



Office of the Information Commissioner of Canada
c/o Open Dialogue
112 Kent, 7th floor
Ottawa ON K1A 1H3
via email: consultation@oic-ci.gc.ca

Re: Modernisation of the Canadian Access to Information Act

Dear Commissioner Legault

Thank you for the opportunity to contribute to your consultation on the *Access to Information Act*. The Canadian Library Association is the national voice of Canada's library communities. We advocate for the values of our communities, and one of the key values is access to information, particularly government information. We appreciate that you have taken the initiative to consult with all stakeholders on the *Act* and how it is applied.

The following are the responses from CLA to the questions you have posed in your consultation.

In an environment of increasing globalization, should any person be able to obtain government held records, notwithstanding their physical presence or citizenship?

CLA supports universal access to information. CLA's position statement on Access to Information and Communication Technology specifies that "open access to information should be encouraged at all levels of government and in all publicly-funded institutions. This information should be available free of charge with as little restriction on re-use and modification as possible".

Should all federal entities be subject to the Act as a matter of principle, or should some be exempt from the Act's requirements? What criteria or principles should determine which entity is covered by the Act?

CLA believes that in order to create information access that is as open as possible, no specific federal agency should be exempted from the provisions of the Act. Any agency that wishes to exempt release of information in response to a request should have to demonstrate a reason for which restriction is necessary and that such exemption should be limited to the request at hand.



In what circumstances should a universal right of access be limited? Should federal institutions have the discretion to limit disclosure? If so, should they be required to demonstrate that a defined injury, harm or prejudice will probably result from disclosure? Should the public interest be considered in the decision to withhold records?

CLA believes that in order to create information access that is as open as possible, there needs to be a presumption in favour of disclosure. A right to access should be limited only to a specific set of exempted situations in which a defined injury, harm, or prejudice would probably result from disclosure. Federal agencies should therefore be required to demonstrate this injury, harm, or prejudice, giving them some discretion; however, such discretion should be subject to oversight, review and/or appeal by the office of the Commissioner. Public interest should definitely be considered in these decisions.

Should the Access to Information Act exclude records that directly inform Cabinet decisions? If the exclusion is permitted, on what should it be based? Should the Information Commissioner be able to review Cabinet confidences?

As CLA believes in a presumption in favour of disclosure, we believe that there is scope for broadening the current very narrow access to Cabinet documents, with the goal of preserving the public interest, such as protecting from suppression reports that may be prepared for Cabinet by public servants. Exemptions for Cabinet may follow similar criteria as for other federal bodies, which still provide protection for sensitive Cabinet confidences, policy proposals, and briefing material. We believe that the role of the Information Commissioner should provide some oversight, review and/or appeal to the process.

As an illustrative example, one CLA member in a law library reports frustration at not being able to research the reasoning behind a specific piece of legislation that was subject to little Parliamentary review but that would likely have been discussed at length in Cabinet.

What role can or should the Office of the Information Commissioner play in helping Canadians to become more aware of their rights under the Access to Information Act?

CLA believes that the Office of the Information Commissioner should have a legislated mandate in the area of public information and education about Canadians' rights to access information under the Act. More effort should be made to inform Canadians about the process as well; CLA



suggests that Canadian libraries, with their established network, audience, and impartiality, be considered as a partner in this information dissemination and education.

Again, thank you for the opportunity to contribute to this important consultation. We look forward to the report of the results and to a continuing conversation.

Sincerely

A handwritten signature in blue ink that reads 'Pilar Martinez'. The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Pilar Martinez
CLA President