



PRIVACY IMPACT ASSESSMENT DIRECTIONS

TO: HEADS OF ALL MINISTRIES

DIRECTION: 1-21

SUBJECT: Directions to heads of ministries on conducting privacy impact assessments

AUTHORITY: These directions are issued under section 69 (5) of the *Freedom of Information and Protection of Privacy Act*.

APPLICATION: These directions apply to heads of all ministries.

EFFECTIVE DATE: November 26, 2021



Honourable Lisa Beare
Minister of Citizens' Services

Minister of Citizens' Services

Directions to Heads of Ministries issued under Section 69 (5) of the *Freedom of Information and Protection of Privacy Act*

I, Lisa Beare, Minister of Citizens' Services (the Minister), issue the following directions to heads of ministries under section 69 (5) of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 (the Act).

These directions repeal and replace Direction 1/14 issued May 9, 2014.

A. Preamble

Relevant Legislative Requirements

Section 69 (5) of the Act requires the head of a ministry to conduct a privacy impact assessment (PIA) and must do so in accordance with the directions of the Minister responsible for the Act.

Additionally, when an initiative is a proposed initiative (as opposed to an existing one) section 69 (5.1) of the Act requires the head of a ministry to submit a PIA for the Minister's review and comment. The Act further requires that the PIA for a proposed initiative be submitted during the development phase of the initiative.

Purpose

The purpose of these directions is to:

1. Direct ministries in determining when a PIA must or may be conducted.
2. Direct ministries in conducting and documenting a PIA that will:
 - a. Determine whether their initiative meets or will meet the requirements under Part 3 of the Act; and
 - b. Identify and assess privacy risks and identify a risk response(s) that is proportionate to the level of the risk.

B. Definitions

In these directions:

“common or integrated program or activity” has the same meaning as in the Act;

“data-linking program” has the same meaning as in the Act;

“head” has the same meaning as the head of a public body that is a ministry in Schedule 1 of the Act;

“initiative” means an enactment, system, project, program or activity;

“ministry” means a ministry of the government of British Columbia;

“personal information” has the same meaning as in the Act;

“personal information bank” has the same meaning as in the Act;

“personal information directory” means the public registry required by section 69 (2) of the Act, which contains summaries of British Columbia government holdings with respect to personal information banks, health information banks, information sharing agreements, and privacy impact assessments;

“privacy impact assessment” (PIA) has the same meaning as in the Act;

“privacy risk” includes:

- an inherent risk of unauthorized collection, use, disclosure, or storage of personal information; and
- something that may inappropriately override or otherwise limit personal privacy.

The level of risk may vary based on:

- the likelihood of occurrence of an unauthorized collection, use, disclosure, or storage of personal information; and
- the impact to an individual(s) of an unauthorized collection, use, disclosure, or storage of personal information.

“service provider” has the same meaning as in the Act.

C. When a PIA must or may be conducted

1. The head of a ministry must conduct a PIA:
 - a. on a proposed initiative when no PIA has previously been conducted. A previously conducted PIA includes a PIA conducted in consultation with the Minister responsible for the Act, on behalf of all or multiple ministries; or,
 - b. before implementing a significant change to an existing initiative, including but not limited to a change to the location in which sensitive personal information is stored, when it is stored outside of Canada.
2. The Minister responsible for the Act may recommend that the head of a ministry conduct a PIA subsequent to an investigation under the Information Incident Management Policy.
3. Where a head of a ministry is not required to conduct a PIA by items 1-2, above, they may conduct a PIA at their discretion and in accordance with these directions.

D. General directions on conducting a PIA for an initiative that is not an enactment

When conducting a PIA for an initiative that is not an enactment, the head of a ministry must do the following:

1. Identify the purpose or objective of the initiative.
2. Identify the information elements, including personal information, to be collected, used, disclosed, or stored, and confirm that the personal information elements are necessary for the purpose of the initiative.
3. Where applicable identify:
 - a. how and from whom the personal information will be collected;
 - b. how the personal information will be used;
 - c. how and to whom personal information will be disclosed; and,
 - d. if an assessment of disclosure for storage of personal information outside of Canada is required, as per E.
4. Identify relevant legal authority (or authorities) authorizing the collection, use, or disclosure of personal information, as applicable.

