

GPC and GPCF Transparency and Confidentiality Policy

Prepared by the Transparency and Confidentiality Action Team.

Executive Summary

Why this policy?

The Green Party of Canada is committed by its Constitution to participatory democracy, including “transparency, truthfulness, and accountability”. However, the Federal Council handbook assumes that all information is confidential, in conflict with the Constitution. Such conflicts require prevention.

This policy is designed to prevent such conflicts and support the Constitutional commitment to transparency in the GPC. It will give Council and GPC Functionaries tools to manage information transparently while maintaining confidentiality where needed.

Who would be covered by this policy?

Once they work with the information covered by this Policy, this Policy governs responsibilities of all functionaries; and functionaries include members of Federal Council, Executive Council, the Leader and deputy leaders, the Shadow Cabinet, the Directors of the Green Party of Canada Fund, all Green Members of Parliament, and all GPC staff, and the leader’s staff, and volunteers.

Contractors are not functionaries and are not covered by this policy except via explicit agreement.

What’s in this policy?

Key elements of the policy include:

- A base assumption that all information must be made available to GPC members unless it is kept confidential for good reason, in which case the subject and the reason must be made available.
- Clarity on which units have the authority to designate information as confidential.
- Standards dictating the circumstances under which information may or may not be designated as confidential.
- Procedures for extending, terminating, or challenging a designation.
- Procedures for managing whistleblowing, health and safety emergencies, and breaches of confidentiality.
- Clarity on interactions between this policy, relevant laws, and the GPC Constitution and Bylaws.

In addition to the policy proper, this document includes a brief handbook intended to provide Functionaries with answers to everyday, practical questions regarding confidentiality and transparency.

When would this policy come into effect?

The policy would come into effect when approved by Federal Council.

Where can I send comments?

Please send your comments to any member of our Transparency and Confidentiality Action Team:

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The Motion

WHEREAS Article 5 of the Constitution of the Green Party of Canada (GPC) names Participatory Democracy as a core value and calls for “individual empowerment through access to all the relevant information” and “requires ... transparency, truthfulness, and accountability”;

WHEREAS the current guidance on confidentiality specified in the Federal Council Code of Conduct reads as follows (emphasis added):

Keep confidential all information unless the Federal Council determines that such information is public. Confidential information includes, but is not limited to, information about personnel, campaign plans, membership and donor lists, financial statements, strategic and annual plans, and matters dealt with during in- camera [sic] meetings of the Federal Council;

WHEREAS the assumption of confidentiality for all information is inconsistent with the core value of Participatory Democracy;

AND WHEREAS whistleblowers who identify inappropriate behaviours or decisions made during *in camera* proceedings must be protected;

THEREFORE BE IT RESOLVED THAT the following Policy be adopted as the Green Party of Canada’s operating policy relating to confidentiality and transparency.

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The Policy

Definitions

1. For the purposes of this policy, the following terms are defined:

Information

- a. **Information:** Facts known to a person or persons subject to this policy.
- b. **Record:** Any enduring form that contains information, including but not limited to e mails, SMS texts, printed or electronic documents or files, web pages, and audio or video recordings.
- c. **Recorded information:** Information contained in a record.
- d. **Private information:** Information, recorded or not, about a person, which that person has the legal right to control and/or for which they have a right to expect certain standards of confidentiality to be maintained during collection, use, and disclosure, due either to a requirement in law or a GPC policy. Private information is a type of confidential information.
- e. **Confidential information:** Information, recorded or not, which must be guarded as confidential due to a requirement in law, a designation by Federal Council, or a designation by another unit with the authority to designate confidentiality.
- f. **Open information:** Information which is neither confidential nor private, or which has lost confidentiality by being disclosed into the public domain and which is not required by law to continue to be contained.

