

# Breakout session 2:

## Handling Data Subject Access Requests (DSARs)



**Jaime Cardy**  
Senior Associate, Toronto  
D +1 416 863 4495  
[jaime.cardy@dentons.com](mailto:jaime.cardy@dentons.com)



**Melika Mostowfi**  
Associate, Calgary  
D +1 403 268 7011  
[melika.mostowfi@dentons.com](mailto:melika.mostowfi@dentons.com)

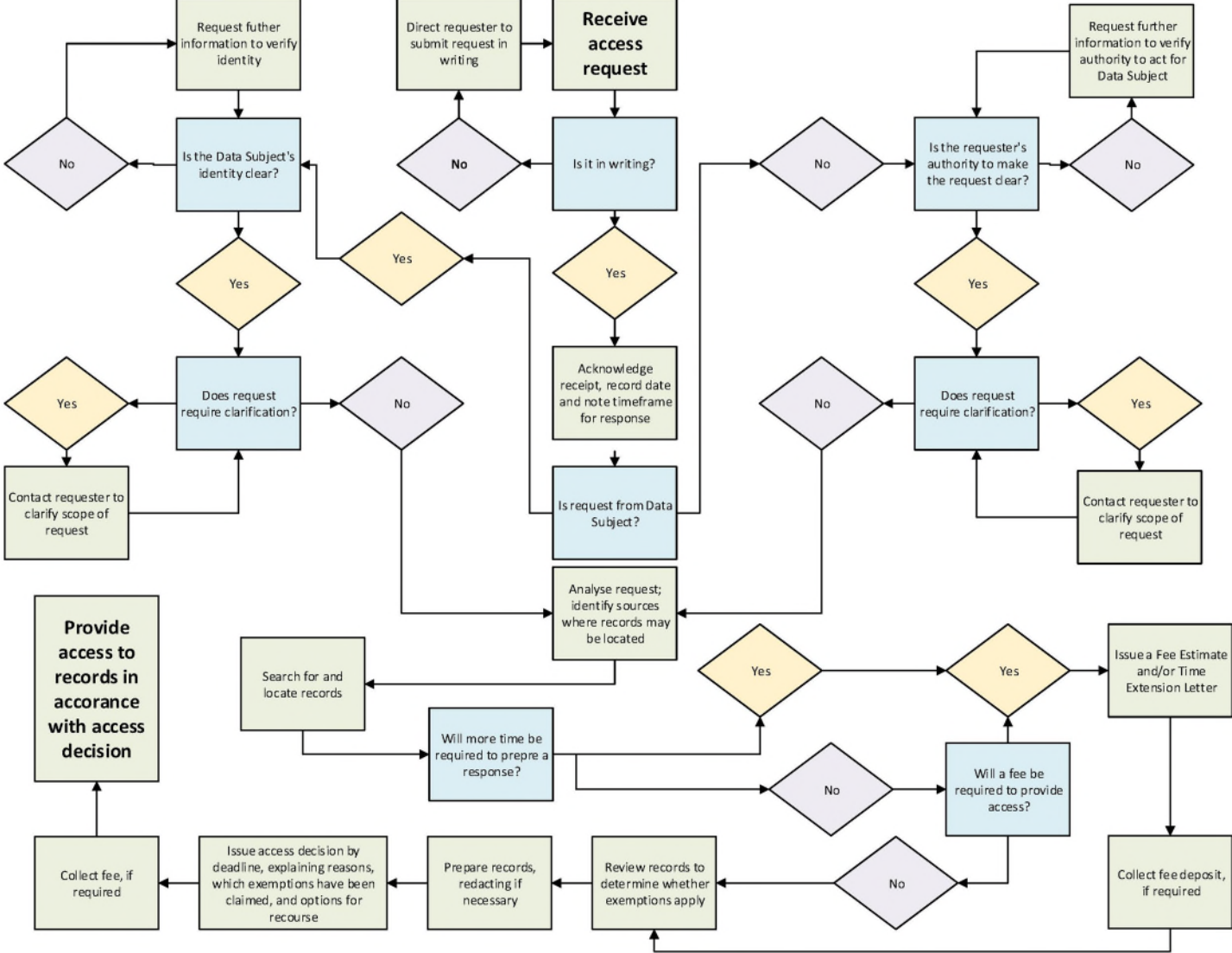
# Statutory right of access

- PIPEDA, Schedule 1, section 4.9 Principle 9 – Individual Access
  - “Upon request, an individual shall be informed of the existence, use, and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.”
  - Recall: “personal information” is defined as “information about an identifiable individual.”
- Similar (not identical) rights exist in “substantially similar” provincial legislation
  - Alberta’s *Personal Information Protection Act*, ss. 23 - 24
  - British Columbia’s *Personal Information Protection Act*, s. 23
  - Quebec’s *Act respecting the protection of personal information in the private sector*, s. 27
  - Ontario’s *Personal Health Information Protection Act*, ss. 51 - 53

# OPC's 2023-2024 Annual Report

- PIPEDA
  - Access-related complaints accounted for greatest proportion of complaints to OPC (**23%**) with an average treatment time of **7.6 months**
  - Time extensions accounted for **11%** of complaints with an average treatment time of **3.3 months**
- Privacy Act
  - Time limits accounted for greatest proportion of complaints to OPC (**54%**) with an average treatment time of **1.8 months**
  - Access-related issues accounted for the second highest number of complaints to OPC (**29%**) with an average treatment time of **9.6 months**

# Responding to DSARs



# Receiving and scoping a DSAR

- Confirm requester's identity / authority
  - What about employees?
- Consider validity of request
- Make note of timelines
- Identify the parameters of the request – timeframes, types of data, etc.
  - Clarify the request if unclear
  - Narrow the scope if overly broad

# Breakout #1 – Scope

10 minutes

- Work with your table
- Discuss if/how to verify the requester's identity
- Determine if/how to narrow the access request

# Search for responsive information

- Consider the form of responsive information
  - Paper records (notes, briefings, minutes, reports, etc.)
  - Video and audio recordings (CCTV footage, call recordings, etc.)
  - Electronic records (emails, logs from connected devices, order history, etc.)
- Identify relevant people, departments, third parties
