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Tuesday, November 24, 2009

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Chair

Mr. Paul Szabo

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•(0905)

[English]

The Chair (Mr. Paul Szabo (Mississauga South, Lib.)): Order.

This is meeting 39 of the Standing Committee on Access to Information, Privacy and Ethics. Our order of the day is pursuant to Standing Order 108(2), the study of the Treasury Board directive on recordkeeping.

This morning our witnesses from the Treasury Board Secretariat are Peter Bruce, Deputy Chief Information Officer, Chief Information Officer Branch; and from Library and Archives Canada, Douglas Rimmer, Assistant Deputy Minister, Documentary Heritage Collection Sector.

Good morning, gentlemen. It's a pleasure to have you come before us. It's the first time for both of us, and I know that because this is a relatively new area, the members are very anxious to get a primer on your area of work and the importance to the work we do and how we can work collaboratively as we move forward.

Welcome.

Do both of you have opening remarks? You do. Who would like to go first?

Please proceed, Mr. Bruce.

[Translation]

Mr. Peter Bruce (Deputy Chief Information Officer, Chief Information Officer Branch, Treasury Board Secretariat): Good morning. Mr. Chairman, thank you for inviting us to appear before your committee to discuss the Treasury Board's new "Directive on Recordkeeping" under the Policy on Information Management.

My name is Peter Bruce and I am Deputy Chief Information Officer for the Government of Canada.

With me here today is Mr. Doug Rimmer, Assistant Deputy Minister of the Documentary Heritage Collection Sector for Library and Archives Canada.

[English]

To begin, it's important to note that Treasury Board Secretariat, Library and Archives Canada, and deputy heads all have shared responsibility in ensuring effective recordkeeping. Under the Financial Administration Act, Treasury Board is responsible for issuing management policies and guidelines within the federal public service. Treasury Board Secretariat supports Treasury Board in this role by developing policies and guidelines to support effective and consistent information management across government. The policy

on information management and its related directives, including the directive on recordkeeping, are under the responsibility of Treasury Board Secretariat.

[Translation]

Under the Library and Archives of Canada Act, the Librarian and Archivist of Canada has the authority to issue disposition authorities and has the power to delegate this authority for the disposition of information resources. Perhaps more importantly for the purpose of today's discussion, he also provides direction and assistance on recordkeeping to institutions within the Government of Canada. My colleague, Mr. Rimmer, will provide additional information on the role of Library and Archives in a few minutes.

[English]

Finally, it is important to note that deputy heads are responsible for ensuring that their organizations comply with all management policies and legislative requirements and, more specifically, that they have responsibility for the management and administration of information.

Now I would like to provide you with more information on the information management policies that fall under Treasury Board Secretariat's responsibilities. In the context of our renewal of Treasury Board policies, the policy on information management came into effect on July 1, 2007, and replaced the former management of government information policy. It clarifies the responsibilities of deputy heads for fostering informed decision-making; facilitating accountability, transparency, and collaboration; and preserving and ensuring access to information in records for the benefit of present and future generations.

Implementation of the policy on information management is supported by the newly issued directive on recordkeeping. This directive supports strengthening specific information management protocols and practices to achieve effective stewardship of government information resources. It enables departments to create, acquire, capture, manage, and protect the integrity of information resources in the delivery of mandated programs and services.

[Translation]

The directive also clarifies the responsibilities of the designated Senior Information Management Official within each department for: identifying information resources based on an analysis of departmental functions and activities; identifying, documenting, and mitigating risks to the protection of information resources; and establishing and implementing key methodologies and tools to support recordkeeping requirements.

• (0910)

[English]

Furthermore, the directive places a priority on ensuring that digital information is accessible, shareable, and usable over time and through technological change. This directive will be implemented over a five-year span.

[Translation]

The directive was developed in collaboration with Library and Archives Canada. Consultations were conducted throughout all levels of the federal public service and with senior departmental representatives responsible for information management and access to information. These consultations identified very strong support for the implementation of mandatory requirements for recordkeeping, as well as the need for recordkeeping tools to support program and service delivery. Mandatory requirements will ensure transparency and accountability of mandated programs and services.

[English]

Deputy heads of government institutions are ultimately responsible for compliance to information management policy and the effective management of information resources under the control of their respective institutions.

Departments are assessed annually on their compliance to information management policy through the Treasury Board Secretariat's management accountability framework. The management accountability framework sets out the Treasury Board's expectations of senior public service managers for good public service management, and assessments are completed each year across 19 different areas of management, one of which is effectiveness of information management.

[Translation]

Mr. Chairman, members of the committee, as you know the Treasury Board Secretariat is strongly committed to transparency and accountability. Strong, comprehensive recordkeeping protocols and practices are important to enabling departments to efficiently respond to access to information requests. The Directive on Recordkeeping and its supporting standards and guidelines reinforce the discipline and rigour needed to ensure effective recordkeeping.

[English]

Mr. Chairman, this concludes my opening remarks. I would be pleased to respond to questions relating to the directive on recordkeeping following Mr. Rimmer's opening remarks.

Merci.

The Chair: Thank you very much, Mr. Bruce.

Mr. Rimmer, please.

Mr. Douglas Rimmer (Assistant Deputy Minister, Documentary Heritage Collection Sector, Library and Archives Canada): Thank you, Mr. Chairman, for inviting me to address you on the issue of the directive on recordkeeping.

Under the Library and Archives of Canada Act, Parliament assigned the librarian and archivist the responsibility of providing direction and guidance to departments and agencies on the management of records and the authority to control the disposition of records within government institutions. A key part of fulfilling these roles in the 21st century is the modernization of recordkeeping. Put simply, the volume of information generated by the government is growing exponentially. The methodologies prescribed by the new directive on recordkeeping are needed for the government to be able to manage this information in a sustainable manner.

Library and Archives Canada believes the directive on recordkeeping supports its mandate to deliver effective 21st century recordkeeping direction and guidance to government departments and agencies. This in turn ensures the ability of departments and agencies to find, retrieve, and use information in support of current decision-making, while also ensuring, in the long term, that the historical records of these institutions can be readily identified and easily transferred to us, making this documentary heritage available to all Canadians.

[Translation]

Effective, recordkeeping establishes ways and means for organizations to capitalize on corporate information as a key business asset and enabler. This supports current decision-making, documents business activity, and satisfies stewardship, accountability and legal requirements.

Over the last few years, the work of Library and Archives Canada to address systematic issues in the management of information in the Government of Canada has made great strides. These efforts have concentrated on reducing the legacy of unmanaged paper and electronic records as well as working to build capacity to manage the ever-changing digital landscape of electronic records. Perhaps, most importantly, LAC has been helping to find policy solutions to the problem. It is these solutions that I want to discuss today.

• (0915)

[English]

We are working closely with the chief information officer branch of the Treasury Board of Canada Secretariat, and our two departments have developed a suite of policy instruments. These instruments support and complement our own mandate, as well as the administration of access to information.

Primary among these policies is the directive on recordkeeping issued in June of this year. The directive lays out a strong framework that will improve recordkeeping within government. It ensures that records are created, captured, used, and managed as business assets, and that they are stored properly and disposed of in accordance with the Library and Archives of Canada Act. Importantly, the directive and the tools and guidelines that accompany it are designed to anticipate and effectively manage digital work environments.

The key to effective 21st century recordkeeping lies in the identification and management of what we call information resources of business value. This concept, which is based on international standards, gives departments and agencies a sound basis from which to manage their information resources in order to support their delivery of mandated programs and services. The directive on recordkeeping supports deputy heads in instilling discipline and rigour over the creation, capture, and management of information resources, improving accountability.

[Translation]

The Treasury Board of Canada Secretariat is responsible for the Directive on Recordkeeping. LAC continues to support the Secretariat through the development of complementary tools and guidelines and through awareness and training sessions. Moreover, under the Library and Archives of Canada Act, the disposition (destruction or transfer) of government records is authorized solely by the Librarian and Archivist of Canada.

The timely disposition (when legal and operational needs have expired) of government information is an essential component of sound recordkeeping. Good recordkeeping thus furthers the mandate of LAC in preserving the historical record of the Canadian government.

Mr. Chairman and members of the committee, I'd like to end by stressing that, as you know, a change in culture is essential for the implementation of effective 21st century recordkeeping in government. The Information Commissioner clearly identified "challenges that the modern digital environment presents" as one of the biggest current obstacles to effective recordkeeping. The Directive on Recordkeeping will result in better management of the creation and use of information as well as reducing legacies of unmanaged electronic and paper information. This will lead to improved accountability and stewardship, and, therefore, ultimately improve ATI responsiveness.

