

2018 Information Note
Advice to Minister

Date: February 5, 2018

Ref: 108010

Issue: The “*Duty to Document*”

Conclusion:

- This note expands on one of the issues raised in the Minister’s Transition materials to provide detailed background information.
- Bill 6-2017, which received Royal Assent in March 2017, added a “duty to document” to the *Information Management Act*.
- The Bill has not been brought into force.
- The “Duty to Document” as drafted in the Bill was criticised by some stakeholders and the media when it was tabled.
- s.13

Background / Facts:

The “Duty to Document”

- A “duty to document” is a positive obligation — in law or policy — to create government records.
- A duty to document supports openness and transparency, facilitation of effective decision-making, preservation of corporate memory, accurate reporting of decisions to the public, and documentation of government’s legacy for future generations.
- Importantly, the duty to document is not a requirement to make and keep records of every action a government employee takes or decision they make. Decisions related to key, mandated functions and activities are within the scope of the duty to document.
- In a 2017 survey of the leaders of the three major political parties in B.C. administered by the Freedom of Information and Privacy Association (FIPA), the BC NDP responded that it supported a legislated duty to document.

Current Requirements

- Currently, ministries are required by Core Policy to “Create and retain a full and accurate record documenting decisions and actions”.
- The *Information Management Act* (IMA) sets out requirements for the management of government records throughout their lifecycle, and contains requirements to *retain* records related to key business decisions, though it does not specify when records must be *created* in the first place.

Bill 6-2017

- In March 2017, Bill 6-2017 received Royal Assent. The Bill added a number of new provisions to the IMA, including a provision that requires heads of government bodies to ensure that they have appropriate policies, procedures, training, awareness, and technologies in place for

creating government information that is an “adequate record of that government body's decisions”.

- Those amendments have not been brought into force.

Recommendations that Led to the Drafting of Bill 6-2017

- Information and Privacy Commissioners across Canada have been calling on provincial governments to legislate a broad “duty to document” for over 10 years.
- In B.C., the Information and Privacy Commissioner has recommended a legislated “duty to document” in multiple investigation reports, most notably in an October 2015 report: “Access Denied”.
- A Special Committee of the Legislative Assembly and other stakeholders have also called on government to legislate this requirement.

Analysis:

Effect of Bill 6-2017

- As written, the not-in-force provision:
 - Requires a holistic system to be in place to support the creation of records.
 - Situates this requirement within the same enactment as other records management obligations.
 - Authorizes government’s Chief Records Officer (CRO) to oversee compliance with this provision.
 - Requires the CRO to issue directives and guidelines to support government bodies in operationalizing this requirement.
- This is consistent with the approach taken in other jurisdictions that have legislated the requirement.
- It is also consistent with the planned legislative approach in other Canadian Provinces, as well as the existing policy governance structure in other Provinces, where oversight over records management from creation to destruction is provided by a Provincial Archivist or by a Records Management Committee that provides advice to a Minister.

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Criticisms of Bill 6-2017

- When it was tabled in the House, Acting Information and Privacy Commissioner Drew McArthur praised Bill 6-2017 as a significant step in strengthening the legislation and contributing to more effective information management, good governance and accountability.

- However, more recently, Acting Commissioner McArthur has expressed a concern that while the changes to IMA are a “good start”, the requirements do not adequately address the matter of “independent oversight” by his office.
- Criticism of the Bill from stakeholders including the Commissioner, the then-opposition and advocacy groups has included:
 - Concerns about the relatively narrow scope of the IMA (ministries and 41 BPS entities).
 - Concern that the provision only becomes effective at the discretion of the CRO rather than as a mandatory requirement.
 - Internal oversight by the CRO rather than independent oversight by an officer of the legislature.
- s.13

Attachment(s): *Appendix A: Enactments and Policies Requiring the Creation of Records (“Duty to Document”); Appendix B: Canadian Provinces and Territories and their Planned Approaches to a Legislated Duty to Document*

Contact: *David Curtis, ADM, 778-698-5845*

Appendix A: Enactments and Policies Requiring the Creation of Records (“Duty to Document”)

