



# **THE PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT (PIPEDA)**

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**Broker Guide, Policy & Procedure Handbook and Brochure**



**Your Best Insurance  
Is An Insurance Broker**

**November 2003**

## **SECTIONS**

- A. Broker Guide for the Use of The Personal Information Protection and Electronic Documents Act (PIPEDA) Compliance Tools (including Consent Forms)**
- B. Personal Information Policy & Procedure Handbook**
- C. Brochure**
- D. Frequently asked Questions (FAQs) about The Personal Information Protection and Electronic Documents Act (Bill C-6)**

## **SECTION A:**

### **Broker Guide for the Use of The Personal Information Protection and Electronic Documents Act (PIPEDA) Compliance Tools**

**FOR INTERNAL USE ONLY**  
**NOT FOR PUBLIC DISTRIBUTION**

**INSURANCE BROKERS ASSOCIATION OF CANADA**

**BROKER GUIDE FOR THE USE OF**  
***THE PERSONAL INFORMATION PROTECTION AND***  
***ELECTRONIC DOCUMENTS ACT***  
**(PIPEDA)**  
**COMPLIANCE TOOLS**

**NOVEMBER 2002**



## **DISCLAIMER**

The following document explains in general terms how insurance brokers should use the various tools created by IBAC to assist in compliance with the “Personal Information Protection and Electronic Documents Act” (PIPEDA). This document is neither intended for public distribution, nor to provide specific legal advice. While great care was taken to ensure the accuracy of its contents, you should seek and be guided by legal advice based on your specific circumstances.

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## INTRODUCTION

This document explains the various tools created by the Insurance Brokers Association of Canada (IBAC) to assist brokers meet their legal obligations vis-à-vis their clients under the *Personal Information Protection and Electronic Documents Act* (PIPEDA).

You are encouraged to familiarize yourself with these tools as their proper use should enable you to meet or exceed the requirements of the legislation.

**Please note that the use of these tools, although recommended, is completely optional.** IBAC will not exercise any oversight role concerning their use.

### *When to begin using these tools:*

- **On January 1, 2004, the PIPEDA will apply to all insurance brokerages** not otherwise subject to “substantially similar” provincial legislation. **Those who wish to take measures to comply with the PIPEDA before that date will be doing so voluntarily, and not as a result of any legal requirement to do so.**
- These compliance tools are being provided in advance of that date to give you a sufficient amount of time to familiarize yourself with them, train your staff as appropriate and implement any other changes to your business operations you may deem to be necessary to comply with the PIPEDA.
- Other factors you may wish to consider when deciding whether to comply with the legislation before 2004 include:
  - banks may use their early compliance as a competitive marketing tool for their insurance operations;
  - you may have difficulty obtaining information from businesses that became subject to the PIPEDA in 2001 unless you can assure them of a comparable level of protection for personal information;
  - consumer pressures; and
  - pressures from P&C insurers and brokers themselves.

***Before you use any of these tools:***

- Make sure to:
  - **Read and understand them**, as you will likely have to explain them to clients.
  - **Appoint a Privacy Officer** who is accountable for your organization's policies and practices. This is a requirement under the PIPEDA.

For additional information on the PIPEDA's obligations and their applicability to your brokerage, please consult the document entitled "*The Personal Information Protection and Electronic Documents Act: A Guide for Insurance Brokers*" and the supporting document of "Frequently Asked Question" (FAQs). Both were prepared by IBAC, and are available from your provincial or regional insurance broker association.

A copy of the PIPEDA and related information may be obtained from the website of the Privacy Commissioner of Canada at [www.privcom.gc.ca](http://www.privcom.gc.ca). You may also contact that organization by telephone at 1-800-282-1376.

**PRIMARY TOOL:**

**THE PERSONAL INFORMATION POLICY AND PROCEDURE  
HANDBOOK**

The handbook was created because **the PIPEDA requires organizations to develop documents and other media to explain their policies and procedures** to their stakeholder communities including customers and other members of the public.

While **the legislation** does not require all detailed policies and procedures to actively be made public, it **requires that the following minimum information be made public:**

- *The name or title and contact particulars of the organization's "Privacy Officer;"*
- *The means by which access to information can be obtained;*
- *A description of the types of information held by the organization and a general description of its uses; and*
- *A description of information that is disclosed to related organizations.*

**The handbook exceeds these minimum requirements. It can be used as your brokerage's privacy policy, and is suitable for public distribution at your discretion, with or without its two supporting tools (the Personal Information Consent Form and the Personal Information Request/Complaint Form).**

**This document also explains how to use the following four supplementary tools which are not specifically mentioned in the Handbook:**

- A: Personal Information Oral Consent Acknowledgement Form**
- B: Privacy Brochure**
- C: Personal Information Commercial Client Agreement**
- D: Personal Information Model Addendum To Broker/Insurer Contracts**

## SUPPORTING TOOL #1:

### PERSONAL INFORMATION PROPERTY/CASUALTY CONSENT PERSONAL INFORMATION CONSENT PERSONAL INFORMATION DETAILED CONSENT

#### *What is it?*

- These forms are a **tool for obtaining the express, written consent of individuals** for the collection, use and disclosure of **their personal information**. Express, written consent is **one of the ways** brokers can obtain client consent for the collection, use or disclosure of their personal information. The other types of consent brokers may rely on are express oral consent, and implied consent.
- These forms can be used by brokers who provide traditional P&C services exclusively, as well as by those who also provide financial or other products (see Section below “When to use the form”).

#### *The Personal Information Consent Forms are NOT:*

- Suitable for most commercial insurance policies other than those where it is desirable and practical to obtain signed consents from every individual covered under an insurance policy.
- Your brokerage’s privacy policy.
- A replacement for any standard insurance application form. These are supplementary tools.
- Mandatory for brokers to use.

#### *Why use express written consent?*

- The PIPEDA requires that the consent of the individual be obtained for the collection, use or disclosure of their personal information. While it can be obtained in a variety of ways, **express, written consent is the “highest” and safest form of consent.**
- **Obtaining express written consent in this manner will most effectively protect brokers against possible future allegations by clients** that their consent was never obtained to collect, use or disclose their personal information.