This concludes my statement. I would be more than pleased to respond to any questions from members of the committee relating to Library and Archives Canada's role in improving the state of recordkeeping in the Government of Canada.

[English]

The Chair: Thank you kindly.

We'll go straight to questions. We'll start with Mr. Wrzesnewskyj, please.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): Thank you, Chair.

Thank you, gentlemen, for coming to our committee.

On this new directive, there are certain exceptions to the rules and they are referenced as rare exceptions. What are those rare exceptions?

Mr. Peter Bruce: The biggest exception is that the new recordkeeping directive applies to the 112 departments that are covered in sections 1 and 2 of the Financial Administration Act. So while the directive is a mandatory instrument for those institutions, it is more of a voluntary compliance instrument for other organizations.

We anticipate that they will find this leads to best practices, and that what has been developed here through a broad consultative process, consistent with the Library and Archives Canada legislation and the expectations in the Financial Administration Act, will be adopted. But that's a significant exception.

● (0920)

Mr. Borys Wrzesnewskyj: Are there any others?

Mr. Douglas Rimmer: Yes, section 2.3 of the directive refers to some exceptions. Various sections of the directive do not apply to specific organizations, such as the Office of the Auditor General, the Office of the Privacy Commissioner, and a number of others that are mentioned there. Again, it is relative to certain sections of the directive that don't apply to those particular organizations, given their specific mandates.

Mr. Borys Wrzesnewskyj: How would the rules change when it pertains to documents that have been tagged as cabinet confidences?

Mr. Peter Bruce: The rules under the recordkeeping directive would require that they be properly managed, and all aspects of the recordkeeping directive apply to those documents. I think there are questions of how exceptions get handled in the access to information policy and legislation for those documents, but for recordkeeping purposes, this directive applies.

Mr. Borys Wrzesnewskyj: So it's the same.

When it comes to the destruction of documents, there's now a very clear protocol. We seem to have a clear set of rules right now. Previously, what were the rules?

My concern is, how well has this been communicated through the whole public service that these are the protocols to be followed, that you do not destroy documents, including that you do not hit the delete button on your e-mails, because we have a new regime in place right now and these are the rules to be followed?

So there are two parts to my question.

Mr. Peter Bruce: That would relate most closely to the provisions in the Library and Archives of Canada Act, so I'll have Doug answer.

Mr. Douglas Rimmer: I'm happy to respond to that question.

If you're asking what were the previous rules, Library and Archives Canada and its predecessor agencies go back to 1872, so we've been collecting government records since that time, and a variety of different regimes have governed that. But essentially we have been responsible for the disposition of records, which can include one of three outcomes: the records come to Library and Archives Canada for permanent storage; they're transferred outside of the Government of Canada's control, so they may be transferred to another entity entirely; or they're destroyed.

We govern that disposition through what we call records disposition authorities. These are agreements that are signed between Library and Archives Canada and each organization that is subject to our act. That identifies the records that need to be maintained and those that can be destroyed. Some records need to be maintained for a much longer period of time as business records of the active department, never mind their historical value as archival records when they come to us. So each of those records and disposition authorities is specific to the institution that governs it. Until such a records disposition authority is in place, departments are not authorized to destroy records.

There are also specific provisions in other legislation, such as the Access to Information Act, that deal with particular situations, but generally with respect to the ongoing management of government records, it's our legislation and the tool we use is the records disposition authorities.

Mr. Borys Wrzesnewskyj: Okay, so departments aren't supposed to destroy documents. That's up to you to make that decision right now. How has that been communicated throughout the public service?

A lot of things these days get decided, for instance, by e-mails, and all it takes is hitting that delete button. So what is in place to communicate this new regime, and what are the consequences should people not follow the regime? How do you even know?

• (0925)

Mr. Douglas Rimmer: We communicate this out to departments by contacting the officials responsible for information management within departments, reminding them that the authority rests with the librarian and archivist of Canada, and that they need to develop with us a records disposition authority, which we sign with them and which then permits them to dispose of the records that we have agreed can be disposed of.

There are many administrative and temporary documents that departments have the authority to destroy themselves under those records disposition authorities. We don't simply rely on departments phoning us up and saying, "Hey, we'd like a records disposition authority." We're aware of which federal institutions there are; we're aware of all of those where we need to have records disposition authorities in place; and we have an ongoing process of updating and renewing those as mandates change, because as the mandate of a department changes, that generates new information needs.

Mr. Borys Wrzesnewskyj: It basically sounds like the honour system, and that means it's somewhat toothless. When you also take a look at the number of documents and how this is exponentially increasing, it's virtually impossible for oversight when it comes to the destruction of documents.

Why wouldn't we put in a system—it has been mentioned a number of times—similar to that in New Zealand, where all documents are immediately posted? It's an open regime in New Zealand, similar to what we have within the Justice branch of government. Everything is publicly available, and posted publicly.

Mr. Douglas Rimmer: I'll handle the first part of that question.

Under the Library and Archives of Canada Act, if the librarian and archivist of Canada believes records are at risk—and they might be

at risk for any number of reasons, physical or other risks that they could be exposed to—we do have the ability to go and get those records. We also have the ability not only to advise, but to require that departments not destroy certain records. So the agreements that we have in place through the RDAs are a tool by which we can actively control what records get destroyed.

Mr. Peter Bruce: I'll add two quick comments on the communication and then get to the second part of your question.

The recordkeeping directive actually flows from the policy on information management, which includes a role for the Canada School of Public Service in terms of disseminating information, and they embed information about the provisions in these policies into their courses for orientation for new government employees as well as for development for senior executives and functional specialists.

On the second part of your question about moving to a more open model, we believe this recordkeeping directive will really help in terms of getting the information organized in a way that would allow something like that to happen in the future. It's a positive step in that direction, but there are currently no plans.

The Chair: Madam Freeman, *s'il vous plaît*.

[*Translation*]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Good morning, Mr. Bruce and Mr. Rimmer. Thank you for being here today.

I read the directive and I see that an effort is being made on paper to improve the Access to Information Act. However, I would like you to explain to me to a greater degree how this directive is applied in the departments. We see here that a departmental senior official is responsible for information management. A deputy head appoints a senior official. Who is the deputy head? Who does he appoint in each of the departments to manage this directive?

Mr. Peter Bruce: It's the deputy minister or the head of the institution who appoints the senior official responsible for information management in each department.

Mrs. Carole Freeman: It's the deputy minister?

Mr. Peter Bruce: It's the deputy minister or the head of the institution.

Mrs. Carole Freeman: All right.

Mr. Peter Bruce: He appoints a person who—

• (0930)

Mrs. Carole Freeman: Precisely, I want to know who that person is.

Mr. Peter Bruce: That depends. It's up to them to decide, but normally it's a senior manager. It's often the assistant deputy minister responsible for corporate services or the senior information manager of the department. The decision as to who is the best candidate to carry out this important information management role is left to the deputy minister.

Mrs. Carole Freeman: So the departmental senior official who is appointed must see to the implementation and management of the entire access to information program for his or her department.

Mr. Peter Bruce: Yes, precisely, and that person is normally responsible for the information and file management team in the institution.

Mrs. Carole Freeman: That person's mandate is quite broad. He or she must not only ensure that the policy is established, but also be responsible for control if there are problems on the development side and take corrective action. It's the same person who has to do all that.

Mr. Peter Bruce: Yes, but that person is normally supported by others. Depending on the size of the institution, there is a team of functional experts that works in this field. If it's the deputy minister of corporate services who is appointed senior official, a head of the file management service can handle the day-to-day aspects of this program. There can definitely also be audit and evaluation teams responsible for better policy implementation.

Mrs. Carole Freeman: Section 7 of the directive, which is entitled "Consequences," states:

7.1 In support of the responsibility of deputy heads to implement the Policy on Information Management and Related Instruments, departmental IM Senior Officials are to ensure corrective actions are taken [...]

One thing is a problem for me. It's these people who administer this policy, but they also correct themselves. This states:

[...] departmental IM Senior Officials are to ensure corrective actions are taken to address instances of non-compliance with the requirements of this directive. Corrective actions can include requiring additional training, changes to procedures and systems, the suspension or removal of delegated authority, disciplinary action, and other measures.

Could you give me some more details on the responsibilities and powers that are granted to the departmental senior officials? They are asked both to manage information and to be responsible for corrective measures. If I understand correctly, they evaluate themselves. They have to take corrective measures and make the necessary changes.

