

Redacting Non-Responsive Information in a Responsive Document

Section 8 of the *ATIPPA, 2015* grants a right of access to a *record*. The only basis for severing information from a record which is provided for in section 8 is where an exception applies, and there is no provision in the *ATIPPA, 2015* allowing for the redaction of information because it is “non-responsive”. However, the OIPC recognizes that interpretation of this issue varies across other Canadian jurisdictions and that the practice of severing non-responsive information within responsive records has been widely accepted and endorsed by Commissioners in a number of jurisdictions. It has also been a long standing and accepted practice in this jurisdiction.

We would therefore like to offer the following “best practice” advice to Access and Privacy Coordinators when they are considering severing non-responsive information from an otherwise responsive document:

- use the “non-responsive” redaction sparingly and only where necessary and appropriate, giving the *ATIPPA, 2015* a liberal and purposive interpretation;
- if it is just as easy to release the information as to claim “non-responsive”, the information should be released (i.e. releasing the information will not involve time consuming consultations nor considerable time weighing discretionary exceptions);
- avoid breaking up the flow of information (i.e. if possible, do not claim “non-responsive” within sentences or paragraphs); and
- in your final response to the Applicant, it is necessary to explain what “non-responsive” means and that some information has been redacted on this basis.

Coordinators are still free to use their discretion when it comes to the redaction of “non-responsive” information in a record, however, if you are uncertain as to whether particular information is responsive, call the Applicant to discuss the issue.

The OIPC will continue to review claims of “non-responsive” when complaints are made to this Office, and where it is not readily apparent, Public Body Coordinators must be able to explain to this Office why certain information has been severed on the basis of it being “non-responsive”. If we are not convinced, we may recommend disclosure. This practice is consistent with the way this issue has been handled in the past. The above noted advice is in keeping with the overall purpose of the *ATIPPA, 2015*, including the duty to assist, but also recognizes the challenges of responding to an access request in a timely manner.



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