



Protecting privacy. Promoting transparency.

January 4, 2012

Privacy Commissioners sign new MOU on private sector privacy

OTTAWA—The Information and Privacy Commissioners of British Columbia and Alberta and the Federal Privacy Commissioner have renewed their commitment to collaborate in an effort to better protect Canadians' personal information.

The three Commissioners, who have responsibility for enforcing private sector privacy laws in their jurisdiction, have signed a revised Memorandum of Understanding outlining how they will continue to work together on private sector privacy issues. The revised MOU also provides greater clarity on how they will share information in undertaking their duties.

"Privacy rights don't end at our respective borders. That's why we've renewed our commitment to work together on privacy initiatives, to better protect Canadians from coast to coast," said Canada's Privacy Commissioner Jennifer Stoddart.

"I'm proud of the strong, collaborative relationship we've built over the years. And I'm looking forward to the work ahead, as we begin to address some of the more current challenges to personal privacy, including the development and use of new technologies," said B.C. Information and Privacy Commissioner Elizabeth Denham.

"Private sector organizations need to know that no matter where they're operating, their duties and responsibilities are clear," said A/Alberta Information and Privacy Commissioner Marilyn Mun. "Our offices will continue to cooperate in this area, to provide as seamless a system of controls and protections as possible."

Since the original MOU was signed in 2008, the Commissioners of British Columbia, Alberta and Canada have worked together to provide the public with comprehensive privacy protection as well as practical advice, including:

- An interactive self-assessment tool to help organizations gauge how well they are protecting personal information
- Advice to retailers about whether it's appropriate to collect driver's licence numbers from their customers

The Commissioners have also undertaken joint investigations involving the privacy rights of Canadians across jurisdictions.

The MOU is attached.

MEMORANDUM OF UNDERSTANDING

BETWEEN

The Office of the Privacy Commissioner of Canada

AND

The Office of the Information and Privacy Commissioner of Alberta

AND

The Office of the Information and Privacy Commissioner of British Columbia

WITH RESPECT TO

**Co-operation and Collaboration in Private Sector Privacy
Policy, Enforcement, and Public Education**

Memorandum of Understanding

Between

**The Office of the Privacy Commissioner of Canada,
The Office of the Information and Privacy Commissioner of Alberta, and
The Office of the Information and Privacy Commissioner of British Columbia,**

As the offices of the Privacy Commissioner of Canada, the Information and Privacy Commissioner of Alberta, and the Information and Privacy Commissioner of British Columbia, have oversight responsibilities for our respective private sector privacy laws within our jurisdictions.

As there are circumstances where the Offices have concurrent or overlapping jurisdiction over organizations operating across Canada.

As the Personal Information Protection and Electronic Documents Act, S.C.2000, c.5, s.23 , the Personal Information Protection Act, S.A. 2003, c. P-6.5, and the Personal Information Protection Act, S.B.C. 2003, c. 63, provide for consultation and collaboration.

As there are interests and benefits resulting from cooperation and collaboration in policy, enforcement, public education, and compliance, both within the oversight offices and to organizations, and individuals in Canada.

GIVEN the responsibilities and mandates of the named parties,

THE PARTIES AGREE TO THE FOLLOWING:

1. OBJECTIVE OF THE MEMORANDUM OF UNDERSTANDING

1.1 Objective of the Memorandum of Understanding

The objective of this Memorandum of Understanding is to set out a framework to support federal/provincial collaboration and co-operation in order to:

- Leverage the resources of the Offices to maximize capacity and impact in oversight activities, while at the same time reduce overlap and inefficiencies.
- Increase knowledge sharing and enhance relationships between the Offices in order to ensure consistent, co-ordinated, efficient and harmonized oversight of private sector privacy in Canada
- Carry out joint instructions of the Privacy Commissioners.

2. **APPROACH**

This Memorandum of Understanding includes the following areas:

- **Enforcement:** The parties will consult to identify enforcement matters that are of mutual interest and determine how to respond in a co-ordinated and harmonized manner (as laws allow).
- **Policy:** The parties will consult to identify common principles and areas of mutual policy interest, and to develop and implement strategies to achieve policy goals and objectives. In particular, the parties will focus on emerging privacy issues to ensure a proactive, co-ordinated and consistent policy position and response whenever possible.
- **Public Education and Compliance Resources:** The parties will consult on the development of public education initiatives, and collaborate when it is mutually beneficial and of interest to do so. The parties will, whenever possible and as resources and laws allow, collaborate when issuing compliance guidelines to enhance harmonization and consistency in private sector privacy compliance.
- **Information sharing** on matters of mutual interest to collectively increase the Offices' knowledge and understanding of private sector privacy matters.

2.2 Role of Private Sector Privacy Forum

The primary vehicles for achieving the objectives set out in this Memorandum of Understanding will be the Private Sector Privacy (PSP) Forum and the PSP Forum Working Group.

PSP Forum

Activities of the PSP Forum will include, but are not necessarily limited to:

- Developing protocols to address the sharing of information, determination of jurisdiction, transferring complaints, and carrying out parallel and joint investigations.
- Identifying opportunities for collaborative policy and public education. The Offices commit to advising and updating each other with regard to all such proposed and ongoing initiatives and will consult to prevent duplication or inconsistencies.
- Identifying opportunities for collaboration and knowledge sharing with regard to internal protocols, including the development of templates, reporting formats and case management systems.
- Consulting on issues of jurisdiction between Offices, and with respect to other dispute resolution forums.
- Coordinating and participating in staff exchanges.
- Jointly sponsoring, supporting and participating in conferences and training activities.

Each Office will name one or more representatives to participate in the PSP Forum. The representatives will include senior staff responsible for investigations, policy, public education and compliance. Membership in the Forum may be delegated. Attendance at bi-monthly meetings is open to other staff involved in privacy sector privacy oversight.

