (ATIA).

3. Purpose

This implementation notice provides guidance to government institutions respecting inter-institutional access to information (ATI) consultations.

4. Context

On April 26, 2022, the Information Commissioner of Canada (IC) released her special report to Parliament on challenges facing Canada's ATI system, entitled "[Access at Issue: The Challenge of Accessing our Collective](#)

Memory". The IC focused her special report on two broad challenges faced by the access to information system, one of which is how consultations between institutions are conducted.

When responding to access requests, one institution may consult another about disclosing records that relate to the second institution for several reasons. For example, when subject matter experts from another institution created or contributed to a record that is being requested, access to information and privacy (ATIP) offices in the processing institution that received the original request may need to consult on what exemptions would apply to appropriately exercise their discretion.

Section 7 of the ATIA requires that institutions respond to ATI requests within 30 days. However, institutions may extend this time limit when consultations are necessary, provided the extension is reasonable in the circumstances. The ATIA does not specify a time limit within which a consulted institution must respond, but the Policy on Access to Information states that any consultations necessary for the processing of requests made pursuant to the Act are to be undertaken promptly and the Directive on Access to Information Requests states that any extension taken must be as short as possible and must be reasonably justified (4.1.28).

5. Guidance

The guidance as outlined below can help increase efficiency as it relates to inter-institutional consultations.

5.1 Limiting the requests for consultation

Institutions **may** consult another about disclosing records that relate to them, but they are **not** obligated to do so. Consultations are not mandatory under the ATIA and should take place **only when needed**. Section 4.1.31 of

the Directive states that institutions should undertake inter-institutional consultations only when:

- The processing institution requires more information for the proper exercise of discretion to withhold information; or,
- The processing institution intends to disclose potentially sensitive information.

Institutions should be selective when determining which access requests require consultations and are encouraged to use their delegated authorities to their full extent.

5.2 Narrowing the scope of consultations and providing relevant context

Framing the advice being sought or identifying the specific information for which advice is being sought is a best practice to expedite the consultation process. It is not an acceptable practice to ask another institution to review an entire ATIP package without providing additional guidance such as:

- which piece or pieces of information the processing institution is consulting on; and,
- which specific exemptions the processing institution is considering applying, based on their understanding of the records.

For some consultation requests that are especially complicated, the processing institutions are encouraged to include all relevant reference material and provide targeted questions when they make a consultation request to another institution. To do this, processing institutions may want to conduct a detailed analysis of the information before submitting a consultation request to another institution. By framing the consultation

request more fulsomely and by providing relevant contextual information, the institution being consulted should be able to respond more quickly and more accurately.

5.3 Giving equal priority to consultation requests

Section 4.1.32 of the Directive requires that institutions treat consultation requests from other government institutions with the same level of importance as access requests that they receive directly.

5.4 Setting a reasonable timeline for responding to consultation requests

If a government institution consults another institution, it must still respond within the 30-day time limit **unless** the conditions in paragraph 9(1)(b) of the ATIA are met. This provision permits extensions of time to be claimed **only** if the consultations are necessary to comply with the request and those consultations cannot reasonably be completed within the original 30-day time limit.

For cases where the conditions for a time extension are met, the processing institution should establish clear timelines for a response with the institution being consulted.

5.5 Monitoring and following-up on response timelines

It is recommended that processing institutions establish and implement a process for monitoring timelines for consultation extensions and, if necessary, for taking action. If the institution being consulted is unable to respond within the proposed time extension, or if more clarification is required, they should inform the processing institution as early as possible.

The processing institution that received the original request should follow up on the progress of consultations to ensure that the other institution abides by the pre-established timelines.

6. Application

This implementation notice applies to the government institutions as defined in section 3 of the ATIA, including parent Crown corporations and any wholly owned subsidiary of these corporations. However, it does not apply to the Bank of Canada.

7. References

- [*Access to Information Act*](#)
- [*Policy on Access to Information*](#)
- [*Information Commissioner's Special Report to Parliament*](#)
- [*Directive on Access to Information Requests*](#)

8. Enquiries

Members of the public may contact [Treasury Board of Canada Secretariat Public Enquiries](#) for information about this implementation notice.

Employees of government institutions may contact their [Access to Information and Privacy \(ATIP\) coordinator](#) for information about this implementation notice.

ATIP coordinators may contact the Treasury Board of Canada Secretariat's [Access to Information Policy and Performance Division](#) for information about this implementation notice.

Date modified:

2022-09-27