However, these officials are also granted the power to take these measures: "[...] the suspension or removal of delegated authority, disciplinary action, and other measures." Can you explain to me to a greater degree what that consists in?

Mr. Peter Bruce: Yes. I agree with you that these officers must bear a fairly heavy and significant burden in relation to this policy. They must see to the implementation of policy elements and take corrective measures. The consequences are significant. The first is management within the institution, but if there are ever any obvious problems outside that institution, corrective measures must be taken by the Treasury Board Secretariat.

Mrs. Carole Freeman: No, that's not it, Mr. Bruce. In point 7.1, the departmental senior officials are really given the power and obligation to oversee the directive's implementation. They must also ensure that corrective action is taken if the directive is not complied with. What causes a problem for me is that they are responsible for both implementing the directive and evaluating it and taking corrective action. If necessary, this may include disciplinary measures. They evaluate themselves in a way. It is one in the same person who is in charge of all that, but who evaluates that person and the work he or she does? From what point 7.1 states, everything relies on the departmental senior official.

Mr. Peter Bruce: There are audit procedures within the department for implementing directives. This official will implement

these information management programs in the context of all departmental programs. The idea is to ensure that an institution's operational programs include the functional aspect of information management, service delivery, programs and policies. It is in this context that the official must manage and oversee the implementation of standards.

• (0935)

Mrs. Carole Freeman: The fact remains that he evaluates himself.

Mr. Peter Bruce: Yes, but I believe that the answer—

Mrs. Carole Freeman: I find it interesting that one person should have responsibility for both the work and for evaluating himself.

Mr. Peter Bruce: Yes, but there are elements of oversight in the Treasury Board's Management Accountability Framework.

Mrs. Carole Freeman: You were talking—

[English]

The Chair: One more question, and then that's it.

[Translation]

Mrs. Carole Freeman: In your presentation, you emphasized that the departments assess their compliance with the Information Management Policy every year. This is conducted by the Treasury Board Secretariat. Can you tell us what kind of evaluation is done?

Mr. Peter Bruce: It's done in the context of the Management Accountability Framework, which sets out the 19 operational areas of the departments for management excellence. One of those areas, area 12, is information management. We ensure that there is good governance, a strategy and a plan.

Now that this new directive is in place, we're going to start checking to see that the practices are also in place.

Mrs. Carole Freeman: What coercive measures are there if the criteria aren't met?

It's over?

Le président: Thank you, madam. Those are good questions.

Mrs. Carole Freeman: I didn't have my time. Oh, oh!

[English]

The Chair: Mr. Siksay.

[Translation]

Go ahead, then.

Mr. Peter Bruce: There's even a specific policy on consequences: now there's a policy that describes the consequences that may be considered in the context of the Financial Administration Act, which is essentially the act that enables the Treasury Board to put these mandatory policies and directives in place.

[English]

The Chair: Mr. Siksay, please.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Chair.

Thank you for being here this morning, Mr. Bruce and Mr. Rimmer.

In the news lately, I think we've all been watching with great interest the hearings into what's happening in Afghanistan, the whole issue of prisoner transfers, issues of torture. In those hearings before another standing committee, a senior public servant has indicated that he received advice to stop documenting his reports by e-mail and to start doing that verbally. Would you see that as a violation of the directive on recordkeeping, if that kind of advice was offered within a department to stop sending written messages or providing written documentation and, instead, moving to verbal recommendations or documentation?

Mr. Peter Bruce: One of the important provisions of the directive is that the IM senior official identify information resources of business value based on analysis of departmental functions and activities carried out by the department and to enable it to support its legislated mandate, the protection of information resources of business value. So within the context of the operation of any department, they have to make those decisions and apply this policy. So it would be the senior IM official in the department who would be responsible for making that call.

The Chair: That doesn't answer the question.

Is it in compliance? It's important.

Mr. Peter Bruce: We've seen what's in the newspapers and we've read some of the testimony. I think we don't have enough information to answer that question, I'm sorry.

• (0940)

Mr. Bob Dechert (Mississauga—Erindale, CPC): On a point of order, Mr. Chair, could I ask in what capacity you are intervening in Mr. Siksay's questioning? I just don't understand the procedure. Maybe you could help me on it.

The Chair: I simply wanted to have an answer to the question that the member asked.

Mr. Bob Dechert: Would that not be Mr. Siksay's prerogative? Did he share his time?

The Chair: Okay, we're not going to carry on.

Mr. Bob Dechert: I'm only trying to understand your procedure.

The Chair: I understand. I wanted to hear the answer as well.

Mr. Siksay, please.

Mr. Bill Siksay: Thank you, Chairman, and thank you for your intervention. It was helpful.

To your knowledge, has Treasury Board or the librarian and archivist launched an investigation, given the allegations that we've heard at another standing committee that there may have been this kind of interference in the documentation of work undertaken on behalf of the Government of Canada?

Mr. Peter Bruce: Not to my knowledge.

Mr. Bill Siksay: If I understand your answer correctly, Mr. Bruce, it would be the particular manager at Foreign Affairs or Defence who would be responsible for following up on those kinds of allegations, or those kinds of charges.

Mr. Peter Bruce: It would be in the first instance, certainly.

Mr. Bill Siksay: At any stage, would Treasury Board become involved in seeking an answer or in holding somebody accountable in the system for the kind of breach that had happened?

Mr. Peter Bruce: There are provisions for that and consequences. Certainly section 7.2 has consequences and allows the Treasury Board to intervene and take measures according to the context and what has happened that might be in violation of the directive or policies.

Mr. Bill Siksay: Does the librarian and archivist have any role in pursuing those kinds of issues, Mr. Rimmer?

Mr. Douglas Rimmer: Our role would be primarily in those situations in which documents might be at risk of being destroyed, as I mentioned in response to an earlier question.

Mr. Bill Siksay: To your knowledge, the librarian and archivist is not doing any kind of investigation of the situation with regard to the allegations made about what was happening in Afghanistan.

Mr. Douglas Rimmer: There are allegations that have been made before another committee. I understand that the process is still in place. It is still ongoing.

Mr. Bill Siksay: When I look at the directive, and when I hear you speak this morning, I hear about business value. The word "business" crops up a lot. Transparency, accountability, and historical documentation don't seem to crop up as much in the directive.

I wonder if you can explain to me a little bit more—I think you addressed it a little bit in your opening statement, Mr. Rimmer—about the question of business value and the management of records as a business asset. Why is there emphasis on business value or information as a business asset in this document as opposed to transparency, providing information, historical documentation, and that kind of thing?

Mr. Douglas Rimmer: I think the notion of business value is tied to the idea that the records that need to be kept need to relate to those functions the department carries out. So the analytical framework is linked very much to what work the particular entity is doing.

I mentioned that this concept of information resources of business value is linked to an international standard. There's an ISO standard. I think it's 15489, but I might have my number just a little bit wrong. It speaks to this issue, and our work is consistent with that framework. Certainly, within the business of government institutions, the notion of accountability, transparency, and keeping records that support decision-making are part of the business of government institutions. That's reflected in the directive on recordkeeping, which establishes the objectives and the expected results and deals explicitly with transparency and accountability. So the goal of effective recordkeeping is to create transparency and accountability.

We're speaking of records as they're managed within departments for departmental purposes. At some point in time, Library and Archives Canada gets interested in those documents for their historical purpose, and those that are assessed by our professionals as being the appropriate records to be preserved for all time are transferred to us. That's only a small segment of the total number of records the government creates. They are different from those records that might have business value for departments. They might have business value for five years; they might have business value for 50 years.

• (0945)

Mr. Bill Siksay: Given the emphasis on business value, why, then, are so many crown corporations and other agencies not mandated directly by this directive?

Mr. Peter Bruce: The authorities under the Financial Administration Act give us the authority to put directives in place that apply to these institutions. Whereas the Library and Archives of Canada Act and the Access to Information Act apply to 250 institutions, our authorities under the Financial Administration Act restrict us to 112. You'll notice that it does encourage all separate agencies to adopt these practices, and we expect that there will be actually broad adoption.

Mr. Bill Siksay: Could I ask one question about that? When you're talking about encouraging these organizations, is there any process in place that would set up agreements between Treasury Board and those agencies to actually have them have a more specific mandate around this directive or adopt it?

The Chair: Thank you.

Mr. Peter Bruce: That can be done, yes.

Mr. Bill Siksay: But it's not being done. It can be done, but it's not under way at the moment?