Structure, notices, treatment

- a. **Unit:** A unit of the GPC as meant in the Constitution, but for the purposes of this Policy it is intended to apply also to the GPCF which is a not-for-profit corporation that is for technical reasons not a unit.
 - b. **Functionary:** A person serving the GPC, including a member of Federal Council, a member of Executive Council, a Director of The Fund, the Leader, deputy Leaders, a member of Shadow Cabinet, a member of staff, a volunteer, or a member of GPC Caucus.
 - c. **Authority to designate:** The authority to designate information as confidential, and the responsibility to recognise and designate certain information as private under law. The authority to amend a designation where the amendment does not violate law.
 - d. **Confidentiality notice:** A notice embedded on a record, or associated with items of information within a record, that indicates the confidentiality status of that record or those items.
 - e. **Embargo:** A designation of confidentiality which expires after a period of time. f. **Redaction:** Deletion of certain confidential information from a record, in anticipation of the record being shared. A valid redaction preserves the original structure of the containing record and ensures the act of redaction is apparent to a person accessing the redacted record.
 - g. **Senior unit:** The unit or entity by whose authority a unit or entity may obtain Authority to Designate. The adverb 'relatively' is implied before 'senior'.
 - h. **Junior unit:** A unit or entity receiving Authority to Designate from a senior unit or entity. The adverb 'relatively' is implied before 'junior'.
2. In addition, the terms Green Party of Canada (GPC), Green Party of Canada Fund (The Fund), Unit, Member, and Caucus are used with the meaning as used in the Constitution of the Green Party of Canada.

Responsibilities of Functionaries

3. All Functionaries must fulfil the following responsibilities:
 - a. Functionaries must comply with the following, listed in order of precedence: i. All applicable laws (including but not limited to the Privacy Act, the Freedom of Information and Protection of Privacy Act (FIPPA), and the Personal Information Protection and Electronic Documents Act (PIPEDA));
ii. The Green Party of Canada Constitution, Bylaws, and policies.
 - b. During their time in the Party and after leaving the Party, Functionaries shall safeguard all confidential and private information that comes under their control. They will only use, access, store, or disclose confidential or private information, directly or indirectly, as appropriate and necessary in the performance of their duties.
 - c. Functionaries shall ensure that records under their authority that are private or confidential shall carry appropriate notices of confidentiality.
 - d. A Functionary may share confidential or private information only with persons who are authorised by Federal Council and applicable policies of the GPC to have access.
 - e. Upon termination of any assignment, or if requested by Federal Council or The Fund, a Functionary will return all records of confidential or private information to the Functionary responsible for those materials, and/or destroy any remaining records in their possession.
 - f. A Functionary will not seek to obtain any confidential or private information that is not directly relevant to their duties.
 - g. A Functionary will not modify or destroy records unless requested by Federal Council or The Fund.
 - h. A Functionary will not seek to conceal or disguise a redaction.
 - i. A Functionary must promptly report to the Executive Director any known breach, whether accidental or otherwise, by that Functionary or any other person, of this policy or of applicable Federal or Provincial laws.
 - j. If a Functionary has any question relating to appropriate use or disclosure of any information, or relating to interpretation of this policy, that Functionary shall consult with a member of staff, The Fund, or Federal Council who is designated by the Federal Council or the Executive Director under the authority of the Federal Council as having the authority to assist the Functionary.

Authority

4. The authority to designate material as confidential under this policy rests with Federal Council. 5. Federal Council may, while retaining its own authority, grants to the GPF Fund and may grant to other units or committees the limited authority to, provided this Policy is adhered to:
 - a. Designate confidential information;
 - b. Apply specific confidentiality rules as defined by Federal Council under this Policy;
 - c. To delegate or grant the above authorities to sub-units of the unit or entity in question.
6. This policy does not enable Federal Council to delegate or grant any other authority. 7. Federal Council may, notwithstanding any other clause in this Policy, terminate such grants of authority at any time.
8. The Fund may not delegate any authority granted to it under this policy to any contractor. 9. If a unit delegates or grants an authority to a sub-unit, each such instance must be reported to Federal Council in a form and under terms specified by Federal Council.
10. Federal Council shall have the power, in its sole discretion, to review and to override such

delegations or grants by other units.

