

POLICY ADVISORY - BRIEFING NOTES

TOPIC

Treatment of briefing notes under the *Freedom of Information and Protection of Privacy Act* (the Act). See also Sections C.4.2, C.4.4, C.4.5, C.4.7, C.4.8, C.4.12, and C.4.13 of the cross-government Policy and Procedures Manual (the Manual).

BACKGROUND

Briefing notes are prepared by public body employees or contractors to provide information on a topic to another employee or official, often in support of decision-making. They usually contain recommendations on a course of action to be followed.

Briefing notes normally follow a standard format that includes some or all of the following sections:

- Topic -- identification of the issue that the briefing note addresses.
- Background -- a brief summary of the history of the topic and other background information. This may include a discussion of current policies and practices, how the issue has been handled in other jurisdictions or other factual information and explanations relevant to consideration of the topic.
- Discussion -- factors to be considered in making the decision (e.g., financial, legislative or communications considerations) and consultations required.
- Options -- advice that may be followed.
- Recommendations -- recommendations and advice on the course of action that should be followed.
- Transmittal information -- the name and position of the person submitting the briefing note.



FOIPP PROVISIONS

Briefing notes may be requested under the Act. Public bodies conduct a line by line review of the requested record and release whatever information is not excepted from disclosure.

The head of the public body has discretion either to release or withhold advice or recommendations contained in the briefing note. “Advice” or “recommendations” are a submission of a suggested course of action. Other sections of briefing notes should not contain advice and recommendations. (See section 13 of the Act and Section C.4.4 of the Manual.).

Depending on the subject of the briefing note, other exceptions may apply to portions of the record, including:

- Cabinet confidences, for example, a briefing note to Cabinet may reveal the substance of Cabinet deliberations (see section 12 of the Act and Section C.4.2 of the Manual);
- government economic or financial information, for example, information about a proposed administrative plan that has not yet been implemented or made public (see section 17 of the Act and Section C.4.8 of the Manual);
- information harmful to intergovernmental relations, for example, information received in confidence from another government (see section 16 of the Act and Section C.4.7 of the Manual);
- third party business information, where its disclosure would harm the third party (see section 21 of the Act and Section C.4.12 of the Manual);
- personal information, where its disclosure would constitute an unreasonable invasion of a third party's privacy, for example, a reference to correspondence from an identifiable individual (see section 22 of the Act and Section C.4.13 of the Manual);
- legal advice (see section 14 of the Act and Section C.4.5 of the Manual).



KEY POINTS TO REMEMBER

1. Structure briefing notes to facilitate the release of information. Clearly identify each section of the briefing note.
2. Depending on the briefing note format in your ministry, it is recommended that the recommendations be presented on a separate page or as an appendix to the briefing note.
3. Present options separately from advice and recommendations. Keep the wording of the options section objective and neutral.
4. The number of the option is not excepted as policy advice if it does not contain any wording indicating which option is recommended.
5. Exercise discretion in applying the policy advice exception. After considering all relevant factors, the head may decide to disclose the recommendations section of a briefing note. After a public body has reached a decision based on the recommendation in a briefing note, there may be no harm in releasing the recommendation.

Contact your ministry's Director or Manager of Information and Privacy for more detailed assistance concerning briefing notes and information requests.

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