Mr. Peter Bruce: We don't have any agreements in place of this type.

Can I comment?

The Chair: Sure.

Mr. Peter Bruce: I was going to go back to the comment about the balance between business value and transparency and accountability. I really hope we've got it right in this directive. The expected results—5.2.1 and 5.2.2—sit there right beside each other. One says let's make sure we can connect the businesses of government, and then, let's make sure these records are kept so we can provide the transparency and accountability that's required. I think they're in a fairly good balance.

The Chair: Thank you.

Mr. Dechert, we seem to have stretched time a little. You have about eight and a half minutes.

Mr. Bob Dechert: Thank you, Mr. Chair.

Good morning, gentlemen. Thank you very much for your remarks today and for the good work you're doing on behalf of the government and people of Canada. I very much appreciate that.

Mr. Bruce, perhaps I could start with you. What are the specific requirements for the directive on recordkeeping, and who is responsible for implementing those requirements?

Mr. Peter Bruce: The specific requirements for the directive on recordkeeping are described in section 6 and are initially to ensure that the information resources of business value are properly identified, that a risk profile for those information resources is created, and that it is done with respect to taking into consideration access to information and protection of personal information, and then, that measures are taken to respond to those risks.

Then there is the responsibility to ensure that the methodologies and mechanisms and tools are put in place to support the management of those records of business value. Another record-keeping requirement is that the practices are documented and also that good communication goes out to departmental managers and employees to ensure they understand what their responsibilities are under the act. A companion directive talks about information management responsibilities and lays out what an employee's responsibility is and what a manager's responsibilities are, ensuring this information is communicated.

Under section 6.2, the requirements are around the monitoring. Under the IM policy, the deputy head appoints this IM senior official, who is the person responsible for the implementation and monitoring of that implementation within a department.

• (0950)

Mr. Bob Dechert: Do you consider these to be substantial improvements over the previous system?

Mr. Peter Bruce: I do. There was no recordkeeping directive. We had policy on information management and, previous to that, a government policy on management of government information holdings. Both of them were much like the IM policy, but even our IM policy now has more explicit requirements. With this recordkeeping directive and the related supports that are coming in, I think we're much better off now in terms of our policy framework for recordkeeping in the Government of Canada.

Mr. Bob Dechert: Do you believe the implementation of the directive on recordkeeping will help departments respond more quickly to access to information requests?

Mr. Peter Bruce: I certainly hope so. I think a lot of factors come into how quickly a department can respond to access to information requests, primarily the complexity of the requests and whether or not they have to go through consultations with other departments. But having the fundamentals of good recordkeeping so you know what records you have, where they are, and what their business value is, I expect, will be a significant help in making better both access to information and protection of privacy in the Government of Canada.

Mr. Bob Dechert: It certainly sounds like a substantial improvement over what we had previously and should make it easier for departments to respond. I think that demonstrates a commitment to improving the access to information system. That's all good and something that in this committee we're very cognizant of and wish to support.

What is the objective and expected results of the directive on recordkeeping?

Mr. Peter Bruce: The objective is to ensure effective recordkeeping practices that enable departments to create, acquire, capture, manage, and protect the integrity of information resources of business value in the delivery of Government of Canada programs and services. The expected results are really making sure those records of business value are properly identified and then used and managed as strategic assets, and then, through effective recordkeeping practices, ensuring we have that transparency and accountability that is expected of a government organization.

Mr. Bob Dechert: Very good. Thank you you very much.

Thank you, Mr. Chair.

The Chair: Would you like to share your time?

Mr. Bob Dechert: How much time do we have? Five minutes? Okay.

Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC): Thank you very much, Mr. Chair.

Welcome, as well, to our guests this morning.

I have two questions with regard to the directive on recordkeeping.

In answering previous questions of my colleagues here this morning, you mentioned that Library and Archives Canada has the ability to advise specific departments and actually require compliance through the directive on recordkeeping. You then mentioned that you can encourage others. Do you think the directive on recordkeeping leads to improved accountability where it hasn't existed before?

Mr. Peter Bruce: I think the directive on recordkeeping will improve the quality of information management in departments and should ensure that the records of business value are properly there and retained. As that supports transparency and accountability, I believe it should help in terms of both of those things.

Mrs. Kelly Block: Would you agree? Do you have anything to add, Mr. Rimmer?

Mr. Douglas Rimmer: No. I have nothing to add to what my colleague says. I think he's captured it very well.

Mrs. Kelly Block: Thank you.

Also, Mr. Rimmer, in your opening remarks you mentioned the concept of information resources of business value, a concept based on international standards. You further state that this gives departments and agencies a sound basis from which to manage their information resources in order to support the delivery of mandated programs and activities.

Can you tell us what these standards are and provide an example of a country where they are also moving towards this type of recordkeeping?

Mr. Douglas Rimmer: I believe Australia uses the ISO standard that I referred to as the basis for record management in their country. As we mentioned in our remarks, we support the directive, which in turn supports the broad policy, with a number of guidelines. We're developing those further guidelines now. One of them will be on the notion of business value and helping departments understand in more detail how to apply those. There's a series of tools and supports

that we provide under the policy, under the directive, to enable departments to actually use these concepts and put them in place in a meaningful way.

The Chair: Second round, Ms. Simson, please.

Mrs. Michelle Simson (Scarborough Southwest, Lib.): Thank you, Mr. Chair.

Thank you to Mr. Rimmer and Mr. Bruce for taking the time to meet with the committee.

I only have a few questions. My first one would be to you, Mr. Rimmer.

In reviewing your opening comments, I noted that in the conclusion you said that you'd like to end by stressing that, as we know, a change in culture is essential for the implementation of this directive. How do you view our current culture, and what are the specific changes that would be required to make this a successful program?

• (0955)

Mr. Douglas Rimmer: The change in culture we're referring to is one that encourages all public servants to understand that information management and good recordkeeping is part of the core functions of government and encourages them to pay attention to that as early in the process of creating records as they can.

Mrs. Michelle Simson: Okay. But you said you're stressing this change in culture. Based on what you're saying, is it your view that perhaps we have a less than open culture right now, maybe one with a little bit of secrecy or an unwillingness to be forthcoming with information? I'm interested in how you view the culture now. I understand what you're saying about changes. How do you view the current culture that we're operating in now?

Mr. Douglas Rimmer: The point you mentioned was not the point that I was trying to make. The culture at the moment we don't believe pays sufficient attention to good records management as early in the process as is helpful to supporting transparency and accountability. We would like to strengthen the awareness of public servants of the need to do that and provide them with the tools, the policy, and framework within which they can do that, so that as early as possible, as public servants in the course of doing their daily work, they're creating records, they're understanding which records need to be kept, which have business value, which are temporary records that don't need to be preserved, and we have good management practices right from the outset. That's the culture we need to strengthen.

Mrs. Michelle Simson: Would you say that over the past number of years there has been a tendency to rely on oral directives and oral communication, as opposed to putting it in print or doing it electronically by e-mail?

Mr. Douglas Rimmer: The concern we're trying to address is that public servants are so focused on delivering the business to Canadians, serving Canadians in whatever way they're supposed to, that they're not thinking as much as they need to about how they are creating and documenting their activities. We would like to see a renewed emphasis on that area.

Mrs. Michelle Simson: Mr. Bruce, in reading all the documentation, I think the directive for recordkeeping was done in consultation and collaboration with various departments, not the least of which was the access to information office. Did you hear any concerns about our not getting access in a timely manner or about our access being somewhat restricted?

Mr. Peter Bruce: We have heard that message from the Office of the Information Commissioner and from information commissioners themselves. That's one of the reasons you'll see several references to the capacity of this recordkeeping directive to support our compliance with the Access to Information Act.

Mrs. Michelle Simson: This committee has done a study on the Access to Information Act, which is 26 years old. How is this directive going to help Canadians get the information? It's all well and good to retain the documentation and the information, but if the average Canadian has to wait upwards of two years to access it, there is a hitch in the system. Can you give me the correlation between the directive and Canadian access?

• (1000)

Mr. Peter Bruce: If it's not identified and captured, it can't become accessible. And if you don't know where it is, and it's not structured in a way that allows you to retrieve it, it's not accessible. If we do both of those things better, then it should support the access to information.

Mrs. Michelle Simson: Would you both agree that what we should be looking for is proactive online access for Canadians?

Mr. Peter Bruce: That is a decision for parliamentarians and the government. Our job is to look at the current legislative framework and provide directives to departments on how to operate within it.

