



Government of Canada  
Privy Council Office

Gouvernement du Canada  
Bureau du Conseil privé

# **POLICY ON THE SECURITY OF CABINET CONFIDENCES**

**APRIL 2024**

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## 1. Effective Date

This Policy on the Security of Cabinet Confidences (hereinafter “the Policy”) takes effect on April 1<sup>st</sup>, 2024<sup>1</sup>, and replaces the 2014 Policy on the Security of Cabinet Confidences.

## 2. Application

The Policy applies to all departments and agencies that deal with Cabinet Confidences, including the Privy Council Office as the lead security agency responsible to establish the policy direction for the security of Cabinet Confidences.

The requirements outlined in the Policy are not retroactive. Any documents marked as a Cabinet Confidence prior to the coming into force of the Policy are to retain their original security categorization unless a new categorization exercise is performed.

A review of the Policy is to be initiated within twenty-four (24) months of its effective date.

## 3. Objective

The objectives of this Policy are to:

- establish policy direction for the security of Cabinet Confidence; and,
- explain the roles and responsibilities of various stakeholders in managing and applying the security of Cabinet Confidences.

## 4. Confidences of the King’s Privy Council for Canada

### 4.1. Definition

The term “Confidences of the King’s Privy Council for Canada” commonly referred to as “Cabinet Confidences” includes information that contains or reveals the deliberations of federal Cabinet Ministers. Information on these deliberations is kept strictly confidential to allow for robust and frank discussions amongst Cabinet Ministers. This includes not only documents prepared for or by Cabinet, but documents or information prepared outside of Cabinet that can reveal what may be considered by Cabinet, what was considered by Cabinet, or what was discussed between ministers.

The disclosure of such information would effectively prevent Cabinet and its members from speaking with one voice before Parliament and the public. A deliberate release of Cabinet Confidences to an unauthorized individual means the Government can no longer claim statutory protection over the disclosed information as a Cabinet Confidence.

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<sup>1</sup> Departments and agencies have a twelve-month period (until March 31, 2025) to implement the Policy.

The Policy recognizes and uses the list of particular “Confidences of the King’s Privy Council for Canada” as laid out under section 39 of the *Canada Evidence Act* as well as section 69 of the *Access to Information Act* and section 70 of the *Privacy Act*. The Policy also recognizes that verbal discussions and electronic or paper documents supporting or stemming from the Cabinet decision-making process may also be Cabinet Confidences.

## **4.2. Attachment of Cabinet Confidence**

The principle of Cabinet Confidentiality can apply to a specific document, such as an agenda of a Cabinet meeting, a written record of a Cabinet meeting, a submission to the Governor in Council or a Memorandum to Cabinet. However, for certain records, whether the record itself is or includes information that is a Cabinet Confidence will be based on the context and purpose for which the information was prepared, presented, and used.

The principle of Cabinet Confidentiality pertains to Cabinet and not to a single Minister performing work on their own. As such, if information is solely presented to a Minister for their consideration or action and there is no intent to discuss it with other Ministers, such information would not generally constitute a Cabinet Confidence. However, some portions of that information may nonetheless constitute a Cabinet Confidence if it otherwise reflects or reveals information subject to Cabinet Confidentiality, such as deliberation of Cabinet or a communication or discussion between Ministers.

It is understood that many proposals will require external consultations, including co-development with Indigenous rights holders, on certain aspects to ensure that proposals are rigorously developed, and Ministers are provided with high-quality advice. These consultations must take place in accordance with the Standard and in a manner that does not disclose Cabinet Confidences.

# **5. Roles and Responsibilities**

## **5.1 Privy Council Office**

The Privy Council Office, Security Operations (SECOPS) is responsible for developing and updating the Policy, as well as the related Standard on the Security of Cabinet Confidence and providing guidance on its implementation and interpretation. SECOPS is also responsible to develop and deliver learning and awareness material pertaining to the Policy and track and report to the Clerk any security incidents and other security events of significance involving Cabinet Confidences.

The Privy Council Office, Operations, Cabinet Affairs facilitates the smooth and efficient functioning of Cabinet and the Government of Canada on a day-to-day basis. This includes:

- managing the Cabinet's decision-making system and Cabinet documents, including playing challenge functions on all proposals with supporting policy analysis;
- coordinating the departments' policy and legislative proposals to Cabinet;
- scheduling and providing support services for meetings of Cabinet and Cabinet committees;
- establishing and managing processes related to the management and submission of Orders in Council (OIC), including Treasury Board Part B submissions; and,

- advancing the Government's agenda across federal departments and agencies, and with external stakeholders.

## 5.2 Treasury Board of Canada Secretariat

The Treasury Board is a Cabinet committee. As the administrative arm of the Treasury Board, the Treasury Board Secretariat supports the Treasury Board by making recommendations and providing advice, with supporting policy analysis, on program spending, proposed regulations and management policies and directives in order to advance the implementation of the Government's agenda across federal departments and agencies and with external stakeholders.

The Treasury Board has two distinct roles:

- serving as the Management Board of Government (Part A); and,
- since December 2003, serving as members of the Committee of the Privy Council advising the Governor General on Governor in Council (Part B).

The Treasury Board Submission Centre (TBSC) facilitates the smooth, efficient and effective functioning of the Treasury Board. This includes:

- managing the Treasury Board's decision-making system;
- scheduling and providing support services for Treasury Board meetings, in collaboration with PCO;
- manages the final versions of Treasury Board papers for Part A and the submission of Treasury Board submissions for Part A to TBSC; and,
- providing guidance on the Treasury Board submission process for Part A.