### *When to use these forms?*

It is difficult to anticipate all the situations a broker may face with respect to the collection, use and disclosure of client personal information. Similarly, the level of risk a broker is willing to assume in handling clients' personal information will vary with the individual and the circumstances. Nevertheless, the following provides **general guidance concerning the circumstances under which it is advisable for the broker to obtain the express, written consent of a client.**

- **It is particularly recommended that you use these forms when:**
  - **Sensitive information is collected, used or disclosed** from a new or existing client. The PIPEDA states that “an organization should generally seek express consent when the information is likely to be considered sensitive.” However, it does not define the meaning of “sensitive” beyond the following statement “although some information (for example, medical records, income records) is almost always considered sensitive, any information can be sensitive, depending on the context.”
  - You intend to **cross-sell your brokerage's other non-P&C services, including but not limited to, financial services (see below), real estate, travel, life and health, to a new or existing client** in the present or future. In the case of an existing client, these forms should be used because cross-selling entails the use of existing information for a new purpose that requires a new consent under the law.
  - Your **new or existing client wishes to obtain wealth management services from you** in addition to those relating to risk-management. A signed consent is recommended in those situations because wealth management is likely to involve particularly sensitive information. Moreover, in the case of an existing client, the provision of wealth management services entails the use of existing information for a new purpose.
  - **The client has provided express written consent in the past, but wishes to change the terms of consent.** For example, the client wishes to withdraw consent for his personal information to be used for the purpose of cross-selling your brokerage's other services.
- **It is also advisable to use these forms under the following circumstances:**
  - **At the outset of a new business relationship** because the legislation states “an organization will seek consent for the use or disclosure of the information at the time of collection.” Doing so is particularly important for brokers whose lines of business services extend beyond the bounds of traditional P&C products and services.
  - **When a client renews** his insurance product with your brokerage under the same terms and conditions as in the past (i.e. same insurer), **but has never provided any form of express consent to the collection, use or disclosure of his personal information.**

- **When a client wishes to renew** his insurance product with your brokerage, **but you intend to disclose his personal information to new insurers** in the process.

*When it is not necessary to use one of the forms?*

- Express written consent does not need to be obtained when:
  - **You are renewing a policy at the client's request, and he does not express a wish to change the terms of a previous consent.** In this case, it is reasonable to assume that there is an implied consent for the handling of his personal information already on file.
  - **Fraud is suspected.** Such situations do not require any form of consent.
  - **Information is collected in a generic way for the purpose of giving a quote** (e.g. the prospective client gives you his/her age, indicates gender, shares driving record etc.) **but is not retained.** This applies whether or not the client gives you his or her name. In this case, it is reasonable to assume that there is an implied consent for the handling of the client's personal information.

*Who should sign these forms?*

- When used, the appropriate forms **must be signed by the brokerage and every individual covered by the particular policy.** Generally speaking, only individuals themselves may sign consents relative to their own information unless there is a valid legal authority for someone else to sign, such as a Power of Attorney, parental authority, etc.

*What if a client is requested to sign the appropriate form, but does not do so?*

- If a client is provided with the appropriate form but does not acknowledge it (e.g., does not sign and return the form which was sent by fax or mail), **depending on the circumstances, you may assume that there is implied consent** for the collection, use or disclosure of their personal information. However, where sensitive information and/or cross-marketing is involved and consent cannot be reasonably implied by the circumstances, it is particularly advisable that you follow-up on the matter and seek to obtain the written consent.
- **If a client expressly refuses to sign the appropriate form, you should explore the reasons for the refusal,** and explain its implications including your inability to provide service lawfully. If consent still cannot be obtained, you should consider terminating the business relationship or seeking legal assistance.

***What if a client signs the appropriate form, but checks off certain boxes (i.e., refuses to consent to specific collection, use or disclosure of personal information)?***

- **If a client refuses to agree to *parts* of the detailed form, again, you should explore the reasons for the refusal**, and explain its implications including your possible inability to provide service. **However, you need to carefully review what the client is objecting to — not all refusals will prevent the issuance of an insurance policy.** For example, if the client refuses to allow you to *collect basic information*, or to allow you to use personal information to *protect against inaccuracy*, you will likely have to refuse to provide service. However, if the client checks off the box in paragraph 3 of the form, which would otherwise allow you to cross-market financial services, you need not refuse service; you simply must refrain from using this client's information to cross-market. If you are still unsure how to proceed, you should consider seeking legal assistance.

***For additional information***

- See Policies 2, 3, 4, and 8 of the Handbook.

***Forms***

- See Forms Section for *Personal Information Property/Casualty Consent*, *Personal Information Property/Casualty and Other Consent*, and *Personal Information Detailed Consent*.

## **SUPPORTING TOOL #2:**

### **PERSONAL INFORMATION REQUEST/COMPLAINT FORM**

#### ***What is it?***

- A form to be completed by a client who wishes to:
  - Be provided access to their personal information held by the broker.
  - File a complaint against the broker's handling of their personal information.

#### ***Why use it?***

- **The legislation specifies that, upon request, an individual will be informed of the existence, use and disclosure of his or her personal information, and will be given access to it. That individual must also be given the opportunity to challenge the accuracy and completeness of that information and have it amended as appropriate.**
- This form assists in meeting your obligations toward clients in this respect.

#### ***For additional information***

- See Policies 9 and 10 of the Handbook.

#### ***Forms***

- See Forms Section for *Personal Information Request/Complaint Form*.

## SUPPLEMENTARY TOOL A:

### PERSONAL INFORMATION ORAL CONSENT ACKNOWLEDGEMENT FORM

#### *What is it?*

- This form is an **internal tool for recording the express, oral consent of individuals** for the collection, use and disclosure of **their own personal information**. Express, oral consent is one of the ways brokers can obtain client consent for the collection, use or disclosure of their personal information. The other types of consent brokers may rely on are express written consent, and implied consent.
- It is primarily intended to assist brokers **dealing with clients over the telephone** (or in other situations where obtaining a signature would not be practical), and from whom they would like to obtain consent.
- It can be used by brokers who provide traditional P&C services exclusively, as well as by those who also provide other financial products (see Section below “When to use the form”).

#### *The Personal Information Consent Form is NOT:*

- Intended to be signed or presented to the client for consideration. It is strictly an **internal form** to assist brokers obtain client consent.
- Intended to fulfill any of the PIPEDA’s obligations concerning “openness” or information that must be made publicly available.

#### *Why use express oral consent?*

- The legislation allows for consent to be given orally for the collection, use or disclosure of a client’s own personal information.
- As brokers conduct considerable business over the telephone, **it may often be more practical to obtain the client consent by way of agreement with a statement that is read to them, rather than by obtaining their signature on a form.**
- The legislation provides little guidance concerning the type of consent that should be obtained under particular circumstances. While express *written* is considered the best form of consent because it is the easiest to prove in the event of a dispute, express *oral* is equally acceptable and may be more practical to obtain in some circumstances. However, brokers should be cautious in using this form instead of a signed consent form, because they will have less protection against

allegations by clients that their consent was never obtained for the collection, use or disclosure of their personal information.

