Consent

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Consent requirements	**s. 6.1 and Principle 4.3** **6.1** For the purposes of clause 4.3 of Schedule 1, the consent of an individual is only valid if it is reasonable to expect that an individual to whom the organization's activities are directed would understand the nature, purpose and consequences of the collection, use or disclosure of the personal information to which they are consenting. **4.3 Principles** The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate. **4.3.1** Consent is required for the collection of personal information and the subsequent use or disclosure of this information. Typically,	**s. 8(1)(2.1), 7, and 9(1)** **8(1)(2.1)** If an individual consents to the disclosure of personal information about the individual by one organization to another organization for a particular purpose, the individual is deemed to consent to the collection, use or disclosure of the personal information for the particular purpose by that other organization. **7(1)** Except where this Act provides otherwise, an organization shall not, with respect to personal information about an individual, **(a)** collect that information unless the individual consents to the collection of that information, **(b)** collect that information from a source other than the	**s. 8(1), 7, and 8(3)** **8(1)** An individual is deemed to consent to the collection, use or disclosure of personal information by an organization for a purpose if **(a)** at the time the consent is deemed to be given, the purpose would be considered to be obvious to a reasonable person, and **(b)** the individual voluntarily provides the personal information to the organization for that purpose. **7(1)** An individual has not given consent under this Act to an organization unless,	**Sections 4.1, 6, 8.3, 12, 13, 14** **4.1** The personal information concerning a minor under 14 years of age may not be collected from him without the consent of the person having parental authority or of the tutor, unless collecting the information is clearly for the minor's benefit. […] **6.** Any person collecting personal information relating to another person may collect such information only from the person concerned, unless the latter consents to collection from third persons. […] **8.3** Any person who provides his personal information in accordance with section 8 consents to its use and its communication for the purposes referred to in subparagraph 1 of the first paragraph of that section.

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	an organization will seek consent for the use or disclosure of the information at the time of collection. In certain circumstances, consent with respect to use or disclosure may be sought after the information has been collected but before use (for example, when an organization wants to use information for a purpose not previously identified). **4.3.2** The principle requires "knowledge and consent". Organizations shall make a reasonable effort to ensure that the individual is advised of the purposes for which the information will be used. To make the consent meaningful, the purposes must be stated in such a manner that the individual can reasonably understand how the information will be used or disclosed. **4.3.5** In obtaining consent, the reasonable expectations of the	individual unless the individual consents to the collection of that information from the other source, **(c)** use that information unless the individual consents to the use of that information, or **(d)** disclose that information unless the individual consents to the disclosure of that information. **(2)** An organization shall not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal information about an individual beyond what is necessary to provide the product or service. **9(1)** Subject to subsection (5), on giving reasonable notice to an organization, an individual may at any time withdraw or vary consent to the collection, use or disclosure by the	**(a)** the organization has provided the individual with the information required under section 10(1), and **(b)** the individual's consent is provided in accordance with this Act. **(2)** An organization must not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal information beyond what is necessary to provide the product or service. **(3)** If an organization attempts to obtain consent for collecting, using or disclosing personal information by **(a)** providing false or misleading information	[…] **12.** Unless the person concerned gives his consent, personal information may not be used within the enterprise except for the purposes for which it was collected. Such consent must be given expressly when it concerns sensitive personal information… […] **13.** No person may communicate to a third person the personal information he holds on another person, unless the person concerned consents to, or this Act provides for, such communication. Such consent must be given expressly when it concerns sensitive personal information. **14.** Consent under this Act must be clear, free and informed and be given for specific purposes. It must be requested for each such purpose, in clear and simple language. If the request for consent is made in writing,