## 5.3 Library and Archives Canada

Library and Archives Canada (LAC) is responsible for administering the *Library and Archives of Canada Act* (LAC Act). Notably, LAC:

- acquires, preserves, makes known and facilitates access to the documentary heritage of Canada;
- facilitate the management of information in the Government of Canada through the provision of direction, guidance, and assistance;
- identifies, acquires and preserves government and ministerial records, as defined in the LAC Act, considered to be of archival and/or historical value to Canada as documentary heritage;
- issues disposition authorizations, pursuant to section 12 of the LAC Act, to enable departments to dispose of records which no longer have operational value, either by permitting their destruction, by requiring their transfer to LAC, or by agreeing to their alienation from the control of the Government of Canada.

## 5.4 Shared Services Canada

Shared Services Canada (SSC) is responsible for digitally enabling government programs and services, allowing the public service to effectively deliver services to Canadians by providing networks and network security, data centers and Cloud offerings, digital communications and IT tools.

SSC works with other Government of Canada departments to provide secure IT infrastructure services to ensure the confidentiality, integrity and availability of electronic information stored, processed and transmitted by the Government of Canada.

## 5.5 Minister's Offices

Ministers, or their designates, assign to members of their staff the responsibility for managing and ensuring the security of Cabinet Documents. It should be noted that a record containing Cabinet Confidences that is not a Cabinet Document is either an institutional record (if it originated with the institution) or a Ministerial Record (if it originated with the office of a minister, e.g. a briefing note containing political advice to a minister regarding a Cabinet matter) and should be treated accordingly. This includes:

- ensuring that any Ministerial Records containing Cabinet Confidences are well managed, and can be differentiated from Government, Cabinet or other Ministerial Records found in their office, in accordance LAC's [Guidelines on Managing Records in a Minister's Office \(2020\)](#).
- returning Government and/or Cabinet Records to their respective department or agencies as soon as it no longer requires them. This especially applies during periods of transition, such as the changing of Ministerial portfolios or the leaving of office.
- transferring and disposing of its records in accordance with LAC's [Authorization for the Disposition of Ministerial Records](#).

## 5.6 Departments and Agencies Handling Cabinet Confidences

Departments and agencies handling Cabinet Confidences must adhere to the Policy and its related Standard(s). In doing so, they must implement the required tools, systems and processes required to protect Cabinet Confidences.

In addition, departments and agencies are required to report to PCO's Chief Security Officer (CSO) all security incidents and other security events of significance involving Cabinet Confidences.

## 5.7 Access to Information, Privacy and Legal Services

Access to Information and Privacy offices within government departments, as well as the Departmental Legal Services Unit provides assistance and guidance regarding the protection of Cabinet Confidences when responding to requests under the *Access to Information Act* or the *Privacy Act*. In responding to such requests, departments must act in accordance with the [Treasury Board Access to Information Manual](#).

When the subject of an access to information or privacy request, all responsive records that may contain information constituting a Cabinet Confidence must be sent to the department or agency's Departmental Legal Services Unit for review prior to being released. This is particularly important for documents falling outside the formal Cabinet Papers System, but which may reveal or reflect the collective decision-making and policy formulation processes of Ministers.

Departmental Legal Services Units, in their role as legal advisor, will advise their clients whether, in their opinion, the *Access to Information Act* or the *Privacy Act*'s Cabinet Confidence exclusions apply. Departmental Legal Services Units will consult with the Centre for Information and Privacy Law (CIPL) at the Department of Justice Headquarters and, if the matter cannot be resolved, CIPL counsel will consult further with PCO Legal Services Sector.

## 6. Marking Requirement and Protection

### 6.1 Marking Requirement

A document designated as a Cabinet Confidence must be marked “Confidence of the King’s Privy Council”, which recognizes that it contains strictly confidential information and provides additional handling instructions for the document.

Independent of the security categorization attached to a particular document, information containing Cabinet Confidences must be handled in a way that prevents their disclosure to those that do not have a need-to-know within the Government of Canada, or outside the Government of Canada.

### 6.2 Protection

The application of the “Confidence of the King’s Privy Council” marking recognizes that a document, either in paper or electronic form, contains information that is captured under section 39 of the *Canada Evidence Act*, as well as section 69 of the *Access to Information Act* and section 70 of the *Privacy Act*. As such, documents, either in paper or electronic form, which bear that marking must be afforded protection under these acts and handled in a manner which will prevent their disclosure.

Deliberate disclosure of Cabinet Confidences prevents the Government of Canada from thereafter being able to claim that the disclosed information constitutes Cabinet Confidence.

Documents which bear the “Confidence of the King’s Privy Council” marking must be handled in a manner that protects their confidentiality to the Government of Canada and considers the separate security risk associated with any inadvertent disclosure.

The Privy Council Office Standard on Security of Cabinet Confidences provides greater details on the protection of Cabinet Confidences as well as measures and procedures to be observed by those who handle Cabinet Confidences.

### 6.3 Lifting of Cabinet Confidence

The designation of Cabinet Confidence is lifted after the Cabinet Confidence has existed for 20 years. When lifted, the records cease to have the legal protections afforded to Cabinet Confidences.

Any security categorizations remain in place unless the record is reclassified.

## 7. References

### Legislation

- *Canada Evidence Act*
- *Access to Information Act*
- *Privacy Act*

### Related policy instruments

- Treasury Board Policy of Government Security
- Privy Council Office Standard on Security of Cabinet Confidences

## 8. Enquiries

Individuals from departments may contact the Privy Council Office, Security Operations by email at [bcm-gca@pco-bcp.gc.ca](mailto:bcm-gca@pco-bcp.gc.ca) for interpretation of this Policy.