The Chair: Mrs. Davidson.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thank you, Mr. Chair.

Mr. Rimmer and Mr. Bruce, thank you so much for appearing before us this morning and giving us all a good information session on this topic. It's of vital importance to all Canadians.

Mr. Rimmer, in your opening remarks, you said that the volume of information generated by the government was growing exponentially. Why do you think that is? Is it just a result of more business? Are there any other reasons why you can see this increased amount?

Mr. Douglas Rimmer: In this regard, the Government of Canada is no different from our society as a whole. Throughout the world, the sheer amount of information generated each year is growing exponentially. Part of it is due to the ease with which we can create information. When it's easy to get and store at a relatively low cost, people tend to do more of it. Even in the electronic age, we're seeing that more information is being published each year than ever before. So the government is only a small part of a broad trend.

Mrs. Patricia Davidson: You also said in your opening remarks that you noticed that a change in culture was essential for the implementation of effective 21st century recordkeeping in government. Could you expand on that and give us some examples of digital information or sources that you keep track of?

Mr. Douglas Rimmer: Certainly. With respect to the cultural changes that I was referring to before, most public servants have the

ability right at their desktop to create files, to store documents, and those documents are government records. They might be very well-organized on one individual's computer, but if that individual were to leave and go to another organization, are those records well linked in with the corporate management system, so those that need to be kept are kept and those that should appropriately be disposed of—so we're not needlessly storing documents—are disposed of. We think that can be strengthened through the directive on recordkeeping and its implementation in departments. That's one example of where the tools facilitate the creation of records, and what we need to support is the management of those records in a strengthened way in the future.

You asked a second question, which is about the kind of documentation that Library and Archives Canada stores in digital format. We hope very soon to begin the transfer of government records to us once they reach the point in their overall life cycle when they should be transferred to the archives for permanent storage. We will soon be able to do that electronically. We've been testing our system in that regard. We also obtain a variety of electronic publications from publishers. So there's a lot of digital material coming to Library and Archives Canada at present under our mandate to support and preserve the documentary heritage of Canada.

Mrs. Patricia Davidson: Thank you.

Mr. Bruce, perhaps you could elaborate a little bit further. My next question is, what measures are in place to make sure there is continuity and consistency when personnel does change? Could you elaborate a bit more on that?

Mr. Peter Bruce: Certainly the roles and responsibilities directive, which I'm sorry we haven't provided, does require that employees document their business activities while in government. Assuming this directive on recordkeeping is implemented, that transition of employees and the knowledge transfer required should be significantly improved because the records of business value will be captured and organized in a way that makes them accessible not only for other purposes but to the people assuming those roles and functions going forward.

• (1005)

Mrs. Patricia Davidson: Thank you.

Mr. Bruce, I see in your bio that you had been at the Library and Archives of Canada and you're now the deputy chief information officer at the Treasury Board Secretariat. Do you think your past experience has helped you to take a lead on the issue of recordkeeping, and if so, how?

Mr. Peter Bruce: There's a tremendous team of dedicated people doing the work on developing this directive, so I certainly wouldn't want to take a lot of the credit. I think the credit really goes to the team.

But I do think that having worked at Library and Archives Canada and understanding the Library and Archives of Canada Act and what “disposition” means has been particularly helpful. Understanding the significant impact that the shift from paper records to electronic records is having is particular helpful. Of course, knowing colleagues there and being able to collaborate on files like this is critically important to being able to get good, sensible guidance out to departments.

So I think it helps.

Mrs. Patricia Davidson: Thank you very much. That's all.

The Chair: Thank you very much.

[*Translation*]

Mr. Dorion, please.

Mr. Jean Dorion (Longueuil—Pierre-Boucher, BQ): Thank you.

Good morning, gentlemen.

Mr. Bruce, compliance with this directive that we've discussed this morning is closely linked to compliance with the Access to Information Act. When we examined that act in this committee very recently, a number of witnesses suggested to us that all government documentation should be put on line, with certain exceptions related to privacy and security, etc. In general, they asked that all government operations be made available to the public so that people can understand at any time why certain decisions are made by reading what has been done on the Internet.

Is that something feasible? Is it a proposal that could work?

Mr. Peter Bruce: I believe it's a proposal that could work in the medium and long terms. The requirements of this directive should be put in place so that we are really capable of providing citizens with this kind of direct access to the Government of Canada. I think it's something that can be done. That's done in other places.

Mr. Jean Dorion: In fact, in your opinion, it's a matter of time and organization for the storage of all available material before it is made available to the public?

Mr. Peter Bruce: Yes, but I also believe a legislative framework is provided by Parliament and the Department of Justice that will determine what is done in this area in future. We apply the acts and regulations that are in place.

Mr. Jean Dorion: The directive went into effect last June. In six months, what has been done in practice for its implementation? Have any quantitative work measures been introduced, statistical measures, for example?

Mr. Peter Bruce: We didn't wait until the directive was in place before starting our work.

We've been addressing this problem for some time now. We have a strategy and an implementation plan that are spread over five years. We are already in the second year of the implementation of that plan. One of the elements of the plan was precisely to put this directive in place. We're currently developing policy elements that support this document.

A concrete example of what has been done is the establishment of an inventory of best practices and solutions that the various

departments use. We have hundreds of solutions—that can be shared among institutions or used as examples—combined in an inventory available for all persons responsible for implementing this policy.

•(1010)

Mr. Jean Dorion: Why wasn't there a presentation on this plan in this morning's presentations?

Mr. Peter Bruce: You're talking about a plan on...?

Mr. Jean Dorion: I'm talking about the plan spread over five years.

Mr. Peter Bruce: The information management plan? We were invited to discuss the directive, but I'd be pleased to talk to you a little about the implementation plan, if you wish.

Mr. Jean Dorion: I think it's important for the entire committee to take a look at this plan.

Mr. Peter Bruce: There's a specific plan for the implementation of this new directive and, at the same time, a plan with a vision for information management within the government. These two plans work together and are very closely linked.

The directive implementation plan is a plan over five years, as I mentioned in my presentation. It starts precisely with this idea of making the new policy known across the public service. Then the idea is really to provide the necessary tools for its implementation and, from there, to move toward an ongoing improvement process.

Mr. Jean Dorion: Mr. Chairman—

[*English*]

The Chair: Pardon me, Monsieur Dorion.

I guess the member is basically asking if this is something that would be useful for the committee to know, to see what's coming down, in order to get a better appreciation of the broader context, and is it available?

Mr. Peter Bruce: Absolutely. We have both an implementation plan for the recordkeeping directive and our five-year information management strategy and plan, both of which we could share with this committee if you would like.

The Chair: Monsieur Dorion, do you want to have that document? Okay? It might be helpful.

Mr. Peter Bruce: Certainly.

The Chair: As long as it's not—

[*Translation*]

Mr. Jean Dorion: I think this is of prime importance for the entire committee, and I would even add that it would have been very important for us to have this plan this morning.

Mrs. Carole Freeman: Can you ask...?

Mr. Jean Dorion: Yes, go ahead, madam.

Mrs. Carole Freeman: Can we ask that the plan be tabled?

[*English*]

The Chair: I'm going to go to Mr. Siksay.

Then I'm going to come back to you, Madam Freeman, so that you can discuss *cette affaire*.

Mr. Siksay, please.

[Translation]

Mr. Jean Dorion: Can the plan be tabled, Mr. Chairman?

Thank you.

[English]

Mr. Bill Siksay: Thank you, Chair.

Gentlemen, I wonder if you could tell me how the new directive on recordkeeping differs from the former policy on management of government information. Are there things about the new directive that are innovations, as opposed to the former policy?

Mr. Peter Bruce: Certainly, the former policy on information management had just four requirements; the new policy on information has nine. Then there is this directive as well as the directive on roles and responsibilities that are the companion pieces to the policy. Largely, we've gone to something that is much more explicit in terms of what the requirements are, how those requirements are to be implemented. The previous policies did not have as explicit a statement of consequences. I realize you have to go to the Financial Administration Act and the policy on consequences to interpret what that section 7 means, particularly sections 7.2 and 7.3, but those are some of the significant changes.

Mr. Bill Siksay: Was there a parallel in the former policy to section 6.2.1 on reporting difficulties or gaps in performance? Is that a new section or was there something parallel in the former policy document?

Mr. Peter Bruce: I can't answer that specific question right now. Could we get back to the committee with the answer to that?

