

Flowchart – Freedom of Information Request and Complaint Process

This document outlines how an access to information request made under the federal *Access to Information Act* is processed, as well as how a complaint/appeal in respect of such access requests may be made; the steps involved in these two processes are laid out in two separate flowcharts. The processes under provincial legislation are very similar—Timothy M. Banks and Christina Porretta, Dentons Canada LLP

Request Process

a. *Access to Information Request*

When making an access to information request under the *Access to Information Act*, R.S.C. 1985, c. A-1 (“ATI Act”), the requester must:

- Determine which federal government institution is most likely to have the information sought;
- Complete an access to information request form or write a letter describing the information being sought; and
- Provide the necessary fee.

For further information on the details to be included in the request see practice note: “Request for Government Information”.

b. *Government Response to an Access Request*

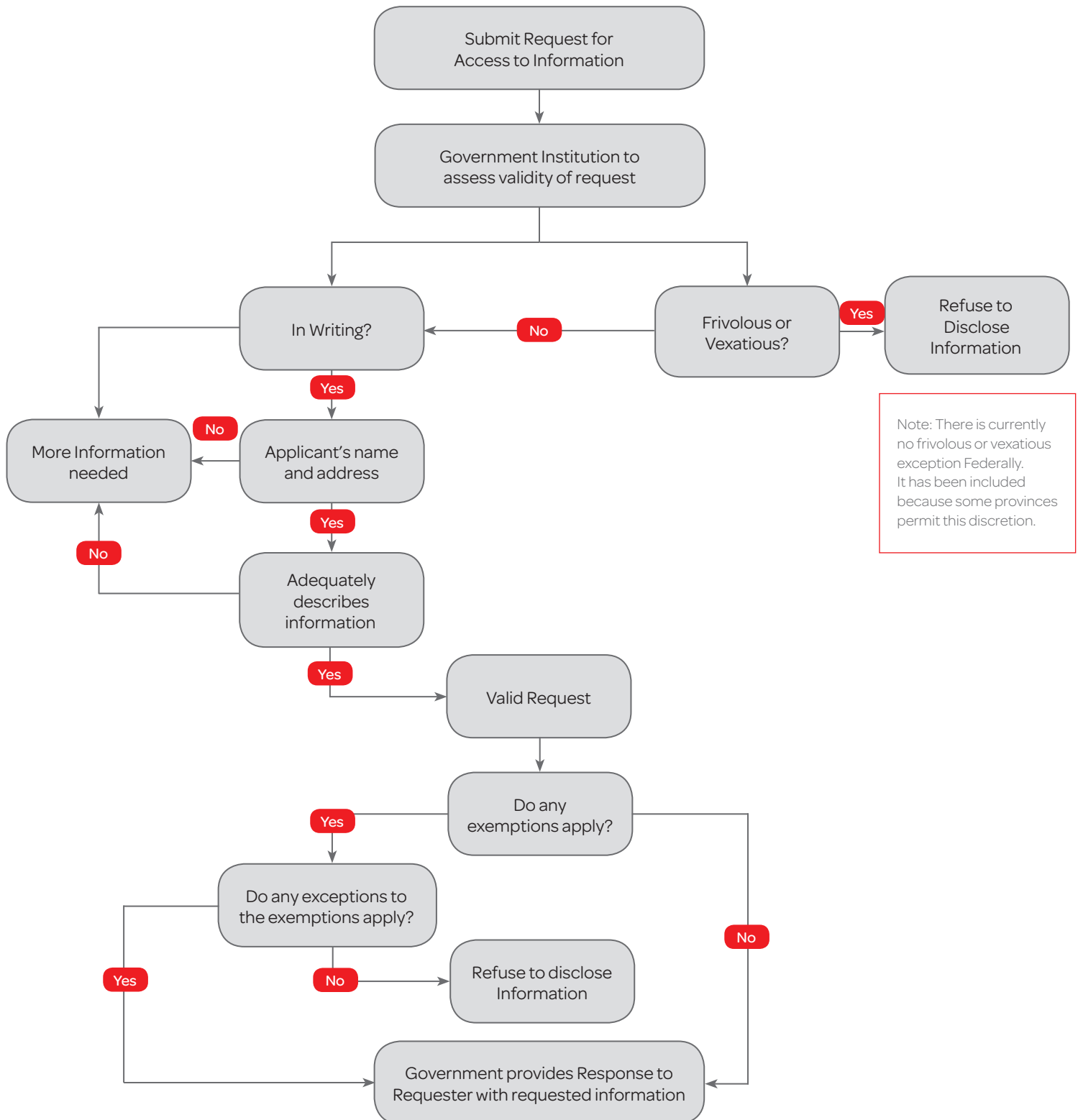
When responding to a request, the government institution must:

- Consider whether all of the relevant information has been provided by the requester;
- Consider whether a third party must be notified;
- Consider whether any exemptions apply;
- Consider whether any exceptions to the exemptions apply; and
- Provide a response within 30 days of receiving the request, unless an extension has been granted.

For further information on third party notification, as well as the exemptions and exceptions that may be considered, see practice note: “Access to Government Information: Third Party Response to Request”.

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Access Request and Response Flowchart



Note: There is currently no frivolous or vexatious exception Federally. It has been included because some provinces permit this discretion.

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Complaint/Appeal Process

a. *Complaint to Office of the Information Commissioner of Canada*

Any requester who believes that an information request was not properly handled by a federal government institution that is subject to the *ATI Act*, may ask the Office of the Information Commissioner of Canada (“OIC”) to investigate the issue. Under the *ATI Act*, the complaint procedure is triggered by the filing of a complaint in writing, either by completing the applicable form or by letter. The period within which a requester may make a complaint is within 60 days after the requester has either received the government institution’s final response to the request or has become aware that grounds for a complaint exist.