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	individual are also relevant. For example, an individual buying a subscription to a magazine should reasonably expect that the organization, in addition to using the individual's name and address for mailing and billing purposes, would also contact the person to solicit the renewal of the subscription. In this case, the organization can assume that the individual's request constitutes consent for specific purposes. On the other hand, an individual would not reasonably expect that personal information given to a health-care professional would be given to a company selling health-care products, unless consent were obtained. Consent shall not be obtained through deception. **4.3.7** Individuals can give consent in many ways. For example:	organization of personal information about the individual.	respecting the collection, use or disclosure of the information, or **(b)** using deceptive or misleading practices any consent provided in those circumstances is not validly given. **8(3)** An organization may collect, use or disclose personal information about an individual for specified purposes if **(a)** the organization provides the individual with a notice, in a form the individual can reasonably be considered to understand, that it intends to collect, use or disclose the individual's personal information for those purposes,	it must be presented separately from any other information provided to the person concerned. If the person concerned so requests, assistance is provided to help him understand the scope of the consent requested. The consent of a minor under 14 years of age is given by the person having parental authority or by the tutor. The consent of a minor 14 years of age or over is given by the minor, by the person having parental authority or by the tutor. Consent is valid only for the time necessary to achieve the purposes for which it was requested. Consent not given in accordance with this Act is without effect.

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	(a) an application form may be used to seek consent, collect information, and inform the individual of the use that will be made of the information. By completing and signing the form, the individual is giving consent to the collection and the specified uses; **(b)** a checkoff box may be used to allow individuals to request that their names and addresses not be given to other organizations. Individuals who do not check the box are assumed to consent to the transfer of this information to third parties; **(c)** consent may be given orally when information is collected over the telephone; or **(d)** consent may be given at the time that individuals use a product or service.		**(b)** the organization gives the individual a reasonable opportunity to decline within a reasonable time to have his or her personal information collected, used or disclosed for those purposes, **(c)** the individual does not decline, within the time allowed under paragraph (b), the proposed collection, use or disclosure, and **(d)** the collection, use or disclosure of personal information is reasonable having regard to the sensitivity of the personal information in the circumstances.	

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	4.3.8 An individual may withdraw consent at any time, subject to legal or contractual restrictions and reasonable notice. The organization shall inform the individual of the implications of such withdrawal.			
Form of consent	**Principles 4.3.4 and 4.3.6** **4.3.4** The form of the consent sought by the organization may vary, depending upon the circumstances and the type of information. In determining the form of consent to use, organizations shall take into account the sensitivity of the information. Although some information (for example, medical records and income records) is almost always considered to be sensitive, any information can be sensitive, depending on the context. For example, the names and addresses of subscribers to a newsmagazine would generally not be considered sensitive information.	**s. 8(1)** An individual may give his or her consent in writing or orally to the collection, use or disclosure of personal information about the individual.	**s. 8(3) and 9(1)** **8(3)** An organization may collect, use or disclose personal information about an individual for specified purposes if **(a)** the organization provides the individual with a notice, in a form the individual can reasonably be considered to understand, that it intends to collect, use or disclose the individual's personal information for those purposes,	**Sections 12-15** **12.** Unless the person concerned gives his consent, personal information may not be used within the enterprise except for the purposes for which it was collected. Such consent must be given expressly when it concerns sensitive personal information. […] **13**. No person may communicate to a third person the personal information he holds on another person, unless the person concerned consents to, or this Act provides for, such communication.

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	However, the names and addresses of subscribers to some special-interest magazines might be considered sensitive. **4.3.6** The way in which an organization seeks consent may vary, depending on the circumstances and the type of information collected. An organization should generally seek express consent when the information is likely to be considered sensitive. Implied consent would generally be appropriate when the information is less sensitive. Consent can also be given by an authorized representative (such as a legal guardian or a person having power of attorney).		**9(1)** Subject to subsections (5) and (6), on giving reasonable notice to the organization, an individual may withdraw consent to the collection, use or disclosure of personal information about the individual at any time.	Such consent must be given expressly when it concerns sensitive personal information. **14.** Consent under this Act must be clear, free and informed and be given for specific purposes. It must be requested for each such purpose, in clear and simple language. If the request for consent is made in writing, it must be presented separately from any other information provided to the person concerned. If the person concerned so requests, assistance is provided to help him understand the scope of the consent requested. The consent of a minor under 14 years of age is given by the person having parental authority or by the tutor. The consent of a minor 14 years of age or over is given by the minor, by the person having parental authority or by the tutor. […] **15.** Consent to the communication of personal information by a third person may be given by the person concerned