At a minimum, membership in the Forum will include the following:

- Assistant Privacy Commissioner, Office of the Privacy Commissioner of Canada
- Director-General Investigations, PIPEDA, Office of the Privacy Commissioner of Canada
- Director of Policy and Research, Office of the Privacy Commissioner of Canada
- Director, PIPA, Office of the Information and Privacy Commissioner of Alberta
- Assistant Commissioner, Investigations and Mediation, Office of the Information and Privacy Commissioner of British Columbia

PSP Forum meetings will be held bi-monthly via teleconference and possibly twice per year in person. One in-person meeting per year is to be held in conjunction with a meeting of the Privacy Commissioners.

The PSP Forum is chaired by one of the members appointed by agreement among the membership. The Chair will rotate on a bi-annual basis. The Chair is responsible for:

- Setting the agenda for regular meetings. Agendas should reflect the sharing of policy and public education initiatives of interest, research, compliance guidance materials, and significant investigations.
- Co-ordinating in-person meetings with hosting office.
- Distributing minutes.
- Co-ordinating annual reports to the Commissioners.

PSP Forum Working Group

Activities of the PSP Forum Working Group will include, but are not necessarily limited to:

- Carrying out the instructions of the PSP Forum.
- Ensuring regular information sharing between member offices with respect to ongoing parallel or joint investigations.

Membership in the PSP Forum Working Group will include, at a minimum, the following:

- A representative from the PIPEDA Investigations Branch, Office of the Privacy Commissioner of Canada
- Director, PIPA, Office of the Information and Privacy Commissioner of Alberta
- Assistant Commissioner, Investigations and Mediation, Office of the Information and Privacy Commissioner of British Columbia

PSP Forum Working Group meetings will be held bi-monthly during those months when the PSP Forum does not meet.

2.3 Resource requirements

Each Office will fund its own participation in the PSP Forum, including costs associated with participating in in-person meetings. The Office responsible for chairing PSP Forum meetings will be responsible for hosting teleconference meetings. The Office hosting in-person meetings will be responsible for costs related to the meeting facilities, refreshments and other related costs.

Where there may be costs associated with collaborative policy, public education and compliance work, the Offices will, at the start of such initiatives, identify required resources and agree to a plan for resourcing such initiatives.

2.4 Reporting

Matters of interest and/or minutes of each meeting of the PSP Forum will be communicated to the respective Commissioners.

Once per year, the PSP Forum will formally report activities to the Commissioners.

2.5 Information Sharing, ownership, confidentiality and security

Information, including case specific information containing personal information where necessary, may be shared between the Offices for the following purposes;

- To assess jurisdiction and transfer complaints as necessary;
- To evaluate whether or not investigations or complaints relate to the same or similar matters in order to assess whether or not a parallel or joint investigation is appropriate;
- To conduct parallel or joint investigations;
- To otherwise assist in the conduct of an ongoing or potential investigation of a complaint or, where applicable, audit; and
- To assist the Privacy Commissioners in carrying out their respective functions and duties.

Non-case specific information may also be shared between the Offices for the following purposes:

- To coordinate or participate in staff exchanges and staff training activities;
- To develop or discuss policy, internal protocols, public education material, templates or case management systems;

- For any other purpose consistent with the objectives of this memorandum of understanding.

Information shared pursuant to this memorandum will only be used for the purposes for which it was originally shared.

Each Office will treat confidential and personal information received in a confidential manner in accordance with each Office's requirements. Confidential or personal information will be shared only in accordance with statutory conditions and requirements. The Office receiving confidential and personal information will not, without the express written consent of the Office that shared the information, further disclose the information unless required by law. The Office sharing the information will clearly indicate which aspects, if any, of the information being shared are confidential or contain personal information. The parties agree to develop a detailed protocol respecting the sharing of confidential and personal information between Offices.

All reports and documents, draft or otherwise, prepared by an Office remain the property of that Office and when provided to another Office are provided on the understanding that they will be not be disclosed, copied or distributed without permission.

3. ADMINISTRATION

3.1 The Privacy Commissioner of Canada, the Information and Privacy Commissioner of Alberta, and the Information and Privacy Commissioner of British Columbia, are charged with carrying out this Memorandum of Understanding.

3.2 Duration, Amendment and Termination

This Memorandum of Understanding supersedes all other Memorandums of Understanding signed between the parties and will come into force the day it is signed and will remain in force until December 31, 2013 or until another memorandum is signed.

The terms and conditions of this Memorandum of Understanding may be amended by mutual agreement in writing. Any of the parties may terminate this Memorandum unilaterally by giving at least one month's written notice to the other parties. All confidentiality or non-disclosure provisions, undertakings and other restrictions in section 2.5 will remain in force after termination of the Memorandum of Understanding.

3.3 Dispute resolution process

Although disputes are unlikely to occur, there is a potential for disagreement among the parties to this Memorandum of Understanding. Disputes among staff of the respective Offices should first be subject to resolution among the staff. The next level of dispute resolution is between the Commissioners or Assistant Commissioners, as appropriate.

IN WITNESS WHEREOF, THE FOLLOWING HAVE AFFIXED THEIR
SIGNATURES TO THIS MEMORANDUM OF UNDERSTANDING IN TRIPLICATE:

Original signed by

Jennifer Stoddart
Privacy Commissioner of Canada

IN Ottawa

THIS 22nd of November, 2011

Original signed by

Frank Work, Q.C.
Information and Privacy Commissioner, Alberta

IN Calgary

THIS 30th of November, 2011

Original signed by

Elizabeth Denham
Information and Privacy Commissioner, British Columbia

IN Victoria

THIS 29th of November, 2011