Under the *ATI Act*, the requester may complain to the OIC for reasons including:

- The requester believes it was improperly denied the information requested;
- The answer to the request is taking too long;
- The fees are too high;
- The requester has not received the information in its official language of choice; or
- The requester becomes aware that other grounds for the complaint exist.

For further information on the details regarding filing a complaint with the OIC see [practice note: “Access to Information—Internal Review and Complaints Procedure \(Federal\)”](#).

b. *Investigation Process*

Under the *ATI Act*, the internal process for dealing with a complaint is as follows:

- **The Investigation:** An investigator will be assigned to the complaint and is empowered under the *ATI Act* to perform various investigative functions.
- **The Representations:** The investigator will give all parties (the requester, the government institution, and any third party) the opportunity to present their point of view.
- **The Recommendations:** The investigator will provide a report setting out its recommendations to the government institution to either (i) disclose the requested information, or (ii) validating the government’s refusal to disclose the information.
- For further information on the investigation process see practice note: Internal Review and Complaints Procedure.

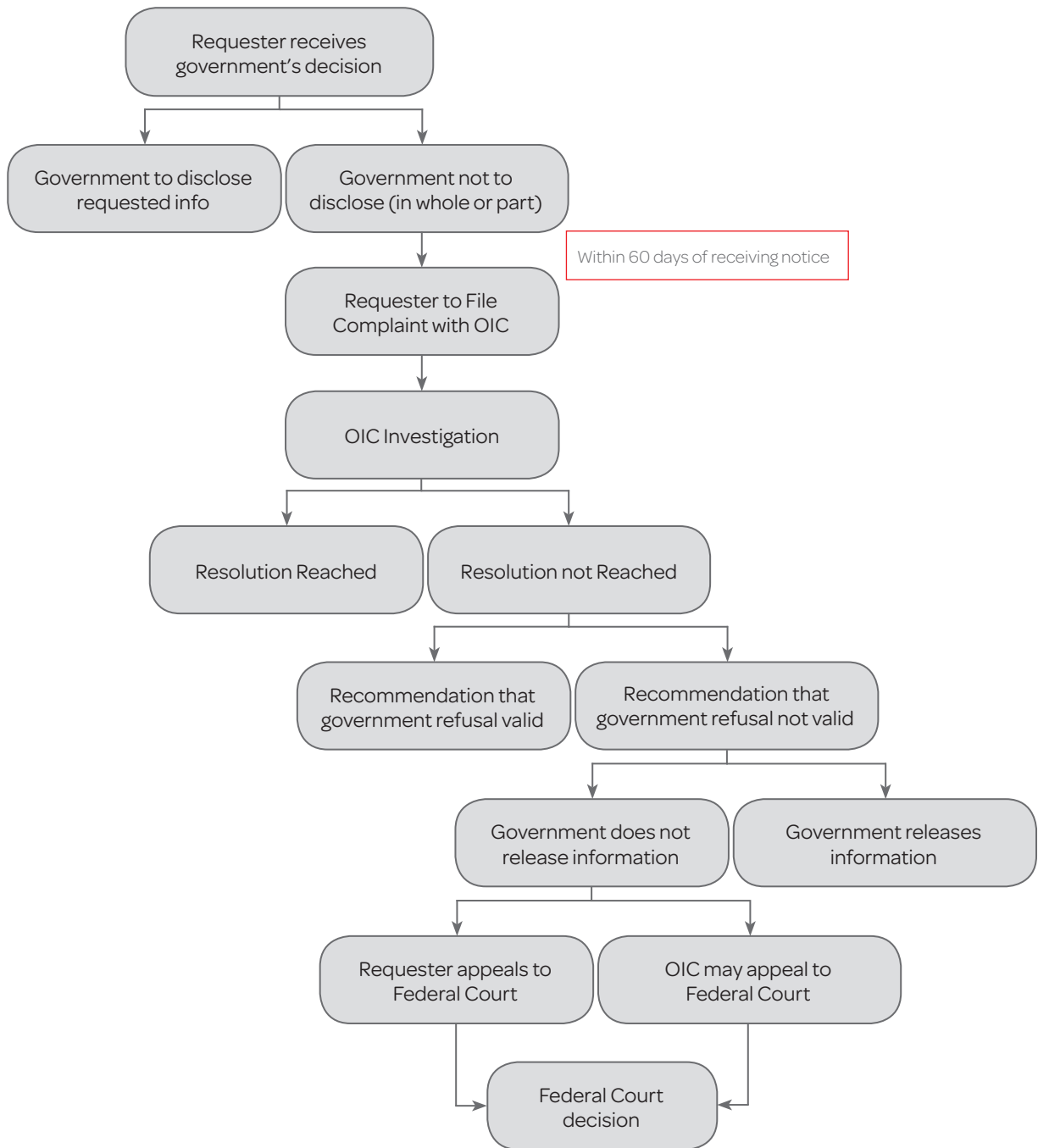
c. *Judicial Review to Federal Court*

Following the OIC’s recommendations, if the government institution ultimately decides not to disclose the requested information, the requester, or the OIC on behalf of the requester, has the right to apply to the Federal Court for judicial review within 45 days after the OIC has provided its report.

For further information on the judicial review process see [practice note: “Access to Information—Internal Review and Complaints Procedure”](#).

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Complaint Process Flowchart



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