### *When to use the form?*

It is difficult to anticipate all the situations a broker may face with respect to the collection, use and disclosure of client personal information. Similarly, the level of risk a broker is willing to assume in the process handling of client personal information will vary with the individual and the circumstances.

- Nevertheless, the circumstances under which brokers should obtain the express oral consent of a client are largely the same as those relating to express, written consent — except that a signed Personal Information Consent Form will provide brokers with better protection against related client complaints.
- For additional information, please see section of same name under “Supporting Tool #1: Personal Information Consent Form.”

### *When is it not necessary to use the form?*

- See section of same name under “Supporting Tool #1: Personal Information Consent.”

### *How to use the form?*

- The boxed segments at the top of the form should be completed by the broker.
- **Items 1 through 5 under A) should be read to the client whose consent is sought relative to their own personal information.** Unless there is valid legal authority for someone else to sign (e.g. Power of Attorney, parental authority etc.), the legislation does not allow an individual to provide consent for another.
- **A check-mark should be placed by the “Yes” option if the client has positively, and unconditionally, consented** to the collection, use and disclosure of his/her personal information as per the statement read by the broker.
- **A check-mark should be placed by the “No” option if the client has completely or partially refused to provide consent** to the collection, use and disclosure of his/her personal information as per the statement read by the broker. Section B of the form should then be completed as appropriate.
- The completed form should be placed in the client’s file.

***What if a client places conditions on the specific collection, use or disclosure of personal information (i.e. “B” section of the form has been completed by the broker )?***

- **If a client refuses to agree to *parts* of the read statement, you should explore the reasons for the refusal, and explain its implications including your possible inability to provide service. However, you need to carefully review what the client is objecting to — not all refusals will prevent the issuance of an insurance policy.**

***What if a client refuses to provide consent of any kind?***

- **If a client expressly refuses to provide consent for the collection, use and disclosure of his/her personal information, again, you should explore the reasons for the refusal, and explain its implications including your inability to provide service lawfully.**

***For additional information***

- See Policies 2, 3, and 8 of the Handbook.

***Forms***

- See Forms Section for *Personal Information Oral Consent Acknowledgement Form*.

## SUPPLEMENTARY TOOL B:

### PRIVACY BROCHURE

#### *What is it?*

- **A general information privacy brochure suitable for wide distribution to brokers' personal lines clients.** (This brochure is not tailored for the commercial context where privacy considerations are different because there is either no personal information involved, or the individuals in question are not dealt with directly.)
- This brochure provides a summary of typical broker practices concerning the collection, use and disclosure of client personal information.

#### *Who can use it?*

- The brochure is suitable for distribution by brokers who provide traditional P&C services exclusively, as well as by those who also provide financial or other services. It is also suitable for express and/or implied consent practices.

#### *Why use it?*

- **The legislation requires that businesses make some information about their policies and procedures publicly available.** This brochure will assist you in meeting your obligations in this area.
- This brochure was designed in a very generic way to allow use by virtually any type of brokerage. However, because of its very general nature, **use of this brochure alone is not likely to be sufficient to ensure compliance with the PIPEDA.**

#### *How to use the brochure?*

- Specific printing instructions are provided in an attached document.
- The name of your brokerage and your Privacy Officer should be inserted in the designated space in the brochure before distribution.
- **This brochure should be used in conjunction with the other PIPEDA compliance tools** mentioned in this document, and particularly the Personal Information Policy and Procedure Handbook which provides additional information concerning the handling of client personal information (and which can also be distributed to the public).

***For additional information***

- See Policies 1 and 8 of the Handbook, and to a lesser extent the other Handbook policies.
- See *Privacy Brochure*.

## SUPPLEMENTARY TOOL C:

### PERSONAL INFORMATION COMMERCIAL CLIENT AGREEMENT

#### *What is it?*

- This form is most likely to be of use for **large commercial policies**.
- This form is suitable in situations where a **broker cannot or does not want to obtain signed consents from every individual who may be covered under a policy** (i.e. did not use the Personal Information Consent Form) such as in the case of multiple insured parties.

#### *Why use it?*

- In the event of a complaint to the Privacy Commissioner about a broker, use of this form **will provide evidence that**:
  - **The broker obtained written assurances that the client who sent him or her the personal information of other individuals had the authority to obtain it.**
  - **The client agreed to respect the general rule in the PIPEDA that personal information is to be used in a reasonable manner.** This point respects the accountability requirement under Principle 1 in the PIPEDA.

#### *Other considerations*

- This agreement imposes an obligation on brokers and clients to use personal information in a reasonable manner.
- Ensure that you can fulfil your obligations under the PIPEDA before obtaining assurances that your client is also doing so.

#### *For additional information*

- See Policy 1 of the Handbook.

#### *Forms*

- See Forms Section for *Personal Information Commercial Client Form*.

## SUPPLEMENTARY TOOL D: PERSONAL INFORMATION MODEL ADDENDUM TO BROKER/INSURER CONTRACTS

### *What is it?*

- **A model addendum** to broker/insurer contracts to address legislative requirements in the area of privacy. Use of this addendum **may be suggested to insurers for inclusion in or addition to the standard broker/insurer contract.**

### *Why use it?*

- Most contracts between brokers and insurers do not currently address either party's legal obligations concerning the protection of client personal information.
- **Brokers are responsible for the personal information transferred to insurers** (or any third party) for processing.
- **Brokers secure reasonable assurances that the insurer (or other party) receiving the information is complying with the Act.** They must use contractual or other means to secure a comparable level of protection while the information is being processed by the insurer (or other third party). This addendum is an example of such contractual means.

### *Other considerations*

- Given the staggered dates of PIPEDA implementation, parties may not wish to be bound to obligations which exceed their legal duties at a given time.
- Ensure that you can fulfil your obligations under the PIPEDA before obtaining assurances from the insurer (or other third party) that it is doing so.

### *For additional information*

- See Policy 1 of the Handbook.

### *Forms*

- See Forms Section for *Personal Information Model Addendum*.

# **Forms**



## PERSONAL INFORMATION PROPERTY/CASUALTY CONSENT

As part of my application for insurance, I hereby consent to the brokerage firm named below (the "Broker") collecting, using and disclosing personal information required for purposes of considering my application for new or renewal property/casualty and/or automobile insurance coverage.

The Broker is authorized to collect, use, and disclose personal information and provide such personal information to third parties, as required, including insurance companies. The Broker may also be required or permitted to disclosure such personal information pursuant to relevant privacy laws or other laws.

If I wish to review personal information pertaining to my application or policy maintained by the Broker, obtain copies of the Broker's privacy policies or standards, or make other enquiries or express concerns, I understand that I may do so by contacting the Broker's Privacy Officer.