11. No unit can ever have or obtain the right to hold any information confidential against any of its senior units.

Designations of Confidentiality

Presumed open

12. Unless otherwise specified or there is clear reason to suppose privacy or confidentiality, a given item of information is assumed to be open.

Designating confidentiality

13. An item of information may be designated as confidential or private only in the following ways: a.
As required by law, in which case the terms and duration of confidentiality or privacy are determined by the relevant laws;
 - b. By a standing policy of the GPC;
 - c. By a decision of Federal Council;
 - d. By a decision of a unit to which Federal Council has granted the authority to designate confidentiality;
 - e. By a decision of an individual with respect to items of information that are original to them and disclosed by them.
14. A designation of confidentiality or privacy includes the following elements:
 - a. The type of designation (confidential or private);
 - b. The date upon which the designation came into force;
 - c. The duration of the initial designation, specified either as a specific date or a clearly defined condition, but in either form lasting no more than 6 months, unless required otherwise by law and unless extended within the maximum allowed (see para. 15);
 - d. The law, policy, unit, or individual under whose authority the designation is made; e.
The audience permitted to access the confidential information. This audience may, without limitation, include any units, Functionaries, or staff of the GPC;
 - f. The reason for the designation, which must be informative but without revealing the confidential or private elements.
15. The duration of a designation of confidentiality may be increased to at most 24 months if supported by a vote of 2/3 of the voting seats of Federal Council, or in the case of information under the control of the GPC Fund 2/3 of the Directors of the Fund; the issue and reason must be minuted informatively.
16. In all cases, when a unit is included in the permitted audience for confidential information, all of its senior units are also included in the permitted audience unless the senior unit has agreed otherwise.
17. In the case of an incomplete designation, that being an instance where the intent to designate is clear and an allowed reason is indicated, but certain other elements of the designation are lacking, the following assumptions are applied as necessary:
 - a. The type is assumed to be confidential and, if applicable, private;
 - b. The date is assumed to be the date upon which the information was first disclosed to a Functionary;
 - c. The duration is assumed to be 3 months;
 - d. The authority is assumed to be that of the person who first provided the information; e.
The permitted audience is assumed to include each of the lawful recipient(s) of the disclosure, bearing in mind that in law unless and until prohibited a recipient may generate subsequent lawful recipients.

Allowed reasons for designation

18. Unless required by law, a designation of confidentiality may only be applied to items of information related to the following concerns:
 - a. Ongoing disciplinary procedures;
 - b. Human resource matters involving personal information;
 - c. Litigation concerning the party;
 - d. Campaign plans or election strategy, prior to 7 days following the close of voting;
 - e. Decisions related to internal elections, prior to 7 days following the close of voting;
 - f. Politically sensitive financial information.
19. The fact that an item of information falls into one of the categories specified above is not, in itself, sufficient to justify a designation of confidentiality. There must also be a compelling case that failing to designate the information as confidential would without justification cause or risk meaningful harm to the party or to individuals. Designation shall not be done where it would violate a Principle of the Global Green Charter as adopted by the GPC Constitution.
20. For clarity, campaign plans, election strategy, and internal elections cease to be a concern as described above on the day after the relevant election occurs, and any designation made with this concern as its justification must carry a duration expiring no later than 7 days following the close of voting.

Prevented designations and nullification

21. A designation of confidentiality or privacy may not be applied to an item of information that has already been disclosed to the public.
22. A designation may not be applied for the purpose of making confidential the fact that an item of confidential information exists, nor to make confidential the reason for a designation or extension, unless required by law.
23. A designation of confidentiality is nullified if the item of information in question is disclosed to the public, unless the designation was imposed by law, in which case the specifics of the law shall be followed.
24. A designation of privacy remains in place even if the item of information in question is disclosed to the public elsewhere.

