

Consents for Disclosure of Personal Information

Ensuring Consents

Meet the Requirements of the FOIPPA Regulation

On June 25, 2012 amendments were made to the FOIPPA Regulation, which included changes to the way citizens consent to disclosure of their personal information. Those changes include new requirements to specify an effective date for the consent and, where applicable, a date on which the consent expires. Also new is the requirement to state the jurisdiction to which the personal information will be disclosed, where it is practicable to do so.

Public bodies have until **June 25, 2013** (one year after the regulation was brought into force) to update any consents that authorize the ongoing disclosure of personal information to ensure they meet any applicable new requirements. The following information is intended to assist public bodies in their review of consents currently in effect.

Requirements that Pre-Dated the Change to the FOIPPA Regulation on June 25, 2012 (and therefore should already be included in existing consents)

Consent must be in writing.

The individual must sign the consent form. Public bodies can accept consent given electronically.

Consent must specify the personal information about which the individual is giving consent.

The consent must describe or list the types of personal information involved. The degree of detail that is appropriate will vary according to the circumstances. In some cases, it may be appropriate to refer to a category of personal information, such as “a hospital file”. In others, it may be appropriate to list specific types of information, such as “the report on my medical examination by Dr [name] on [date]”. Or it may be appropriate to list specific elements, such as “my name”, “my age” or “my blood type”.

Consent must state to whom the personal information will be disclosed.

For example, the consent should state whether the personal information will be disclosed to another public body, an individual, a private-sector organization in B.C. or a body in another jurisdiction.

Consent must specify the purpose of the disclosure of the personal information.

The purpose should be stated as specifically and narrowly as possible, e.g., “to post personal information on [name of public body]’s website featuring interviews or stories about or photographs of citizens promoting [name of public body]’s services.”

New Requirements Added to the FOIPPA Regulation on June 25, 2012

Consent must state the date on which the consent is effective and, “if applicable”, the date on which the consent expires.

Regarding the effective date, the date that the form is signed should suffice. Where a public body knows the start and end dates of a particular program, the consent should give this information. In some cases a public body may not know how long an individual will be involved in a particular program. An expiry date may also not apply where information is disclosed on an internet site. In these cases, it is not necessary to provide this element for the consent to be valid.

Consent must, “if practicable”, state the jurisdiction to which the personal information will be disclosed.

Where a public body can specifically identify a jurisdiction to which the personal information will be disclosed, the consent should give this information, e.g., “information will be disclosed to the Royal Commission in the United Kingdom.”

There will be cases in which the public body may not be able to identify precisely where personal information may be disclosed. For example, when personal information is posted to an internet site, it is disclosed to virtually every jurisdiction on the globe. In this case, it is not necessary to provide this element for the consent to be valid.