**I agree that all personal information that I provide to the Broker will be complete and accurate.**

Full Name: \_\_\_\_\_  
(Please Print)

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name of  
Brokerage: \_\_\_\_\_

Brokerage's  
Privacy  
Officer: \_\_\_\_\_



## PERSONAL INFORMATION PROPERTY/CASUALTY AND OTHER CONSENT

As part of my application for insurance, I hereby consent to the brokerage firm named below (the "Broker") collecting, using and disclosing personal information required for purposes of considering my application for new or renewal property/casualty and/or automobile (insert additional lines if needed) insurance coverage.

The Broker is authorized to use this information to procure terms for \_\_\_\_\_  
\_\_\_\_\_.

The Broker is authorized to collect, use, and disclose personal information and provide such personal information to third parties, as required, including insurance companies. The Broker may also be required or permitted to disclosure such personal information pursuant to relevant privacy laws or other laws.

If I wish to review personal information pertaining to my application or policy maintained by the Broker, obtain copies of the Broker's privacy policies or standards, or make other enquiries or express concerns, I understand that I may do so by contacting the Broker's Privacy Officer.

**I agree that all personal information that I provide to the Broker will be complete and accurate.**

Full Name: \_\_\_\_\_  
(Please Print)

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name of  
Brokerage: \_\_\_\_\_

Brokerage's  
Privacy  
Officer: \_\_\_\_\_



## PERSONAL INFORMATION DETAILED CONSENT

By this consent, I, \_\_\_\_\_ ("the Client") hereby confirm that I wish to acquire or renew a policy or policies of insurance. I acknowledge that \_\_\_\_\_ brokerage ("the Broker") will be assisting me in relation to insurance products.

I acknowledge that I have read the information set out on this form, and I hereby consent to the Broker's collection, use and disclosure of my personal information in the manner and for the purposes set out below. I have placed an "X" in the box beside any item below for which I do not consent to the collection, use or disclosure of my personal information.

### 1. PERSONAL INFORMATION

In order to acquire or renew an insurance product for a client, a broker needs to collect personal information about the client. *The Broker will only collect, use and disclose such personal information in such a manner that a reasonable person would consider appropriate in the circumstances.*

### 2. COLLECTION

Depending on the type of insurance policy to be issued, the Broker may collect the following information:

- basic information such as name, address, telephone and fax numbers, e-mail address, birthdate and marital status
- claims history and credit and past payment records
- financial information
- medical information
- driver's record
- employment information

### 3. PURPOSES

Information collected under section 2 ("Collection") may be used for the following purposes:

- to enable the Broker to acquire or renew an insurance policy
- to assist the Client and assess his/her ongoing needs for insurance

- to assess the Client's need for and to offer other products, such as financial products
- to ensure that Client information is accurate and up-to-date
- to protect the Broker and/or insurer against inaccuracy

### 4. DISCLOSURE

The Broker may disclose Client personal information to the following third parties:

- insurance companies
- other brokers
- credit organizations
- professionals working on behalf of the broker or insurer such as adjusters and lawyers
- financial institutions
- medical professionals
- employer of the insured (commercial policies only)

### 5. THIRD PARTY INFORMATION

The Broker may obtain Client personal information from the following third parties:

- insurance companies
- other brokers
- credit organizations
- motor vehicle and driver licensing authorities
- financial institutions
- medical professionals

### 6. WITHDRAWAL OF CONSENT

The Client may refuse to consent to the collection, use or disclosure of personal information. The Client may also withdraw a previously given consent at any time. *However*, depending on the type of insurance policy to be issued, a refusal to provide consent or a future withdrawal of consent may result in the Broker's inability to acquire/renew insurance and/or in the cancellation of a policy.

### 7. ACCURACY

The Client must provide the Broker with accurate and up-to-date personal information. The Client's failure to do so will inhibit or prevent the Broker from properly advising or representing the Client. The Client must immediately inform the Broker of any new or changed information.

### 8. PRIVACY OFFICER

The Broker is committed to applying relevant laws and principles regarding privacy and confidentiality of personal information. For more information on the Broker's privacy policy and procedures, please contact the Broker's "Privacy Officer".

Client: \_\_\_\_\_  
(Signature)

Witness: \_\_\_\_\_  
(Signature)

Dated: \_\_\_\_\_

Print Name: \_\_\_\_\_



**INSURANCE BROKERS ASSOCIATION OF CANADA**

**PERSONAL INFORMATION  
REQUEST/COMPLAINT FORM**

**Client Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Telephone Number:** (h) \_\_\_\_\_ (o) \_\_\_\_\_

**Fax (if any):** \_\_\_\_\_

**Email address (if any):** \_\_\_\_\_

**Insurer (if known):** \_\_\_\_\_ **Policy # (if known):** \_\_\_\_\_

I wish to file a request  or complaint  (check applicable box) regarding my personal information which is being or has been held or processed by the insurance broker.

(Please briefly state the nature of your request or complaint):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of Client

\_\_\_\_\_  
Date

<b>FOR OFFICE USE ONLY:</b>	
Date received: _____	By (print name): _____
Date acknowledged: _____	By (print name): _____
Date of response: _____	By (print name): _____



## INSURANCE BROKERS ASSOCIATION OF CANADA

### PERSONAL INFORMATION ORAL CONSENT ACKNOWLEDGEMENT FORM

This form is for internal office use only and is to be completed upon receiving instructions from clients in regard to their personal information held or processed by this insurance brokerage.

<b>Date</b>	<b>File Number</b>
<b>Client Name</b>	<b>Policy Number</b>
<b>Insurer</b>	<b>Type of Insurance (e.g., home, auto etc.)</b>
<b>Staff member receiving client instructions</b>	<b>Staff member's signature or initials</b>

A. The above-named client has instructed that (s)he consents to our collection, use or disclosure of his/her personal information for the following specified purposes:

1. to enable us to acquire or renew an insurance product for him/her;
2. to enable us to assess his/her ongoing needs for insurance products;
3. to assess his/her need for other products, such as financial products;
4. to ensure that his/her personal information is accurate and up-to-date; and
5. to protect each of us and the insurer against error or fraud.