Challenging designations

25. Any designation of confidentiality originating from a unit of the GPC may be challenged by any member of Federal Council. Any such challenge triggers a prompt vote by Federal Council, in which the designation of confidentiality must receive support of 66.6% of the voting seats of Federal Council or be rendered null.

Limits

26. Designations of confidentiality have no effect on ownership of information or of intellectual property. Rather, they impose a burden of care on those Functionaries who handle the information in question.
27. The presence of an item of information in a record which is designated confidential does not cause that item of information to also be designated confidential. Open information included in a confidential record remains open elsewhere.

Terminating a designation

28. A designation of confidentiality may be terminated by a normal vote of Federal Council or of any unit under whose authority the designation in question falls.

29. Termination of a designation of confidentiality is not retroactive, and does not excuse violations of this policy which occurred while the designation was in effect.
30. Where a designation of confidentiality applies to multiple items of information, it may be terminated for a specific subset of those items and left in place for the remaining items.

Extending a designation

31. A designation of confidentiality may be extended according to para. 15.
32. In the case of designations related to elections or internal elections, support of 75% of the voting seats of the unit or entity responsible for the election shall be required to extend the designation beyond the day after the date of the election in question.

Whistleblowing

33. If an action or decision by any member or unit violates the Green Party of Canada's Constitution, Bylaws, or Code of Conduct, the existence of this violation may not be designated confidential unless required by law. Any such designation already in place and not required by law is nullified.
34. No Functionary shall be punished or sanctioned for disclosing information whose designation has been nullified in this manner, regardless of when such nullification was ultimately recognized.
35. If a member of Federal Council feels that information currently protected by a designation of confidentiality is relevant to investigation of an action or decision as described above, that member may demand of Federal Council any combination of one or more of the following remedies, provided said remedy receives the support of 33.3% of the voting seats of the Federal Council in a vote at an open meeting:
 - a. Termination of the designation of confidentiality in question, unless the designation is required by law;
 - b. Publication of a version, redacted if and as required by law, of the information in question;
 - c. Sending of a message to the membership explaining the action or decision that was reported and what accountability and prevention measures will be taken by Council to prevent it from happening again.

Health and Safety Emergencies

36. In the case of a health or safety emergency, relevant confidential information may be disclosed as required by law or as necessary to appropriate individuals in order to protect against immediate threats to life or health.
37. No such disclosure made in good faith shall be found to be a violation of this policy, regardless of whether it is ultimately found to have been necessary for its intended purpose.

Breaches, Results and Responses

38. Any Member may report to the Executive Director, and the Executive Director shall report any breach of this policy which comes to their attention, reporting matters concerning Federal Council to Federal Council, and reporting matters concerning the GPC Fund to the Directors of the Fund.
39. Where the breach of confidentiality caused confidential information to be published or publicly known, and except where there exists an obligation in law to continue to treat it as confidential, the information actually released shall be considered open; but details not released shall not be considered open.
40. Federal Council shall be obligated to respond to any such breach with meaningful action appropriate to the circumstances and severity of the breach, such action to always include analysis of the cause, and to include education, and furthermore referring the breach to

processes under existing Codes of Conduct and responses and penalties under them.

41. A report detailing the nature of the breach and the remedy applied shall be provided to the Functionaries concerned, and (redacted as required) to the Membership.

(end of policy)

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Handbook for Functionaries

The purpose of this transparency and confidentiality policy is to provide GPC Functionaries with an understanding of their responsibility to protect and safeguard the confidential information to which they receive access as part of their work, while simultaneously upholding the values of transparency and accountability that are central to the Green Party.

This handbook provides answers to everyday practical questions and is intended to help GPC Functionaries meet their responsibilities with minimal effort or confusion. Additions to this handbook are welcome.

What format should I use to mark a document as confidential?

A Confidentiality designation needs to be displayed on the document(s) it affects in order to aid in preventing breach of confidentiality. Party members are entitled to know the reason for confidentiality, and it must be reasonably and accurately explained: in the minutes of the meeting where it was designated; on the document itself; and in or linked from any indexes or databases or web pages that refer to the designated document.