Mr. Bill Siksay: I want to come back to the whole question of section 6.2.1. Since this policy was promulgated, have there been any reports from senior information management officials about difficulties, gaps, or compliance issues that have come to the chief information officer?

• (1015)

Mr. Peter Bruce: We have a governance structure that gets many of these senior management officials together about every two months to discuss some of the key issues. It's our committee on information management in business. It also combines senior access to information officials to reinforce that linkage between information management and access to information. We haven't had anybody formally write us a letter saying that since our policy came into effect in June 2009 they've seen this, but we do discuss collectively some of the challenges and issues that result from the implementation of this policy.

Mr. Bill Siksay: Does section 6.2.1 envisage a specific reporting, or is it informal? You described it as an informal discussion. Do you envisage a formal kind of reporting of those problems that is documented and accessible to the public?

Mr. Peter Bruce: I think the notification could be in either form, and sometimes if it's a broad issue we might discuss it. There are minutes of those committee meetings, so the types of issues we're discussing are documented through those. If it were a specific issue in a particular department that the IM senior official wanted to raise, these people in particular, I would expect, would do that in a well-documented manner.

Mr. Bill Siksay: There's no specific process outlined at this point to do that.

Mr. Peter Bruce: No.

Mr. Bill Siksay: I wanted to come to the whole issue of the duty to document, which is a phrase we often hear. When this committee was doing its study of the Access to Information Act and reform, it was raised by a number of witnesses. I noticed that we did invite the archivist and librarian to appear on this issue, but that invitation was declined.

Mr. Rimmer, maybe you can help me about how the Library and Archives of Canada Act frames the whole issue, how it understands the concept of duty to document.

Mr. Douglas Rimmer: I'm just scanning my memory of the Library and Archives of Canada Act.

Mr. Bill Siksay: Does it use that phrase, "duty to document"? Is that terminology there?

Mr. Douglas Rimmer: I do not believe that phrase is found within our act. Certainly our act speaks to government records. It assumes government records exist, but it does not specifically reference the requirement to create them, that I can recall.

Mr. Bill Siksay: It doesn't deal specifically with the whole issue of requiring government to document its activities.

Mr. Douglas Rimmer: Not in the Library and Archives of Canada Act. Both the policy on information management and the directive we're speaking of here today assert the requirement for government departments to document their business and decision-making processes.

Mr. Bill Siksay: Does the librarian and archivist have an opinion on whether there should be a legislative requirement to document?

Mr. Douglas Rimmer: There are officials within the government who are responsible for the legislative framework and for advising ministers on legislation, and ministers are ultimately responsible for deciding what the legislative framework is. What I can tell you is that within the two instruments we're dealing with today we see those concepts contained within the policy and the directive.

Mr. Bill Siksay: Neither of those are legislative requirements.

Mr. Douglas Rimmer: They're not acts, that's right.

Mr. Bill Siksay: Does the librarian and archivist have an opinion as to whether or not, if there were to be a legislative duty to document, that should be in the Library and Archives of Canada Act or in the Access to Information Act? Is there an opinion on where that would be best located?

Mr. Douglas Rimmer: As I said, there are other officials in the Government of Canada who are responsible for formulating legislative options and advising ministers in that regard. That's not my specific responsibility. We're really here today to focus on these instruments for which we are responsible.

Mr. Bill Siksay: Do you know if the librarian and archivist has reviewed the—

The Chair: I'll put you on for another round, just to keep harmony here.

Madam Freeman, *s'il vous plaît*.

[Translation]

Mrs. Carole Freeman: Thank you, Mr. Szabo.

I have three brief questions. First, I would like to know when you could table in committee those two documents that you discussed with my colleague earlier.

• (1020)

Mr. Peter Bruce: Those documents exist. So we should be able to provide them to you soon.

Mrs. Carole Freeman: Today?

Mr. Peter Bruce: What are the typical requirements? One or two weeks?

Mrs. Carole Freeman: One or two weeks. So they'll be tabled in the committee. Thank you.

I'd like to ask a question about section 7.3. With all the access to information problems, regardless of directives, or the many policies that can be developed, all these measures will have no consequences if there is no political will or leadership to put them in place and to give them form.

Section 7.3 of the directive states: "Consequences of non-compliance with this directive can include any measure allowed by the Financial Administration Act that the Treasury Board would determine as appropriate and acceptable in the circumstances." What do you think the consequences could be?

Mr. Peter Bruce: One consequence can be to require a department to take certain measures. That could be to request a program audit or evaluation. It could even be measures that are not included in the Financial Administration Act. It could mean managing a department's funds until it has corrected certain deficiencies in its programs.

Mrs. Carole Freeman: To your knowledge, has this kind of consequence been applied in the past?

Mr. Peter Bruce: Not in an information management context, but in other contexts.

Mrs. Carole Freeman: What example could you give us?

Mr. Peter Bruce: It's impossible for me to give you a specific example.

Mrs. Carole Freeman: So you currently don't have any specific examples of consequences that could be applied when a department departs from its responsibilities. All you can say is that it's possible to conduct an evaluation.

Mr. Peter Bruce: Yes.

Mrs. Carole Freeman: That's not a major consequence, since evaluating a program isn't correcting it.

Mr. Peter Bruce: When a department receives an audit request from the Treasury Board under the Financial Administration Act, I believe that it is a consequence. Going even further by managing a department's funds is quite a harsh consequence.

Mrs. Carole Freeman: When the Information Commissioner testified before us, we concluded that one of the things that should be done to properly administer this act was to make improvements in

human resources and correct the lack of training for people who have to enforce the act.

What concrete measures will be taken? In the directives that we see, the official is asked to manage personnel training. There seems to be a major personnel recruitment and training problem and a lack of financial resources to hire that personnel. That takes financial resources.

With this directive, how will the situation be improved, in your opinion?

Mr. Peter Bruce: We also acknowledge the challenge of having competent people in place, and that's a recruitment, development and training issue. There is an organization that helps us collectively recruit information management specialists within the public service. Under the Information Management Policy, the express role of the Canada School of Public Service is to provide that training, and we are working in close cooperation with the school, Library and Archives Canada, and the Treasury Board Secretariat to ensure that the content of those programs is up to date.

Mrs. Carole Freeman: I appreciate that you're all working very closely together, except that we did understand that there was such a high turnover rate among people who know the act and how to enforce it that people are unable to perform duties correctly for lack of training. And yet you seem to be saying that everything is going well for you.

• (1025)

Mr. Peter Bruce: No, I'm not saying that everything is going well. That's why we have taken measures to improve training, to establish recruitment processes, to better define the competencies required for these functions and to be able to recruit and train qualified people.

I share the Commissioner's feeling that this is an enormous challenge. We're not experiencing it solely in the information management field. We're experiencing it in the human resources management field in the public service.

Mrs. Carole Freeman: Have the financial resources allocated in each department to put the directive in place been clearly defined?

Mr. Peter Bruce: We expect the departments to reallocate, within their own institutions, the resources to implement the policies, and that's one of the reasons why this is a plan over five years. The implementation of this change will take time because we don't have any additional funding.

Mrs. Carole Freeman: Are you telling me that we don't have additional funding to implement this directive?

Mr. Peter Bruce: We're waiting for that to balance out. So the benefits of better information management will offset the necessary investment to introduce this better information management.

However, it is up to each of the departments to find the internal resources to carry out this implementation.

Mrs. Carole Freeman: The amount of funding by department hasn't been quantified. It is up to each of the departments to decide how much will be allocated to develop this directive.

Mr. Peter Bruce: Yes, exactly.

Mrs. Carole Freeman: Consequently, if they don't invest more money, the situation of the Access to Information Act won't improve.

Mr. Peter Bruce: Personally, I believe that the departments will take this directive seriously. There are benefits in better managing information, and they will make the necessary investments. If not, we'll know it through our assessment process.

Mrs. Carole Freeman: All right. I have another question.
[English]

The Chair: Thank you.

We'll move on to Mr. Siksay.

I understand Madam Freeman would like to come back yet again, so she's on the list.

Mr. Siksay, please.

Mr. Bill Siksay: Thank you, Chair.

Mr. Bruce, in your opening statement you talked about how departments are assessed annually on their compliance with information management policy through the Treasury Board's management accountability framework. Then you went on to say that information management is included as one of 19 areas, the effectiveness of information management being one of those 19.

Can you tell me what's involved in that process, specifically with regard to information management, and how the new directive is integrated into that process?

Mr. Peter Bruce: Certainly.