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				to the person who collects the information from the third person.
Withdrawal of Consent	**Principle 4.3.8** An individual may withdraw consent at any time, subject to legal or contractual restrictions and reasonable notice. The organization shall inform the individual of the implications of such withdrawal.	**9 (1)** Subject to subsection (5), on giving reasonable notice to an organization, an individual may at any time withdraw or vary consent to the collection, use or disclosure by the organization of personal information about the individual. **(2)** On receipt of notice referred to in subsection (1), an organization must, subject to subsection (3), inform the individual of the likely consequences to the individual of withdrawing or varying the consent. **(3)** An organization is not required to inform an individual under subsection (2) if the likely consequences of withdrawing or varying the consent would be reasonably obvious to the individual.	**9 (1)** Subject to subsections (5) and (6), on giving reasonable notice to the organization, an individual may withdraw consent to the collection, use or disclosure of personal information about the individual at any time. **(2)** On receipt of notice referred to in subsection (1), an organization must inform the individual of the likely consequences to the individual of withdrawing his or her consent. **(3)** An organization must not prohibit an individual from withdrawing his or her consent to the	**Sections 8, 22** **8.** Any person who collects personal information from the person concerned must, when the information is collected and subsequently on request, inform that person […] (4) of the person's right to withdraw consent to the communication or use of the information collected. […] **22.** Any person carrying on an enterprise who uses personal information for commercial or philanthropic prospection purposes must identify himself to the person whom he is addressing and inform that person of his right to withdraw his consent to the personal information concerning him being used for such purposes. If the person concerned withdraws his consent regarding such use, the personal information must cease to be used for those purposes.

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		(4) Except where the collection, use or disclosure of personal information without consent of the individual is permitted under this Act, if an individual withdraws or varies a consent to the collection, use or disclosure of personal information about the individual by an organization, the organization must, (a) in the case of the withdrawal of a consent, stop collecting, using or disclosing the information, and (b) in the case of a variation of a consent, abide by the consent as varied. **(5)** If withdrawing or varying a consent would frustrate the performance of a legal obligation, any withdrawal or variation of the consent does not, unless otherwise agreed to by the parties who are subject to the legal obligation,	collection, use or disclosure of personal information related to the individual. **(4)** Subject to section 35, if an individual withdraws consent to the collection, use or disclosure of personal information by an organization, the organization must stop collecting, using or disclosing the personal information unless the collection, use or disclosure is permitted without consent under this Act. **(5)** An individual may not withdraw consent if withdrawing the consent would frustrate the performance of a legal obligation. **(6)** An individual may not withdraw a consent given to a credit	

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		operate to the extent that the withdrawal or variation would frustrate the performance of the legal obligation owed between those parties. **(6)** A withdrawal or variation of a consent by an individual may be given to an organization in the same manner as a consent may be given. **(7)** An individual may, subject to this section, withdraw or vary a consent subject to any reasonable terms, conditions or qualifications established, set, approved by or otherwise acceptable to the individual. **(8)** Nothing in this section is to be construed so as to empower (a) an individual, as part of the withdrawal or variation of a consent, to impose an obligation or a liability on an organization unless the	reporting agency in the circumstances described in section 12 (1) (g) or 15 (1) (g).	

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		organization agrees otherwise, or (b) an organization, as part of the withdrawal or variation of a consent, to impose an obligation or liability on an individual unless the individual agrees otherwise.		
Refusal to Deal	**Principle 4.3.3** An organization shall not, as a condition of the supply of a product or service, require an individual to consent to the collection, use, or disclosure of information beyond that required to fulfil the explicitly specified, and legitimate purposes.	**Section 7(2)** An organization shall not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal information about an individual beyond what is necessary to provide the product or service.	**Section 7(2)** An organization must not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal information beyond what is necessary to provide the product or service.	**Section 9** No person may refuse to respond to a request for goods or services or to a request relating to employment by reason of the applicant's refusal to disclose personal information except where (1) collection of that information is necessary for the conclusion or performance of a contract; (2) collection of that information is authorized by law; or (3) there are reasonable grounds to believe that the request is not lawful. In case of doubt, personal information is deemed to be non-necessary.