



UNCLASSIFIED / NON CLASSIFIÉ

**MEMORANDUM NOTE DE SERVICE**

TO  
À

Peter Wallace  
Secretary

FROM  
DE

Marc Brouillard  
Acting Chief Information Officer of Canada

SUBJECT  
OBJET

**For Decision: Request from the Public Health Agency of Canada for an exception to the Directive on Privacy Impact Assessment**

Originator/Telephone number	Auteur/Numéro de téléphone
Jennifer Schofield (343-550-1465)	
Tracking No.	N° de suivi
21-50045867	
Document No.	N° de document
Date	
2021-04-30	

**Issue**

The President of the Public Health Agency of Canada (PHAC) has requested an exception to section 6.3 of the Directive on Privacy Impact Assessment (Tab 1). This memorandum seeks your approval for a response to the President that grants conditional approval to the request (Tab 2).

**Background**

On March 31, 2021, the Interim Policy on Privacy Protection, Interim Directive on Privacy Practices and Interim Directive on Privacy Impact Assessment expired.

The Interim Policy and Directives provided institutions with the discretion to complete a streamlined privacy risk analysis, known as a privacy compliance evaluation (PCE) in lieu of a Privacy Impact Assessment (PIA) and to defer the registration of a Personal Information Bank (PIB).

On expiry of the Interim Policy and Directives, Treasury Board of Canada Secretariat (TBS) informed federal institutions that, should they still require streamlined means to evaluate privacy risks for an urgent COVID-19 initiative, they could submit a request to you, as the Secretary of the Treasury Board, for an exception to requirements of the Directives, or to the President of the Treasury Board for an exception to requirements of the Policy.

PHAC has since requested broad exceptions to section 6.3 of the Directive on Privacy Impact Assessment to provide the President of PHAC or his delegate the discretion to defer the submission of PIAs and the registration of PIBs for such initiatives until six months after the pandemic has been declared over.

UNCLASSIFIED / NON CLASSIFIÉ

- 2 -

### **Considerations**

In the communication to institutions after the expiry of the interim policies, TBS requested that specific initiatives be identified when requests for policy exceptions were required. PHAC has instead requested a broader exception for all time-sensitive COVID-19 initiatives until six months after the pandemic is declared over.

In the letter, PHAC committed to completing PCEs in the place of PIAs to help identify and mitigate privacy risks, in addition to consulting the Office of the Privacy Commissioner on initiatives for which the exception will be exercised.

To ensure proper tracking and oversight of initiatives for which the exceptions are being used, TBS could make approval of the exception conditional on request that PHAC consult TBS officials each time an initiative's privacy risks are being assessed through a PCE, in place of a PIA.

PHAC has also requested the deadline for submitting PIAs and requesting the registration of PIBs be tied to the duration of the pandemic. The exception request covers future COVID-19 initiatives, as well as those already implemented under the Interim Policy and Directives.

A PIA serves as an important aspect of program delivery by ensuring that privacy risks are identified and mitigated while a PIB supports transparency by describing a program's collection of personal information to the public. Maintaining policy flexibility is important in the government's response to the COVID-19 pandemic; however, there are reputational risks to deferring PIAs and PIB registration to an unspecified date as the public and the Privacy Commissioner could interpret this as a lack of transparency in how personal information is being used.

To reduce this risk, the Secretary could require the submission of PIAs and PIB registration requests within six months of the pandemic being declared over or by September 30, 2022, whichever comes first. At that time, another extension could be considered should there be a continued need for streamlined privacy risk assessments.

UNCLASSIFIED / NON CLASSIFIÉ

- 3 -

**Recommendation**

I recommend that you approve PHAC's request for an exception to section 6.3 of the Directive on Privacy Impact Assessment until September 30, 2022, or within six months of the pandemic being declared over, whichever ever comes first. The letter also includes the condition that the institution consult with TBS on any new COVID-19 related initiative being assessed by streamlined means. The proposed response letter is enclosed (Tab 2).

<input checked="" type="checkbox"/> I approve / J'approuve	<input type="checkbox"/> I do not approve / Je n'approuve pas
<p>Digitally signed by Wallace, Peter DN: c=CA, o=GC, ou=TBS-SCT, cn=Wallace, Peter Reason: I am approving this document Location: your signing location here Date: 2021.05.04 10:58:05-04:00 Font: PhantomPDF Version: 10.1.0</p> <p><b>Wallace, Peter</b></p> <hr/> <p>Peter Wallace Secretary of the Treasury Board / Secrétaire du Conseil du Trésor du Canada</p>	<p>May 4, 2021</p> <hr/> <p>Date</p>

**Attachments:**

Tab 1 – Correspondence from the President of the Public Health Agency of Canada

Tab 2 – Response to the President of the Public Health Agency of Canada



Treasury Board of Canada  
Secrétariat

Secrétariat du Conseil du Trésor  
du Canada

Secretary of the Treasury Board

Secrétaire du Conseil du Trésor

Ottawa, Canada  
K1A 0R5

Mr. Iain Stewart  
President  
Public Health Agency of Canada  
Ottawa, Ontario  
K1A 0K9

Dear Mr. Stewart:

Thank you for your letter, received April 14, 2021, seeking an exception to the Directive on Privacy Impact Assessment.