Area of management number 12 is effectiveness of information management. There are 19 areas of management. Each area of management has what we call lines of evidence—we try to do evidence-based decision-making and evaluation, in this context. Until this round of the management accountability framework, there were only four. The fifth one, which we just added, is around recordkeeping practice. So there is a direct correlation between what we've done in our management accountability framework—assessment of area of management 12—and this directive.

Of the other four, the first one deals with whether there is proper governance in place. You can see how that one would have linked with the information management policy. Then we ask whether there is a strategy and plan in place, which should help to address where we are going to find the resources and how we are going to get these policies implemented in our organization.

Now we have the question, is there proper governance; is there a strategy and plan; and now we're adding practices.

The other two lines of evidence that come under effectiveness of information management are access to information and privacy compliance. That is the department's compliance with the act: whether they are tabling the report they're supposed to table in Parliament, and the like. So we have within that area of management the link between how information management can affect access to information and privacy compliance.

• (1030)

The Chair: Thank you.

Madam Freeman.

[Translation]

Mrs. Carole Freeman: I would like a little clarification. Perhaps you provided it a little earlier, but I didn't hear it.

This concerns the directive in section 6.1.2 of the Directive on Recordkeeping. It states: “[...] documenting the risk profile of information resources, taking into consideration legal and regulatory risks [...].”

What do you mean by that? What are your criteria for determining the risk profile? What is the risk profile?

Mr. Peter Bruce: Are you talking about the legal context—

Mrs. Carole Freeman: I'm talking about the directive.

Mr. Peter Bruce: —or the regulatory context—

Mrs. Carole Freeman: Could you explain to me what the first paragraph of section 6.1.2 means?

Mr. Peter Bruce: Yes, I'll give you a specific example.

Mrs. Carole Freeman: Finally, we get to hear a practical example!

Mr. Peter Bruce: Let's consider the need for good documentation so that Health Canada can make a decision on the tobacco issue. There is a risk because there is already litigation over this issue. These risk elements have to be understood because these decisions will affect the health of Canadians.

What is the likelihood that the documentation related to this kind of issue will be important in future? This is the kind of risk that will be assessed in this context.

Mrs. Carole Freeman: Do you have an example for the Department of National Defence?

Mr. Peter Bruce: No.

Mrs. Carole Freeman: I'd like to ask you another question. Section 8 of the directive concerns the roles and responsibilities of government organizations, where it says: “[...] other departments and agencies that have a role in the effective implementation [...].”

There are your 171 institutions. It states that those organizations have a role to play in the implementation of this directive. The sentence ends as follows: “[...] this section does not confer authority.” They have a role, but they're given no authority. Can you explain that to me?

Mr. Peter Bruce: A good example is in section 8.2. It states that the Department of Public Works and Government Services will provide all departments, based on needs defined by them, with the information tools necessary to manage information and respond to needs in that context.

Mrs. Carole Freeman: What authority are we talking about here? They're given no authority.

Mr. Peter Bruce: Precisely. Every department must decide whether or not it wants to take advantage of the services offered by Public Works and Government Services Canada. They are not currently required to avail themselves of those services.

Mrs. Carole Freeman: All right. Thank you, Mr. Bruce.

[English]

The Chair: Thank you.

I have a couple of brief questions.

Mr. Bruce, the directive on recordkeeping, under paragraph 3.1, refers to managing a function in which information resources of “business value”...and I focus in on those words “business value”. It’s not a defined term. In fact, it seems to imply a discretionary situation that someone has to decide upon. Who does that?

Mr. Peter Bruce: The information management senior official in the department would have a process in place that would allow for those decisions to be made. We would expect that this decision would either be made there, or depending on the governance structure described for our management accountability framework 12.1, they would have a governance structure that would say, this is where we make those decisions.

• (1035)

The Chair: Do you know why the words “business value” were ever used?

Mr. Peter Bruce: I’ll start, and maybe Doug wants to come in.

The Chair: Could it be because you want to eliminate frivolous...?

Mr. Peter Bruce: No, for many years I think we often used other terms, particularly “archival value”. I think what we’ve done is, in collaboration with Library and Archives Canada and their need to have documents for long-term retention, and that archival retention for future generations, we realized that up the chain, those documents are really records of business value that the Archives want the subset of. I believe, by using the term “business value” they have broadened, to some extent, the definition of what is required. Then “business value” means whether it actually supported a transaction in the context of government operations—was that grant given and what was the rationale for it?—as well as documenting the policy decisions that governments make.

The Chair: That’s helpful, because the way you explain it, it is more comprehensive than a reasonable man would interpret.

Mr. Peter Bruce: Did you want to add something? Doug was there at the inception of “business value”.

Mr. Douglas Rimmer: Perhaps I could add to that.

Certainly it is not at all meant to be an arbitrary concept that gets applied on the fly. It’s meant to be applied in a structured way to the activities of the department and to the information they collect to identify which of those pieces, in an upfront way, need to be kept, and to put in place the structures to do that. As I mentioned, we’re currently working with our colleagues at Treasury Board Secretariat to develop guidelines to departments. So while they have the responsibility to make that choice themselves—understanding their business, which they understand better than anyone else—they’re going to do so within a framework and with tools that we have provided to them. Again, that brings a rigour and structure to that decision-making process that we would also, in itself, expect to be documented. We would expect them to identify and document which records have a business value.

The Chair: From time to time departments would second or farm out work, and the discussion about who’s in and who’s not looks

fairly comprehensive. There are circumstances when some body, some company, would be used to do certain work that involved issuing correspondence or receiving information back. Does this directive and the rules of the game cover the practices in this third party, which is not a government agency or department?

Mr. Peter Bruce: There are those contexts of whether it has business value that they would apply. If the records have a business value to government, they should be captured as part of the process. Usually in those contractual arrangements there is a duty to provide some documentation as part of either the process or the results of the process.

The Chair: If I give you a specific example, you may be able to understand. There was a case where a department wanted to communicate with a number of people, and they provided a printer, St. Joseph Printing—they used to be the Queen’s Printer—with database information about the persons and it produced letters to those persons. The return envelope was addressed to St. Joseph Printing so the return mail would come back to the printer. Then I assume that the printer would communicate with the department that was requesting the service.

That’s why I’m asking the question. Is this printer, St. Joseph Printing, apprised of the rules of how our information should be safeguarded and documented and reported and transmitted?

Mr. Peter Bruce: My sense is that if the information is being collected on behalf of government to implement a government program, then that should probably be an explicit part of the contract.

• (1040)

The Chair: But you don’t have access to check whether they’re safeguarding or managing or protecting the information in the way you would for the department. That’s the problem. If it’s farmed out, you don’t have the reach.

Mr. Douglas Rimmer: The directive governs not only the creation of records and their eventual disposition but also their good management. Departments have to ensure that records are appropriately safeguarded.

There was reference earlier to looking at it from a risk profile, which would include examining the possibilities for inadvertent disclosure. Certainly the privacy legislation and other pieces of legislation apply to that as well. So in managing their information, departments have to be aware of all those factors. If as part of their business they are sharing that information with whoever they’re sharing it with, it’s still their information, used for their business purposes, and they would have to conform with the policy requirements.

The Chair: Thank you. Now I understand. There still is control. The responsibility is still with the department. Whenever the government contracts through either the Financial Administration Act or Treasury Board guidelines, all these responsibilities have to be safeguarded in activities of exchanging information with third parties—something like that.

But you have no jurisdiction to go to a third party company to check.

Mr. Douglas Rimmer: Again, the accountability is with the department. As I think we've explained, there are a lot of tools for us to get reporting from departments and to have an opportunity to assess what departments have done.

The Chair: That's helpful. Thank you very much.

Are we all done, colleagues?

The members seem to have exhausted their questions, at least for the time being. There was one undertaking to provide us some information. It may be efficient for you to communicate directly with the clerk, and the clerk will appropriately circulate a response. You can discuss the form of that.

We have a couple of other small pieces of business, so at this point I would like to thank Mr. Bruce and Mr. Rimmer for coming and allowing us the opportunity to meet with them and learn a little more about an extremely important initiative area. I think we share their hope and enthusiasm that it will improve the operation of some of the important acts that this committee and the government as a whole are interested in.

Thank you kindly. You are excused.

Mr. Peter Bruce: Thank you.

The Chair: Colleagues, at the last meeting when we had the Information Commissioner before us, she was asked some questions. She responded directly to me; I got this in both official languages yesterday when I came to Ottawa. I didn't notice that it wasn't carbon copied to the clerk, so I apologize.

