

ICDPPC Global Privacy and Data Protection Awards

Guidelines for obtaining meaningful consent:

1. Contact details for this entry:

- a. Name and email address of person completing this form:
- b. Name of Data Protection or Privacy Authority: Office of the Information and Privacy Commissioner for British Columbia; Office of the Information and Privacy Commissioner of Alberta; Office of the Privacy Commissioner of Canada.

2. Eligibility: By submitting this entry I confirm that:

- a. The Authority is a member of the International Conference of Data Protection and Privacy Commissioners.
- b. The initiative described in this entry was undertaken since the last edition.
- c. I am aware that the information in the entry (other than the contact details in 1(a) above) will be publicised by the ICDPPC Secretariat.

3. Please indicate which **category or categories** you wish to enter (delete those that do not apply; you can enter multiple categories):

- a. Education and public awareness
- b. Accountability

4. Description of the initiative

a. Please provide a brief summary of the initiative (no more than 75 words):

The increasingly complex digital environment – with technological innovations such as big data, the IoT and AI – is posing challenges for privacy protection and the consent model. The consent guidance sets out practical and actionable advice to help provide clarity and certainty for organizations to ensure they obtain meaningful consent. The guidance will also help Canadians to understand their privacy rights under the law – and what they can expect from businesses that handle their personal information.

b. Please provide a full description of the initiative (no more than 350 words):

Meaningful consent is an essential element of Canadian private sector privacy legislation, not to mention privacy regimes across the globe. Under privacy laws, organizations are generally required to obtain meaningful consent for the collection, use and disclosure of personal information. However, advances in technology and the use of lengthy, legalistic privacy policies have too often served to make the control – and personal autonomy – that should be enabled by consent nothing more than illusory. While consent should remain central, it is necessary to breathe life into the ways in which it is obtained.

The guidance on meaningful consent, which was issued jointly between the offices of the Privacy Commissioner of Canada, and Information and Privacy Commissioners in Alberta and British Columbia, sets out seven guiding principles for meaningful consent.

Building on previous publications examining the current state of consent, including challenges and potential solutions, this document sets out practical and actionable guidance regarding what organizations should do to ensure that they obtain meaningful consent.

For example:

- Emphasizing certain key elements in privacy information and explaining them in a user friendly way; this will help make it easier for individuals to understand important privacy information and make informed decisions about whether to consent to the collection use and disclosure of their personal information.
- Providing people with clear options to say ‘yes’ or ‘no’; Individuals cannot be required to consent to the collection, use or disclosure of personal information beyond what is necessary to provide the product or service – they must be given a choice. These choices must be explained clearly and made easily accessible.
- Being accountable and standing ready to demonstrate compliance; organizations, when asked, should be in a position to demonstrate how they are complying with the law, and, in particular, that their consent processes permit their target audience to provide consent that is valid and meaningful.

The measures set out in the guidance can be separated into obligations arising from legal requirements (those things an organization must do to obtain meaningful consent) and best practices (those things an organization should consider in order to improve their consent process). Organizations should aim to follow these regardless of jurisdiction or legislative requirements.

c. Please explain why you think the initiative deserves to be recognised by an award (no more than 200 words)

There are two things that this guidance achieves that set it apart and make it deserving of an ICDPPC Global Privacy and Data Protection Award. First, it responds *directly* to our stakeholders’ needs, gauged through an over-two-year consultation. Second, it bridges an important gap between broad and principle-based legislation and actual, concrete compliance expectations in an age of rapid technological change.

-One-

During extensive public consultation, we heard clearly that the increasingly complex digital environment – with technological innovations such as big data, the IoT and AI – is posing challenges for privacy protection and the consent model. Stakeholders overwhelmingly called on the OPC to provide more guidance.

We responded directly with practical and actionable guidance regarding what organizations should do to ensure that they obtain meaningful consent.

-Two-

Though technology neutral, Canada’s laws were adopted when routine, predictable, transparent one-on-one interactions between organizations and individuals were the norm. This is no longer. As regulators, we see our role as including giving guidance that clarifies legislative requirements and sets expectations regarding how the law should generally be interpreted and applied.

This gives organizations an adequate level of certainty to be able to act with confidence that that action complies with privacy requirements.

d. Include a photograph or image if you wish (note this will help illustrate the description of the entry on the ICDPPC website; the image can be pasted into the entry or send as an attachment or a link may be provided):

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e. Please provide the most relevant link on the authority’s website to the initiative (if applicable) (The website content does not need to be in English): https://www.priv.gc.ca/en/privacy-topics/collecting-personal-information/consent/gl_omc_201805/

f. Please provide any other relevant links that you wish that help explain the initiative or its impact or success (e.g. links to news reports or articles):

<http://davidyounglaw.ca/wp-content/uploads/2018/06/DYL-Compliance-Bulletin-June-2018.pdf>