Yes  No (if no, complete section B below)

B. The above-named client has instructed that (s)he does **not** consent to the following collection, use or disclosure of their personal information:

***Collection - Personal information that may not be COLLECTED:***

***Use - Personal information may not be USED for the following purposes:***

***Disclosure - Personal information may not be DISCLOSED to the following parties:***

***Client's special instructions re: personal information (if any):***

**INSURANCE BROKERS ASSOCIATION OF CANADA**

**PERSONAL INFORMATION  
COMMERCIAL CLIENT AGREEMENT**

**BETWEEN:**

\_\_\_\_\_ Insurance Brokerage  
(the "**Broker** ")

**AND**

\_\_\_\_\_  
(the "**Client**")

The parties acknowledge that the Broker is being retained by the Client to acquire or renew a policy or policies of insurance for the Client, under which certain individuals, including the Client's employees, servants, agents and representatives may be insured (hereinafter called "insured individuals"). Accordingly, each of the parties may need to collect, use and disclose the personal information of such insured individuals.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, each of the parties hereto agrees to collect, use and disclose the personal information of such insured individuals in a manner that a reasonable person would consider appropriate in the circumstances. Each of the parties further agrees to safeguard the security of such personal information in a manner appropriate to the sensitivity of that information.

FOR THE SAID CONSIDERATION, the Client further covenants and warrants that the Client has obtained the appropriate consent from such insured individuals to disclose their personal information to the Broker.

Dated at \_\_\_\_\_ in the Province of \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ per: \_\_\_\_\_  
Witness **Broker**

Print Name: \_\_\_\_\_  
Authorized signing officer

\_\_\_\_\_ per: \_\_\_\_\_  
Witness **Client**

Print Name: \_\_\_\_\_  
Authorized signing officer



## **INSURANCE BROKERS ASSOCIATION OF CANADA**

### **PERSONAL INFORMATION MODEL ADDENDUM**

The parties acknowledge that each of them will be required to transfer to each other, process and otherwise deal with the personal information of individuals who may obtain insurance through the Broker. Each of the parties agrees to collect, use and disclose such personal information in a manner that a reasonable person would consider appropriate in the circumstances. The parties further agree to safeguard the security of such personal information in a manner appropriate to the sensitivity of that information.

## **SECTION B:**

### **Personal Information Policy & Procedure Handbook**



## PERSONAL INFORMATION POLICY & PROCEDURE HANDBOOK

### Introduction

Property and Casualty (P&C) insurance brokers in Canada have made a commitment to respect the privacy rights of individuals by ensuring that their personal information is collected, used and disclosed in such a manner that a reasonable person would consider appropriate in the circumstances.

The federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) came into force on January 1, 2001 and began to apply to certain business and activities on that date. On January 1, 2004, this Act will apply to all insurance brokerages not otherwise subject to another "substantially similar" piece of provincial legislation. This Handbook is based on the principles and rules set out in that Act.

Following the Definitions section in this Handbook, there are 10 separate policy statements, along with a series of procedural rules that accompany each policy.

### Definitions

**Broker** — means the brokerage organization responsible for abiding by and implementing the policies and procedures in this Handbook, and includes the officers and employees of the brokerage.

**Client** — means an individual who engages a Broker to acquire or renew a policy of insurance.

**Personal Information** — means information about an identifiable individual, but does not include an employee's name, title, business address or telephone number.

**Privacy Officer** — means the individual or individuals appointed from time to time by the Broker to be accountable for the Broker's compliance with the policies and procedures contained in this Handbook.

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**Disclaimer:** This Handbook is presented for general information only. Although this document is intended for public distribution, it is not intended to provide legal advice. While great care was taken to ensure the accuracy of its contents, you should seek and be guided by legal advice based on your specific circumstances.

**Policy 1 -- Accountability**

We are responsible for all personal information under our control and will designate one or more individuals who will be accountable for the organization's compliance with the policies and procedures described in this Handbook.

**Procedures**

1.1 The individual appointed to be accountable for the Broker's compliance will be known as our *Privacy Officer*. We will appoint an appropriate person in this capacity who has sufficient authority within the organization to ensure compliance.

1.2 Our Privacy Officer may be contacted as follows:

Title:	Privacy Officer
Name of Organization:	_____
Address:	_____
Telephone:	_____
Fax:	_____
Email:	_____

1.3 Our commitment is to:

- protect personal information;
- allow individuals to request information, seek amendments to their personal information; and file complaints against the Broker with our Privacy Officer;
- train and educate staff; and
- develop information which explains those procedures to the public.

1.4 We will use reasonable means to ensure that client personal information is given a comparable level of protection while being processed by a third party. If not practical to obtain written assurances, we may choose to make a written notation in our own file(s).

**Policy 2 -- Identifying Purposes**

We will identify the purposes for which we collect personal information at or before the time the information is collected.

**Procedures**

2.1 We will identify the purposes for which we collect personal information to affected individuals at or before the time of collection.

2.2 We may choose to identify such purposes *orally* or in *writing*. Written notification will be used whenever practical to do so. This Handbook itself may be used to identify such purposes. Common purposes for collection include:

- enabling the Broker to acquire or renew an insurance policy;
- assisting the Client and assessing his/her ongoing needs for insurance;
- assessing the Client's need for other products, such as financial products;
- ensuring that Client information is accurate and up-to-date; and
- protecting the Broker and/or insurer against inaccuracy.

2.3 We may choose to orally explain to clients the purposes for which personal information is being collected and then simply place a note in the client's file indicating that this has been done. Alternatively, an application form may be used.

2.4 We will identify any *new* purposes that arise during the course of dealing with personal information – and obtain prior consent for this new use – even if we have already identified certain *initial* purposes. However, we will only do this when the intended new purpose truly constitutes a "new" use, i.e., when the purpose now being proposed is sufficiently *different* from the purpose initially identified.

**Note 1** — The *Personal Information Property/Casualty Consent* discloses the same common purposes for collection as set out in paragraph 2.3 above. If clients have received this consent form or this Handbook, we will *not provide any further disclosure* in relation to a purpose already identified by or contemplated in the form or Handbook, nor will we seek a new consent.

**Note 2** — There may be situations in which we are not required to explain purposes, including those situations outlined under paragraph 3.8 "Exceptions" in *Policy 3 -- Consent*.

**Policy 3 -- Consent**

We will obtain the appropriate consent from individuals for the collection, use, or disclosure of their personal information, except where the law provides an exemption.

**Procedures**

3.1 We may obtain *express* consent for the collection, use, or disclosure of personal information or we may determine that consent has been *implied* by the circumstances.

3.2 *Express* consent is a specific authorization given by the individual to the Broker, either *orally* in *writing*. *Implied* consent is one in which the Broker has not received a specific authorization but the circumstances allow us to collect, use or disclose personal information.

3.3 Express *written* consent includes a client:

- signing a consent form (such as the *Personal Information Property/Casualty Consent, Personal Information Property/Casualty and Other Consent, or Personal Information Detailed Consent*);
- providing a letter, application form or other document authorizing certain activities; and
- providing an authorization electronically (through a computer).

3.4 Express oral consent can be given in person or over the telephone. If we obtain an express *oral* consent, we will normally make note of that consent in the client's file.