I appreciate the work of the Public Health Agency of Canada in implementing urgent initiatives during the COVID-19 pandemic while ensuring the privacy of Canadians is protected. As the country faces a third wave of the pandemic, I understand there may still be a need for streamlined processes for assessing and mitigating risks to privacy.

I approve your request for an exception from the requirements of section 6.3 of the Directive on Privacy Impact Assessment for urgent COVID-19 related initiatives. This means that for these initiatives, you will have the discretion to continue to assess privacy risks through the more streamlined process of privacy impact evaluations as established through the interim Directive, which expired March 31, 2021. You are also granted an exception to the requirement to register Personal Information Banks prior to the implementation of these initiatives.

This approval is conditional on your consultation with my officials on each initiative that will be assessed through these streamlined means. I assure you that we will continue to support your team with timely privacy advice and guidance where required.

It is important to highlight that your institution is still expected to meet the remaining requirements of the Policy on Privacy Protection and related Directives, including notifying the Office of the Privacy Commissioner of new initiatives that will have an impact on the privacy of Canadians, at a sufficiently early stage.

.../2

- 2 -

While I note your request was for six months after the pandemic is declared to be over, I am granting the exception for a period of 18 months, or six months after the pandemic is declared to be over, whichever is shorter. As a result, at latest, this policy exception will expire on September 30, 2022, at which time Privacy Impact Assessments will be required to support the registration of personal information banks for any new or substantially modified program that was implemented while the Interim Directive on Privacy Impact Assessment was in place or under this new policy exception. Should there continue to be a need for these measures to be in place after September 30, 2022, we can discuss a further extension of the exception at that time.

Yours sincerely,

**Wallace,  
Peter**

Digitally signed by Wallace, Peter  
DN: C=CA, O=GC, OU=TBS-SCT, CN="Wallace, Peter"  
Reason: I am approving this document  
Location: your signing location here  
Date: 2021.05.04 10:59:29-04'00  
Foxit PhantomPDF Version: 10.1.0

Peter Wallace

c.c.: Marc Brouillard, Acting Chief Information Officer of Canada  
Daniel Therrien, Privacy Commissioner of Canada



Public Health  
Agency of Canada

Agence de la santé  
publique du Canada

Ottawa, Ontario  
K1A 0K9

Ottawa (Ontario)  
K1A 0K9

Peter Wallace  
Secretary of the Treasury Board of Canada  
Treasury Board of Canada Secretariat  
90 Elgin Street, Floor 8  
Ottawa ON K1A 0R5  
[Peter.Wallace@tbs-sct.gc.ca](mailto:Peter.Wallace@tbs-sct.gc.ca)

Dear Mr. Wallace:

Over the course of the past year, the Public Health Agency of Canada (PHAC) has played an instrumental role in the government's overall response to the COVID-19 pandemic, including implementing numerous initiatives, such as enhanced border health measures, that have significant privacy implications.

As the country faces a third wave, the Agency continues to develop and implement initiatives to respond to the pandemic. These initiatives often require extremely rapid response and rollout, including timely privacy assessments and evaluations to ensure the Agency is meeting its obligations to protect personal information.

As such, I am seeking your approval to grant an exception to the privacy impact assessment (PIA) requirements outlined in section 6.3 of the *Directive on Privacy Impact Assessment* and grant authority so that I, and my delegates, may continue to exercise the discretion to assess privacy risks through more streamlined means. Should this authority be granted, our Agency would rely on completing privacy compliance evaluations in place of PIAs to evaluate time-sensitive COVID-19 initiatives as per the requirements for urgent COVID-19-related initiatives of section 6.4 of the interim *Directive on Privacy Impact Assessment*.

Given the pressing and urgent nature of COVID-19 initiatives, such as implementing enhanced border measures, this exception would allow PHAC programs to ensure they are meeting their privacy obligations and mitigating risks to privacy in a timely manner.

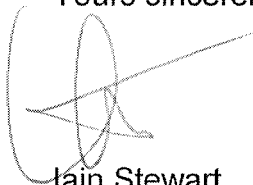
The Agency will maintain its commitment to meeting the requirements of the *Directive on Privacy Assessment* by completing or updating PIAs and registering updated or new personal information banks (PIBs) for initiatives that relied on privacy compliance evaluations in place of PIAs. Work is already underway to update the Quarantine PIA to include the enhanced border measures. As with our recommendations regarding the extension of the interim policies that it should be tied to a set of conditions and not a date, we will commit to completing and updating PIAs and PIBs within six months of the pandemic being declared over.

The department continues to maintain a strong relationship with the Office of the Privacy Commissioner (OPC) and meaningfully and transparently consults their office on COVID-19-related initiatives. This work will continue over the course of the pandemic as new initiatives are introduced.

Pursuant to subsection 9(4) of the *Privacy Act*, the OPC will also be notified of new collections of personal information and consistent uses of personal information.

I appreciate your consideration in the matter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Iain Stewart', with a long horizontal stroke extending to the right.

Iain Stewart  
President