5. If the initiative involves personal information, identify privacy risks and privacy risk responses that are proportionate to the identified risks.
6. Identify reasonable security arrangements against such risks as unauthorized collection, use, disclosure, or storage that have been or will be made.
7. Where applicable, provide to the Minister responsible for the Act:
 - a. notice of any personal information bank(s) that are in the custody or under the control of the ministry; and,
 - b. any completed privacy impact assessments or information sharing agreements to enable the Minister responsible for the Act to maintain and publish a personal information directory as required under subsections 69 (2) and (3) (b) of the Act.
8. The Minister responsible for this Act may designate the appropriate level of position that holds accountability for a PIA, proportionate to the sensitivity of the personal information and/or the risks of the initiative.
9. In addition to the requirements outlined in Directions D1 to D8, identify if a supplementary assessment (E1 to E5) of disclosure for storage of personal information outside of Canada is required for an initiative by determining:
 - a. whether the initiative involves personal information that is sensitive; and,
 - b. if the personal information that is sensitive is disclosed to be stored outside of Canada.

Where applicable, the head of a ministry must confirm their adherence in the PIA to the following requirements under Part 3 of the Act:

10. Confirm that notice of collection will be given to individuals per section 27 (2) of the Act, or confirm that notice of collection is not required, per section 27 (3) of the Act;
11. Where personal information is used to make a decision that directly affects an individual, confirm that reasonable efforts will be made to ensure the accuracy and completeness of personal information per section 28 of the Act;
12. Confirm that a process is in place, per section 29 of the Act, to correct an individual's personal information upon request, or to annotate their personal information if it is not corrected per the individual's request;

13. Where personal information is used to make a decision that directly affects an individual, confirm that the personal information will be retained for at least one year after use, per section 31 of the Act;

E. Directions on a supplementary assessment of disclosure for storage of personal information outside Canada

1. If the conditions in D9 are not met, or the disclosure outside of Canada is made in accordance with section 33 (2) (f), an assessment of disclosure outside of Canada is not required.
2. If both conditions in D9 are met, then an assessment of disclosure outside of Canada is required and must be conducted as part of the privacy impact assessment.
3. If an assessment of disclosure outside of Canada is required, the head of a ministry must identify the privacy risk(s) as well as the level of the privacy risk(s) associated with the disclosure by examining factors which include but are not limited to the following:
 - a. the likelihood of occurrence of an unauthorized collection, use, disclosure, or storage of personal information;
 - b. the impact to an individual(s) of an unauthorized collection, use, disclosure, or storage of personal information;
 - c. whether the personal information is stored by a service provider; and,
 - d. where the personal information is stored.
4. For each privacy risk, identify a privacy risk response that is proportionate to the level of risk posed. These may include technical, security, administrative or contractual measures (e.g. ways to manage and review access to personal information).
5. The outcome of the assessment of disclosure for storage of personal information outside of Canada will be a risk-based decision made by the head of the ministry on whether to proceed with the initiative, considering E3 and E4.

F. Directions on conducting a PIA for an enactment

When conducting a PIA for a proposed enactment, including a proposed amendment to an enactment, the head of a ministry must do the following:

1. Identify the purpose or objective of the proposed enactment or amendment to the enactment.
2. For the proposed enactment or amendment to the enactment, identify:
 - a. Any provisions that will authorize the collection, use or disclosure of personal information;
 - b. What elements of information, including personal information, that will be authorized to be collected, used or disclosed;
 - c. That the personal information authorized to be collected, used or disclosed is necessary for the purpose of the initiative;
 - d. Any provisions that provide a regulation-making power with respect to the collection, use, or disclosure of personal information;
 - e. Any provisions that would override or otherwise limit the privacy protection provisions of the Act, and the rationale for such provisions; and,
 - f. Other impacts to the rights of individuals afforded under the Act.

G. Directions on documenting a PIA and submitting it for review and comment

When documenting a PIA for an initiative that is not an enactment, the head of a ministry must, at a minimum, do the following:

1. Document all required elements under Sections D and E of these directions;
2. Provide sufficient detail in the documentation to enable the Minister responsible for the Act to review and comment;
3. Document the PIA using the template(s) created by the Minister responsible for the Act or in a form and manner approved by the Minister responsible for the Act; and,
 - a. Provide the name, position title, and contact information of the individual who can answer questions with respect to the PIA.

When documenting a PIA for an initiative that is an enactment, the head of a ministry must, at a minimum, do the following:

1. Document all required elements under Section F of these directions;
2. Provide sufficient detail in the documentation to enable the Minister responsible for the Act to review and comment on the PIA;

3. Document the PIA using the template(s) created by the Minister responsible for the Act or in a form and manner approved by the Minister responsible for the Act; and,
4. Provide the name and contact information of the individual who can answer questions with respect to the PIA.