3.5 We will often seek express consent at the onset of a new business relationship. However, we may determine that by an individual seeking insurance coverage through our organization, consent has been implied for us to collect, use and disclose personal information in a reasonable manner.

3.6 Subject to legal exceptions, consent may be withdrawn at any time. We generally require such withdrawal to be in writing. There may be serious consequences to failing to provide or withdrawing consent, such as the Broker's inability to acquire or renew an insurance policy and/or in the cancellation of a policy.

3.7 Depending on whether a *new purpose* is identified during the course of dealing with a client's personal information, we may choose to seek a new consent. We do not consider a regular updating of information in a client's file to be a new purpose and, therefore, we will not seek a new consent for this purpose.

3.8 *Exceptions* — There are circumstances in which we are not required to obtain an individual's consent or explain purposes for the collection, use or disclosure of their personal information. These include but are not limited to:

- Collection — We may collect personal information without consent where it is in the individual's interest and timely consent is unavailable, or to investigate a breach of an agreement (such as *insurance fraud*) or a contravention of law.
- Use — We may use personal information without consent for similar reasons as those listed beside "collection" above, and also in an emergency situation in which an individual's life, health or security is threatened.
- Disclosure — We may disclose personal information without consent for law enforcement and national security purposes, for debt collection, to a lawyer representing our organization, and in an emergency situation in which an individual's life, health or security is threatened.

**Policy 4 -- Limiting Collection**

The personal information we collect will be limited to that which is necessary for the purposes we have identified.

**Procedures**

- 4.1 We only collect personal information for specific, legitimate purposes. We will not collect personal information indiscriminately.
- 4.2 We will only collect information by fair and lawful means and not by misleading or deceiving individuals about the purpose for which information is being collected.
- 4.3 Our policies and procedures relating to the limitations on collection of personal information will be regularly communicated to our staff members who deal with personal information.
- 4.4 The Broker may need to obtain personal information about clients *from* third parties, for example, those parties identified in the *Personal Information Property/Casualty Consent*, *Personal Information Property/Casualty and Other Consent*, or *Personal Information Detailed Consent*.

**Note** — There may be situations in which we collect personal information for legitimate purposes not identified to the individual, including those situations outlined under paragraph 3.8 "Exceptions" in *Policy 3 -- Consent*.

**Policy 5 -- Limiting Use, Disclosure, and Retention**

Personal information will not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. We will only retain personal information as long as necessary for the fulfillment of those purposes.

**Procedures**

5.1 We will only use or disclose personal information for legitimate, identified purposes.

5.2 We will retain personal information only as long as necessary for the fulfillment of the purposes for which it was collected. We will abide by industry standards applicable in the province(s) in which we are located, regarding minimum and maximum retention periods.

5.3 Personal information that has been used to make a decision about an individual will only be retained long enough to allow the individual access to the information after the decision has been made. This period will not exceed applicable industry standards.

5.4 Personal information that is no longer required to fulfill identified purposes will be destroyed, erased, or made anonymous. See Policy 7 -- *Safeguards*, paragraph 7.7.

**Note** — There may be situations in which we use, disclose or retain personal information for legitimate purposes not identified to the individual, including those situations outlined under paragraph 3.8 "Exceptions" in *Policy 3 -- Consent*.

**Policy 6 -- Accuracy**

The personal information we collect will be as accurate, complete and up-to-date as is necessary for the purposes for which it is to be used.

**Procedures**

6.1 Our organization will, on an ongoing basis, ensure the accuracy and completeness of personal information under our care and control.

6.2 Individuals who provide their personal information to us must do so in an accurate and complete manner.

6.3 We consider a *regular updating of client personal information* to be necessary to ensure the accuracy of client files and to provide appropriate insurance coverage for clients.

6.4 Our goal is to minimize the possibility that inappropriate information may be used to make a decision about any individual whose personal information we process.

6.5 The process for ensuring accuracy and completeness will involve:

- initial collection from client;
- client will be asked to verify accuracy and completeness;
- regular reviews; and
- verifying accuracy by contacting third parties (e.g., motor vehicle and driver licensing authorities, etc.).

6.6 As more particularly described in *Policy 9 -- Individual Access*, we will provide recourse to individuals who appear to have legitimate corrections to make to their information on file. Once significant errors or omissions have been identified, we will correct or amend the information as appropriate. Where necessary, we will send such corrected or amended information to third parties who have had access to the information in question (such as insurance companies).

**Policy 7 -- Safeguards**

We will safeguard the security of personal information under our control in a manner that is appropriate to the sensitivity of the information.

**Procedures**

7.1 We will protect the security of personal information, regardless of the format in which it is held, against loss or theft, and against unauthorized access, disclosure, copying, use, or modification.

7.2 More sensitive information will be safeguarded by a higher level of protection. However, we will generally seek to achieve the highest level of security.

7.3 In determining what safeguards are appropriate, we will consider the following factors:

- the sensitivity of the information;
- the amount of information held;
- the parties to whom information will be disclosed;
- the format in which the information is held; and
- the way in which the information is physically stored.

7.4 When transferring client information to a third party, we will remove or mask any information that is not strictly needed by the third party.

7.5 Our methods of protection may include:

- physical measures, such as locked filing cabinets and/or restricted access;
- organizational measures, such as security clearances and limiting access on a "need-to-know" basis; and
- technological measures, such as the use of passwords and encryption.

7.6 We will ensure that our policies and procedures on safeguarding personal information are clearly communicated and accessible to our employees by:

- training staff on the subject of personal information protection; and
- having regular staff meetings in which we will review our procedures and revise where appropriate.

7.7 We will take precautions in the disposal or destruction of personal information to prevent unauthorized parties from gaining access to the information. These measures may include:

- ensuring that no one may retrieve personal information after it has been disposed of;
- shredding documents before recycling them; and
- deleting electronically stored information.

**Policy 8 -- Openness**

We will make readily available to individuals specific information about our policies and procedures relating to the management of personal information which is under our control.

**Procedures**

8.1 Individuals will be able to inquire about our policies and procedures without unreasonable effort.

8.2 We will tell our receptionist and other staff members who our Privacy Officer is so that members of the public can easily be informed.

8.3 We may choose to make information about our policies and procedures available in a variety of ways, for example:

- making this Handbook and brochures available;
- mailing out information;
- establishing a website; or
- establishing a toll-free telephone number.

8.4 The information we make publicly available will include:

- the name or title, and the address of our Privacy Officer;
- the means of gaining access to personal information held by the organization;
- a description of the type of personal information held by the organization and a general account of its use;
- written information that explains our policy and procedures (such as this Handbook); and
- a general list of the kinds of personal information made available by us to other organizations (e.g., insurance companies and other third parties). See *Personal Information Property/Casualty Consent*, *Personal Information Property/Casualty and Other Consent*, and *Personal Information Detailed Consent*.