- Delegate search effort and revert findings

# Breakout #2 – Search

10 minutes

- Work with your table
- Consider the access request from Breakout session #1
- Consider the individuals, departments, databases, etc. listed in Breakout #2 and determine who should be involved in the search effort and how work should be delegated



# Responding to DSAR - General

- PIPEDA, Schedule 1, section 4.9 Principle 9, section 4.9.1
  - “Upon request, organization shall inform individual whether or not it holds personal information about the individual. Organizations are encouraged to indicate the source of this information. The organization shall allow the individual access to this information. [...] In addition, the organization shall provide an account of the use that has been made or is being made of this information and an account of the third parties to which it has been disclosed.”
- Large volumes of information
  - Timelines and extensions
- Refusing a request and deemed refusals
- Costs
- Form

# Breakout #3 – Respond

10 minutes

- Work with your table
- Consider the access request from Breakout session #1
- Review the information that has been identified as being responsive to the request. What considerations arise when determining how best to respond?

# Responding to DSAR - Tricky issues

- Providing access
  - Navigating exemptions and exceptional circumstances
  - Required information
  - Accommodation issues
- Automatically generated requests
- Requests in the context of litigation
- Deletion requests
- Evolving data portability rights

# Breakout #4 – Redacting records

10 minutes

- Work individually
- Consider the access request from Breakout session #1
- Review the sample information provided and identify which portions should be withheld when providing access and why

# Questions?

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# Thank you



**Kirsten Thompson**  
Partner, Toronto  
D +1 416 863 4362  
kirsten.thompson@dentons.com



**Jaime Cardy**  
Senior Associate, Toronto  
D +1 416 863 4495  
jaime.cardy@dentons.com



**Luca Lucarini**  
Senior Associate, Toronto  
D +1 416 863 4735  
luca.lucarini@dentons.com



**Alexandra Quigley**  
Senior Associate, Montréal  
D +1 514 878 5856  
alexandra.quigley@dentons.com



**Melika Mostowfi**  
Associate, Calgary  
D +1 403 268 7011  
melika.mostowfi@dentons.com



**Charles Giroux**  
Student, Montréal  
D +1 514 878 5814  
charles.giroux@dentons.com