Within a multi-page document, place the following text prominently near the first page, and repeat it in brief form also in the footer of every page:

CONFIDENTIAL – By the authority of [designator], prior to [expiry date] this document is to be shared only with [audience] due to [explain reason].

For example:

CONFIDENTIAL – By the authority of Federal Council, prior to 2021 November 25 this document is to be shared only with the Finance Committee due to content relating to an ongoing matter regarding donations

The note in the footer may be brief if it at least contains “CONFIDENTIAL ... until ...” and points to the main notice near the first page. This format is intended to be understandable by party members who are not Functionaries and may not be versed in confidentiality rules.

What format should I use to mark my e-mail as confidential?

Start the subject line of your e-mail with the word CONFIDENTIAL, for example:

Subject: CONFIDENTIAL – Polling results for Kitchener Centre

As the first line of the body of your e-mail, include text in the same format as specified for documents, for example:

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CONFIDENTIAL – By the authority of Federal Council, prior to 2021 September 21 this email is to be shared only with recipients due to information related to the ongoing election.

Can you clarify the difference between confidential information and private information?

Private information is information about a person. It is information that the person has the right to control, and if shared, they have the right to expect the information to be handled with care and according to their wishes. Typically, information is designated as private by federal or provincial laws, rather than policies of the GPC.

Examples of private information might include: a credit card number, a person’s assigned gender, food allergies, contact information, and so on.

Confidential information might be any type of information. It is information that must be kept secret from members, usually for a limited time, based on a standing policy or the judgment of Federal Council or a unit of the GPC.

Examples of confidential information might include: minutes of *in camera* meetings, campaign strategy during an election period, human resources information, or details of ongoing litigation.

How should minutes of in camera meetings be designated?

Normally, these minutes should be designated confidential by the unit that held the meeting, for a period of 6 months. Note that the reason that the meeting was held *in camera* must be open information.

Keep in mind that any private information revealed during an in camera meeting remains private even after the minutes are no longer confidential. In these cases, the minutes need to have the private information redacted before being published.

What is the appropriate way to redact confidential or private information from a larger record?

Redaction must be done in such a way that it completely deletes or destroys the confidential or private information, while maintaining the original structure of the record. Furthermore, it should be clear to any person accessing the record that a redaction has occurred.

In a multi-page document, the first page should include a notice similar to the following:

Some contents of this document have been REDACTED to respect ongoing confidentiality or privacy obligations.

(A similar notice can be placed at the start of other types of records, such as audio or video recordings.)

As for the actual redaction, the following techniques work well:

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- In a text document, delete the redacted information and replace it with a repeated character or a mark, such as underscores _____, a repeated XXXXXX, or “[REDACTED]”, or a black bar . (Do not use methods that leave the information in place, such as white text, strikeout, small fonts, etc.)
- In an image, edit the image to place a black bar over the redacted information, or pixelate or blur the information to the point that it is impossible to distinguish any aspect of it. • In an audio recording, either mute the redacted passages, or replace them with a steady tone. • In a video recording where the information to be redacted is auditory only (such as a voice over), treat it as an audio recording. (Keep in mind that words spoken by a person whose mouth is visible also have a visual component, i.e., lip movements.)
- In a video recording where the information to be redacted is visual only (such as a face or written name), edit the video to either replace that stretch of time with a blank screen containing the word “redacted”, or place a black shape or pixelation effect fully covering the redacted information.
- In a video recording where the redacted information is both auditory and visual, apply a combination of both methods.

In general, care should also be taken to ensure that the redacted information cannot be inferred or partially inferred by other cues, for example, the order of a name in a list, other context given in a

sentence that hints at redacted words, and so on.

A transparency and confidentiality Functionary working for the party would be a valuable resource in assisting Functionaries with these matters.

(end handbook)

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