



BAMBOO  
DATA CONSULTING

# Refined Guidance on Valid Consent.

Final Guidelines by Commission d'accès à l'information du Québec



# Where it all began.

The criteria for obtaining lawful consent was discussed in depth in our [Law 25: Consent White Paper](#) released late 2023.

The CAI published its final consent guidelines ([Guidelines 2023-1- Consent: validity Criteria](#) (“Consent Guidelines”)) providing us with a clearer picture and refined guidance on what is required for consent to be valid.



# The misconception.

Let's get right down to it.

One of the biggest misconceptions we have seen amongst our clients is that consent trumps all. In other words, if an organization obtains consent, it can collect anything and do anything with the personal information it collects. **This is simply wrong.**



# The clarification.

**Before we get into the meat, let's get some of the basics outta the way.**

## ***What is your stated purpose?***

Once you identify and state the purpose of collection, you may only use it for that purpose.

## ***The minimization principle reiterated***

Just because you can, doesn't mean you should! The information collected must be necessary to achieve the stated purpose. Do NOT over-collect.



# and WTF does that even mean?

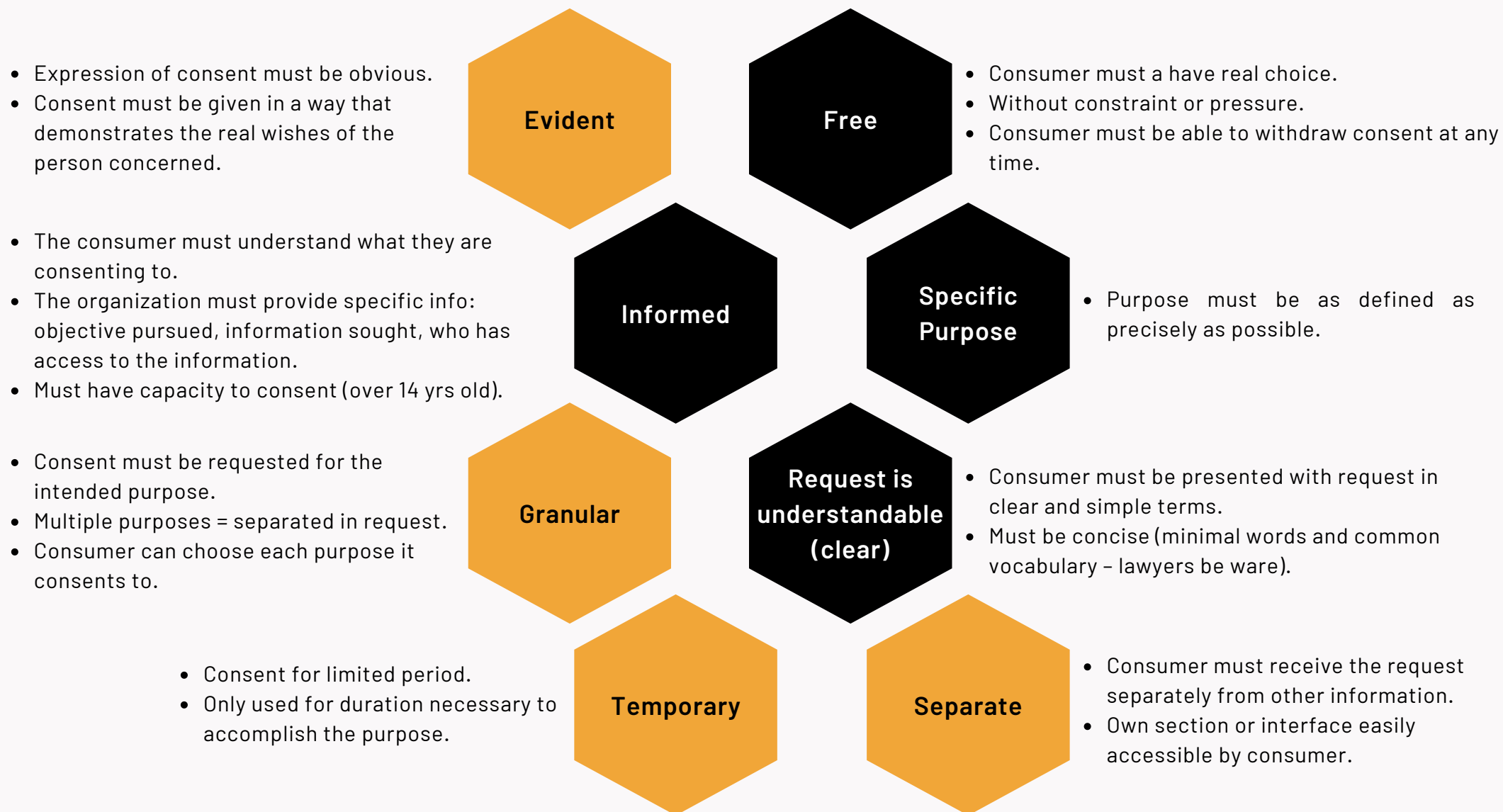
Law 25 provides the high-level requirement that to be valid, consent must be **“clear, free and informed and be given for specific purposes”**



We got your back...check it out



# ok, let's make this simple.



# your consent journey starts here.

## Clearly identify the purpose

Ensure the purpose is clear and information is necessary and proportionate to achieve that purpose.



## Step 1

## Notice - transparency at collection

Provide precise and complete information to your customer at collection either in the request for consent or in the privacy notice.



## Step 2

## Collection off by default

When collecting information using technology for the purposes of identification, location tracking, or profiling (e.g. cookies), customer takes positive action to allow collection.



## Step 3

## Step 4

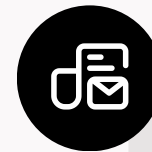
### Implied consent ok if:

The use of the customer's information is reasonably expected, is outlined in the Privacy Notice, and express consent is not specifically required.



### Express consent required if:

The use of customer's information is not reasonably expected and express consent is specifically required in Law 25.



## Step 5



# taking the **express** train.

## Step 5.1



I need to use Express Consent when:

- Tracking customers to send them targeted ads.
- Sharing customers' information with a third party (*like an analytics company or Meta etc.*).
- Collecting customers' information from a third party (*e.g. a bank or social media platform*).
- Sharing customers' sensitive personal information with another party (*e.g. precise location information with a medical facility or Meta*).
- Using customers' information for another purpose that was not disclosed on collection (*e.g. analytics*).
- The target customer is under 14 years of age
- The collection of personal information is meant to identify, locate or profile the customer





# am I going in the **right** **direction?**

## I HAVE:

- ensured that all customer information is confidential by default. This means any collection of personal information via technology is off by default.
- ensured that I do not wear the customer down with persistent requests for consent (e.g. constant pop-ups).
- added a cookie banner to my website to ensure the customer is aware of their choices.
- made withdrawal of consent easily accessible.
- documented our practices (documenting where consent was obtained, the type of consent, the date it was obtained and if it has been withdrawn).
- made the customer aware of any surveillance that we conduct and considered the impact, proportional use and necessary consent or notice.
- provided my customer with control by notifying them of their privacy rights, transparency into our practices, obtaining consent when applicable, and allowing easy withdrawal of consent.



## Step 6



## Step 7



## I have NOT:

- requested consent based on the condition of accessing our service (unless the information is required to provide the service).
- combined the requests for consent together with other requests or information (e.g. for both email and text together).
- made the consent general in nature to cover all my activities without stating them all.



**Contact us if  
you're stuck!**



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