Collection of information

Necessity standard: Fundamental and overriding principle

An assessment of the need to collect personal information must prevail in all circumstances. It minimizes the invasion of individuals' privacy. The assessment is conducted prior to the collection of personal information by private companies and public bodies.

The collection must be deemed necessary even before steps are taken to obtain the valid consent of the persons involved.

Companies must:

- Collect only the information required for the purposes identified prior to the collection. These purposes must be serious and legitimate.

Once collected, the information will need to be protected; by limiting personal information during collection, the risks of prohibited disclosure and use will be minimized.

Definition of "necessary"

Necessity extends beyond mere usefulness. For a company, it is determined in terms of the purpose of the collection and its proportionality. Collection will be deemed necessary if all of the following conditions are met:

- The purpose is legitimate, important and real
- The invasion of privacy is proportional to this purpose, which more precisely means that: The collection of information is logically linked to the purpose.
- The invasion of privacy is minimized. In other words, there are no other means of achieving the same purpose in a way that is less invasive of privacy.
    - The collection, use or disclosure of the information is significantly more useful to the organization or company than detrimental to the person concerned.

If necessity is not established, the individual's right to privacy must prevail. Therefore, no information can be collected.

OSLER UNOFFICIAL TRANSLATION OF CAI GUIDANCE

Special conditions for companies

In the private sector, in case of doubt, personal information is considered unnecessary.

As a general rule, a company cannot use a person's refusal to provide personal information as a reason to:

- Refuse to supply a product or service
- Reject a job application

However, it may do so in the following situations:

- Collection is necessary to enter into or perform a contract
- Collection is authorized by law
- There are reasonable grounds to believe that the request for products, services or employment is unlawful

Analysis of the need for collection is a key issue in a number of matters reviewed by the Commission. For more information, refer to the decisions rendered by the Commission's monitoring section.

Burden of proof: Who must prove that the information is necessary?

It is up to the company to prove to the person concerned that the personal information requested is necessary.

Other obligations relating to collection

Once it has been determined that the personal information needs to be collected, the law requires companies to:

- Be transparent in providing information to the persons concerned (list for companies)

A company must collect personal information from the person themselves, except in certain situations provided for by law. If the company wishes to collect personal information from a third party, it must obtain the consent of the person concerned.

Identifiers: Social insurance number, driver's licence number, health insurance number

OSLER UNOFFICIAL TRANSLATION OF CAI GUIDANCE

Identifiers can be used to ensure that a person is who they say they are. The sole purpose of this check is to confirm an individual's identity or status. It should not normally lead to the collection of the information contained on these documents.

- For general information on identification documents, refer to the sheet for private companies

Individuals' recourse regarding requests for information that is not necessary

People who feel that a company is requesting information that is not necessary can file a complaint with the Commission.

OSLER UNOFFICIAL TRANSLATION OF CAI GUIDANCE