### **Policy 9 -- Individual Access**

Upon request, an individual will be informed of the existence, use, and disclosure of his or her personal information which is under our control, and may be given access to, and challenge the accuracy and completeness of that information.

#### **Procedures**

9.1 Upon written request, an individual will be informed as to whether or not we hold personal information about him or her. If we do hold such personal information, upon written request, we will provide access to the information, as well as a general account of its use.

9.2 The manner in which access will be given may vary, depending on the format in which the information is held (i.e., hard copy or electronic), the amount of information held and other factors. For example, if there is a large volume of information, instead of providing a copy of the entire file, we may simply provide a summary of the information.

9.3 Upon written request, we will provide a list of third parties to whom we may have disclosed an individual's personal information. If we are unsure exactly which third parties may have received the information, we will provide a list of third parties *likely* to have received the information.

9.4 Individuals will be required to *provide sufficient information* to us to permit us to provide an account of the existence, use and disclosure of personal information.

9.5 The procedure for making a request is as follows:

- (1) All requests must be made in writing using a form such as the *Request/Complaint Form*.
- (2) We will respond to a request *within 30 days after receipt of the request*, unless we first advise you that we need a longer period to respond.
- (3) Reasons – If we refuse a request, we will inform the individual in writing of the refusal, explaining the reasons and any recourse the individual may have, including the possibility that they may file a complaint with the Privacy Commissioner of Canada.
- (4) Deemed refusal – Notwithstanding sub-paragraphs (2) and (3), if we do not respond within the above time limit, we will be deemed to have refused the request.
- (5) Costs for responding – The Broker may require payment of a modest fee to cover our administrative costs associated with preparing a response.

9.6 There are also *exceptions* which will prevent us from providing access, including where:

- personal information about another person might be revealed;
- commercially confidential information might be revealed;
- someone's life or security might be threatened;
- the information was collected without consent for the purposes related to an investigation of a breach of an agreement or contravention of the law; or
- the information was generated during the course of a formal dispute resolution process.

**Policy 10 -- Challenging Compliance**

An individual may address a challenge concerning compliance with the above policies and procedures to our Privacy Officer.

**Procedures**

- 10.1 Upon request, individuals who wish to inquire or file a complaint about the manner in which we handled their personal information – or about our personal information policies and procedures – will be informed of our applicable complaint procedures.
- 10.2 To file a complaint, an individual must fill out a *Request/Complaint Form*, which requires basic information and a description of the nature of the complaint.
- 10.3 The procedure for filing a complaint about our organization is as follows:
  - a *Request/Complaint Form* must be filed with our Privacy Officer;
  - we will acknowledge the complaint right away;
  - we will assign someone to investigate;
  - we will give the investigator unfettered access to files and personnel, etc.;
  - we will clarify facts directly with the complainant, where appropriate; and
  - we will advise the complainant in writing of the outcome of our investigation, including any steps taken to rectify the problem, if applicable.
- 10.4 We will document all complaints made by clients, as well as our actions in response to complaints, by noting these details in the individual's file and also in a master privacy file.

**FOR MORE INFORMATION:**

Questions on the matters addressed in this Handbook should be directed to the *Privacy Officer* of the individual insurance brokerage organization who is responsible for that organization's compliance. Contact information concerning the *Privacy Officer* may be found at page 2 of this Handbook.

**SECTION C:**

***Our Commitment to Your PRIVACY***  
**Brochure**

*Our*

COMMITMENT

*to your*

PRIVACY



## **SECTION D:**

**Frequently asked Questions (FAQs) about The Personal  
Information Protection and Electronic Documents Act  
(Bill C-6)**

INSURANCE BROKERS ASSOCIATION OF CANADA  
ASSOCIATION DES COURTIERS D'ASSURANCES DU CANADA

**FREQUENTLY ASKED QUESTIONS (FAQs) ABOUT THE *PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT*  
(BILL C-6)**

Following are some Frequently Asked Questions (FAQs) about the privacy provisions of the Personal Information Protection and Electronic Documents Act, the federal legislation commonly known as Bill C-6. Depending on the nature of the personal information they handle, all P&C brokers in Canada are required to comply with the legislation immediately, or by no later than January 1, 2004.

The following information is intended for the general information and guidance of insurance brokers, and does not constitute specific legal advice. It should be read concurrently with “*The Personal Information Protection and Electronic Documents Act: A Guide for Insurance Brokers*” which was prepared by the Insurance Brokers Association of Canada, and is available from your provincial or regional insurance broker association.

**DOES THE ACT APPLY TO MY BUSINESS? IF SO, WHEN?**

**Q.** Do I have to comply with the provisions of the Act if I live in a province that already has similar legislation in place, for example Québec?

**A.** Yes. If a province passes a law that is substantially similar to the federal Act, the brokers in that province will be exempted from the federal law for collection, use or disclosure of personal information within that province only. The federal Act will continue to apply to all interprovincial and international collections, uses or disclosures of personal information — a situation that applies to many brokers. To date, Québec is the only province with legislation dealing with personal information in the private sector.

**Q.** When does the Act come into force?

**A.** Immediately for brokers who collect personal information from out-of-province (or country) clients, or who disclose personal information outside the province (or country) for consideration. Insurance brokers operating strictly within a province are not required to comply with the Act until January 1, 2004.

**Q.** Does the Act provide for any grandfathering?

**A.** No. Organizations must ensure that all data is compliant from the time the Act first applies to the personal information or the organization. However, a complaint may not be made against you for actions taken before being subject to the Act.

## WHAT IS PERSONAL INFORMATION? WHAT INFORMATION IS SUBJECT TO THE ACT?

**Q.** Do the consent and other provisions of the Act apply to the preparation of an industry directory, whether in hardcopy or website form, containing contact information such as the name, address, phone number of businesses?

**A.** No. Under the Act, personal information means information about an identifiable individual. A business is not an identifiable individual.

**Q.** What if the same directory contains basic employee information?

**A.** No. Under the Act, personal information does not include the name, title or business address or telephone number of an employee of an organization. In other words, information that would normally appear on a business card or can be found through publicly available information such as the telephone book is not covered by the Act.

**Q.** Is the information collected and handled for the purpose of offering a home or automobile insurance policy to an individual subject to the Act?

**A.** Yes. The Act applies to organizations that collect, use or disclose personal information in the course of commercial activity. Personal information is defined as "information about an identifiable individual." For insurance brokers, personal information will include things such as a client's age, marital status, medical, criminal, employment or financial history, numerical identifiers such as the Social Insurance Number and driving license, and evaluations such as credit and driving records.