She was asked these questions: What countries have an exclusion for cabinet confidences? Were any security certificates issued to the Office of the Information Commissioner under the Anti-terrorism Act to suspend an investigation? What are the top five exemptions or exclusions and complaints against the Privy Council Office?

The answers are here, with pie charts and the whole bit. They are very good responses. If the members would like them immediately, we could arrange to get them to you. For the rest of the committee members, they will be circulated to you in the normal fashion. Okay, so the clerk has them.

The second item is the government's response, and more specifically the Minister of Justice's response, to the committee concerning our 10th report on the so-called quick fixes to the Privacy Act. We have similarly considered this matter with respect to the Access to Information Act and made a report there.

I'm open at this point. It is an item on our agenda, and I want to hear if there is any further discussion, commentary, or suggestions on the minister's response to the committee. I open it to members.

Madam Simson, please.

• (1045)

Mrs. Michelle Simson: Thank you, Chair.

We all got a copy of the minister's response. It was so much like the response we got on the good work we did on the Access to Information Act, as far as the tone is concerned. Paragraphs were taken from one letter to the other—they were identically phrased.

In reading it I was looking for some ray of hope, because we did a lot of good work on the Privacy Act, and as the chair pointed out, it's the tenth report. I thought it was a very serious study that didn't get the response it merited. The Privacy Commissioner also confessed to a measure of disappointment about the government's response to the committee's report.

Therefore, I would like to move a motion that mirrors pretty much the motion we adopted on the response to the Access to Information Act. The motion is that the committee report to the House its profound disappointment with the response of the Minister of Justice to its tenth report entitled "The Privacy Act: First Steps Towards Renewal", and that the committee recommend to the government that it introduce in the House, no later than March 30, 2010, a new Privacy Act that would reflect the committee's proceedings and recommendations.

The Chair: Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj: It's a motion that is quite serious in its tone and the consequences—having to call the minister before the committee because of the nature of a response to a report. Once again, in this last case the committee expended tremendous time and energy on a report that was pretty much consensual in all of its recommendations.

I guess after Mr. Marleau took the time to count the number of words in our report...the 1,005-word response that came from the minister. Actually, the last time I think it was half that number. The only difference from the previous letter is that I think he added extra words, but unfortunately it's just as dismissive in nature as his previous letter.

Consequently I'll be supporting...and I'd almost be tempted to add an extra word in there and say "dismissive" letter, because it's quite dismissive of the work we've done here.

The Chair: Thank you.

Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Mr. Chair, I'm disappointed and perplexed with the response of Liberal members to this excellent letter that we've received from the Minister of Justice. Let's review the letter before we begin condemning it.

It reads:

The Government welcomes the opportunity to respond to the Report of the Standing Committee on Access to Information, Privacy and Ethics entitled the *Privacy Act: First Steps Towards Renewal*, released June 12th, 2009. This Report is a culmination of the work that began in the spring of 2008, at the time the privacy commissioner tabled with your committee her ten recommendations for immediate reform of the Privacy Act. She referred to these "quick-fixes" and recently added two more recommendations to her list.

Mr. Chair, that does not sound dismissive to me. In the opening paragraph, there is a complete acknowledgement of the information that this committee sent to the minister. The letter goes on:

The Report states that the committee fully supports five of the privacy commissioner's 12 recommendations, and gives qualified support to one additional recommendation.

Clearly, the minister is demonstrating a comprehensive knowledge of the committee's position on the privacy commissioner's recommendations. If I go down the page, it reads:

In our view, the current definition of personal information in the Privacy Act, together with the application of the Charter, is sufficient to address the scenarios raised by the privacy commissioner.

Now, at this point we see a parting of ways between the Minister of Justice and the Privacy Commissioner, between the government and the committee. I would suggest to you, Mr. Chair, that this is an honest disagreement that, in the view of the justice minister, the current definition of personal information in the Privacy Act, together with the charter, is sufficient to address the scenarios raised by the Privacy Commissioner.

You don't have to agree with that assertion, Mr. Chair, nor does the committee. At the same time, to suggest that we should condemn a minister of the crown simply because he takes a different viewpoint from us, I think, puts this committee at a long-term disadvantage. If we, as a committee, are going to be initiating honest conversations between Parliament and ministers into the future, we must do so in good faith, in recognition that there will be occasions when our counterparts in the government have a different viewpoint from us.

We live in a country that was made to work by compromise and consensus, by taking different viewpoints and finding a way to bridge the gap, not by pulling out a hammer and beating someone over the head simply because they happen to have a different perspective. I would encourage us, rather than passing the motion in question, to produce a letter, perhaps in your name, Mr. Chair, writing the minister with our response to his letter, not condemning him or his letter but maybe challenging some of the points so that we could work through these disagreements and perhaps close that gap as we move forward.

• (1050)

Mr. Chair, to come out with a motion that has as its sole purpose to strike at another Canadian representative in a very aggressive and negative way only serves to build barriers rather than to build bridges. I think we have a lot of bridge-builders in this community on both sides, so let's get busy building bridges and work on building consensus. I think that's the Canadian way and I think it's the way this committee should proceed.

Thank you.

The Chair: Thank you.

Mr. Siksay, please.

Mr. Bill Siksay: Thank you, Chair.

I want to thank Madam Simson for introducing this motion, which I will support, Chair.

Rather than seeing it as a refusal to pursue new possibilities for privacy reform, as Mr. Poilievre was suggesting, I think it's essentially calling a spade a spade and expressing our disappointment that the minister has rejected all of the recommendations put forward by both the Privacy Commissioner and by the standing committee.

Frankly, Chair, that's unacceptable, given that we haven't had a significant reform of our Privacy Act since it was first introduced back in 1983. The minister would suggest that everything's okay with privacy legislation in Canada, while the reality is that it's not okay. We need some significant attention to be paid to these issues.

In his letter, the minister talks about his rejection of the idea that PIPEDA and the Privacy Act can be brought into some kind of alignment, as is suggested by the commissioner. We know from the commissioner's testimony that other jurisdictions are looking at exactly this. The minister seems to say, "Do as I say, not as I do", in trying to set up this disparity between the public and private sector with respect to privacy considerations. Frankly, I think that's unacceptable.

We've had long discussions at the committee about the importance of legislating rather than just having policy documents, and about the contribution this can make to effective privacy legislation. Frankly, I just don't buy the minister's argument here and I think we need to express our disappointment that he uses the argument that there's some kind of obligation in policy to say that legislation isn't required. I think it's an unacceptable approach to ensuring the privacy of Canadians.

He spends some time in his letter also talking about some perceived conflict between privacy legislation and effective and efficient law enforcement. Again, Chair, I think that's a red herring. The deputy commissioner was very clear that good privacy policy can actually improve the efficiency of police work, of investigation and law enforcement and security work, because we're not collecting a whole bunch of information that's not important to the actual undertaking.

I think it's again an argument that doesn't hold water. To use those specific arguments to reject the work of the committee, to reject the suggestions of the commissioner, and to say further, once again, that Privacy Act reform isn't necessary in Canada is profoundly disappointing, Chair, and that's why I'll be supporting this motion.

If the minister wanted to bring in two major pieces of legislation in March, that would be a lot of work for the committee, but I'd be prepared to go there, Chair.

So again, I want to support this motion.

• (1055)

The Chair: Okay.

Colleagues, this room is booked precisely for 11 o'clock, with teleconferencing. We don't want to inconvenience the committee coming in, and I think this is an important discussion that we should reflect on a little bit further, so I'm going to suggest that we carry it over to our meeting on Thursday. We'll pick it up where we are right now.

Subsequent to that, you may have noticed that in the materials forwarded to you and probably received in your offices yesterday there are two documents. One is on the Access to Information Act and recent proposals for reform. The other is similar, but these are proposals that came out of the Information Commissioner's office from the right-to-know legal panel that it ran, under which it had a whole week of interesting interventions. I had our researchers prepare these documents for your information so that you would know all of the work that has gone on with regard to access to

information. We are looking forward to having a steering committee meeting about where to go from here, and I thought these documents might be useful to the committee to bring pretty well everything that's on the table so far into a couple of documents that we'll be able to consider.

So after we've finished with disposing of the current item before us, I'd like to have an open discussion at the committee on these documents. The researchers will lead us through them to some extent, simply to understand where we have been and where we are right now, and that may give us a better focus on what else we might do, if anything. This will be the committee's decision, so we should prepare for it.

If that's acceptable to the committee and there is no further business, we're adjourned.

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