**Q.** Is data collected for the purpose of offering a commercial insurance policy, which doesn't include any personal information, covered by the Act?

**A.** No. However, the provision of a commercial insurance policy that requires handling any information about an identifiable individual is subject to the Act. For example, providing a commercial insurance policy for a fleet of vehicles requires handling the personal information of the drivers of those vehicles (e.g. their license and driving record information), and is thus subject to the Act.

## WHEN TO COMPLY—PRACTICAL SITUATIONS

**Q.** A broker transfers personal information to an insurer or data processing unit in another province or another country. Is that broker subject to the Act immediately?

**A.** Yes. The broker is subject to all the provisions of the Act immediately. This includes obtaining the client's consent for the collection, use and disclosure of their personal information.

**Q.** A broker sends personal information to an insurer in the same province. That insurer in turn transfers the information to another province. From the perspective of the broker, will the information be deemed to have been disclosed intra-provincially or extra-provincially? (In other words, must the broker in this situation comply with the Act immediately or in 2004?)

**A.** Intra-provincially, and therefore not subject to the Act until January 1, 2004. However, the insurer who then transfers the information to another province is subject to the Act immediately. This may have implications for the broker who originally collected the personal information.

#### **WHEN TO OBTAIN CONSENT**

**Q.** Does an organization, whether a brokerage or an association, that gives a membership or employee list containing personal information to an outside service provider (e.g. for health plan coverage) have to obtain the consent of the concerned individuals before doing so?

**A.** Yes. The Act applies to the collection, use or disclosure of personal information in the course of commercial activity. "Personal information" is defined as "information about an identifiable individual" (e.g. age, marital status, employment and medical history, etc...) while "commercial activity" means any course of conduct that is of a commercial character, including the selling, bartering or leasing of membership lists. Information provided to a health insurance provider would certainly be personal in nature and thus subject to the consent and other provisions of the Act.

**Q.** If a business must obtain personal information from an individual as a condition of employment (e.g. driver's license and record), must it also get his/her consent to provide that information to a broker for the purpose of insuring the business?

**A.** Yes. The individual must be informed of the purpose for which his/her information is collected, used and disclosed (e.g. to hire, to insure etc.), and consent to that purpose. Unless fraud is suspected, the consent of the individual should also be obtained to collect their personal information from a driver's abstract. Preferably, that consent should be in writing.

**Q.** In providing a commercial insurance policy for a business with drivers, is it safe to assume that I have the consent of the drivers to handle their personal information given that a license to drive is a condition of their employment by the business?

**A.** No. Ideally, the express written consent of each of the drivers should be obtained before handling their personal information. However, depending on the number of drivers involved, there may be situations where it is impractical to do so. In those cases, consent from each of the drivers could be obtained orally and indicated in the file. Alternatively, you could obtain the consent of the contact person at the insured business to use the drivers' personal information. If doing so, however, you must satisfy yourself that the contact person is acting in a legal and fair manner.

**Q.** Can I use my P&C insurance client database to cross-sell my business' other products and services?

**A.** No. Personal information can only be used or disclosed for the purposes for which it was collected. If a brokerage is going to use the information for another purpose, consent must be obtained again. For example, the client information used to provide automobile insurance cannot then be used to sell life insurance without the client's consent.

### **CONSENT--EXCEPTIONS**

**Q.** Do I need the client's consent to collect or disclose personal information in connection with a fraud investigation?

**A.** No. There are a number of exceptions to the Act's consent and access requirements, including those relating to fraud investigations.

**Q.** Do I need to obtain client consent to disclose his/her personal information to a collection agency?

**A.** No. Disclosure of personal information without consent is permitted in certain specific circumstances, including for the purpose of collecting a debt owed by the individual to the organization.

### **APPLICATION OF THE ACT AND CONSENT: A PRACTICAL EXAMPLE IN CHRONOLOGY**

**Q.** Do the consent and other provisions of the Act apply to personal information that was collected, but neither used nor disclosed before the legislation came into force?

**A.** No. The Act does not cover personal information only collected before the Act came into force. However, the Act will apply for the subsequent use and disclosure of that information, regardless of when it was collected.

**Q.** For example, the year before the Act came into force, a broker collected personal information without consent from a client for the purpose of providing an automobile insurance policy. At that time, the information was disclosed to an insurer who underwrote the policy. In a subsequent year, the broker will want to "shop the policy around" to other insurers in order to obtain a better rate. Will the consent of the individual be required to do so?

**A.** Yes. Although the information will have been collected before the Act applied, the express consent of the individual will be required to disclose the "old" information to potential "new" insurers. In the case of out-of-province insurers, the consent will have to be obtained immediately. For insurers in the same province, consent will have to be obtained by no later than January 1, 2004. The other provisions of the Act will also apply.

**Q.** If the client is satisfied with the “new” insurer, will express written consent be needed for every renewal?

**A.** No. If you are simply renewing an insurance policy at the client’s request, it is reasonable to assume that there is an implied consent to use the existing information. However, if you intend to send the personal information to a new insurance company, you will need the client’s express consent to do so.

## **SAFEGUARDS**

**Q.** Should brokers lock the filing cabinets that contain their clients’ personal information?

**A.** Yes. The Act stipulates that security safeguards must protect personal information against loss or theft as well as unauthorized access, disclosure, copying, use, or modification. For physical files, the Act specifically suggests measures such as locked filing cabinets and restricted access.

**Q.** To what extent should a brokerage with a website capable of handling personal information (e.g. credit card numbers) have to go to protect itself from “hackers”?

**A.** Assume that all personal information is sensitive and seek to achieve the highest level of security. For personal information held in electronic format, the Act suggests methods of protection that include the use of passwords and encryption. The standard by which you will be judged, however, will not be one of perfection but one that a reasonable person would consider appropriate in the circumstances.

## **ACCOUNTABILITY**

**Q.** Who is responsible for personal information, whether in electronic form or otherwise, sent from a broker to a third party such as an insurer?

**A.** The broker. Organizations are responsible for personal information that has been transferred to a third party for processing. While it is not possible to control the behaviour of third parties, you must give yourself reasonable assurances that the insurer or other party receiving the information is complying with the Act.

**Q.** How can brokers protect themselves in their dealings with third parties such as insurers and adjusters?

**A.** Brokers must use contractual or other means to provide a comparable level of protection while the information is being processed by the third party. For example, if you are sending a client’s personal information to an insurance company, you should obtain written confirmation that it is complying with the Act. You should also ask for the name of the company’s Privacy Officer and a copy of its written policies on the protection of personal information. Ensure that those policies provide a comparable level of protection and where possible, obtain those assurances in writing.

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