Acts Containing a Duty to Document

US Federal Records Act	The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency’s activities.
New Zealand Public Records Act	Every public office and local authority must create and maintain full and accurate records of its affairs, in accordance with normal, prudent business practice, including the records of any matter that is contracted out to an independent contractor.
New South Wales (Australia) State Records Act	Each public office must make and keep full and accurate records of the activities of the office.
Victoria (Australia) Public Records Act	The officer in charge of a public office shall cause to be made and kept full and accurate records of the business of the office.
Queensland (Australia) Public Records Act	A public authority must make and keep full and accurate records of its activities; and have regard to any relevant policy, standards and guidelines made by the archivist about the making and keeping of public records.
Western Australia State Records Act	<p>Each parliamentary department is to have a record keeping plan. A record keeping plan is a record setting out the matters about which records are to be created by the organization; and how the organization is to keep its government records.</p> <p>A government organization’s record keeping plan must comply with principles and standards established by the Commission; ensure that the government records kept by the organization properly and adequately record the performance of the organization’s functions; and be consistent with any written law to which the organization is subject when performing its functions.</p>

Policies Containing a Duty to Document

Canada Treasury Board Policy on Information Management

Deputy heads are responsible for: ensuring that decisions and decision-making processes are documented to account for and support the continuity of departmental operations, permit the reconstruction of the evolution of policies and programs, and allow for independent evaluation, audit, and review.

Government of Ontario Corporate Policy on Recordkeeping

Every program shall, in accordance with guidelines established under this policy, create, manage, and dispose of **business records** in order to ensure program accountability and support the program's business needs.

Every program shall ensure that the integrity, reliability and retrievability of business records for ongoing legal, fiscal or other business purposes is preserved throughout their lifecycle.

Accountability for the creation, management and disposition of business records resides with the business owner.

"business record" is defined a "a public record that is required because it has ongoing business value or usefulness and is needed to ensure program accountability and support business needs and is required to meet legal or financial obligations or document, support or direct government decision-making, policy development, activities or operations.

Appendix B: Canadian Provinces and Territories and their Planned Approaches to a Legislated Duty to Document

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2018 Information Note Advice to Minister

Date: February 9, 2018

Ref: 108052

Issue: Meeting with the Acting Information and Privacy Commissioner

Background / Facts:

- In August 2017, the Acting Information and Privacy Commissioner, Drew McArthur, wrote to the Minister Jinny Sims to highlight a number of “priority amendments” to the *Freedom of Information and Protection of Privacy Act* (FOIPPA) and the *Protection of Privacy Act* (PIPA), and to request a meeting with the Minister. The letter is attached as **Appendix A**.
- In September 2017, the Minister, Deputy Minister Jill Kot, and other support staff met with Mr. McArthur and his staff to discuss those issues.
- The Acting Commissioner has requested a follow up meeting to seek an update on the priorities discussed with the Minister in the September meeting.
- The Deputy Minister to the Premier, Don Wright, and Deputy Minister Jill Kot also recently met with Mr. McArthur to discuss other issues related to freedom of information (FOI).
- **See Appendix B for background information on the role and mandate of the Information and Privacy Commissioner.**

Analysis:

Key Issues raised in the Acting Commissioner’s letter:

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- With respect to FOIPPA, staff are actively working to analyse the recommendations of the Acting Commissioner as well as those from the Special Committee that reviewed FOIPPA in 2015, and other stakeholders.
 - These issues are being considered as part of a broad review and engagement that will use the recommendations of the Committee as the basis for continued analysis and discussion.
 - This includes engagement with a range of stakeholders, including advocates, professional associations and representatives from the public service and other public bodies.
 - This will also include a detailed formal examination of the FOI process by “service design” experts, to identify areas for improvement.

Other developments since the September meeting:

- In July 2017, the Acting Commissioner launched an investigation into government’s compliance with s. 71 of FOIPPA, which requires public bodies to establish categories of records that are available to the public without an FOI request.
 - The Acting Commissioner has not indicated when this report will be released.
- On September 20, 2017, the Acting Commissioner released the annual report on the timeliness of government’s FOI responses.
 - That report examined government performance in the 2015-16 and 2016-17 fiscal years and found that government was within the legislated timelines for responding to FOI requests 74 per cent and 80 per cent of the time, respectively.
 - So far in 2017-18, 90 per cent of the FOI requests closed by government have been on time.
- Beginning in November, the Minister has undertaken a number of roundtable engagement sessions with key stakeholder groups, in order to understand their perspectives on government’s information management practices, including FOI, proactive access to information and protection of privacy.
- Ministry staff have also recently engaged the Acting Commissioner’s staff on a number of Ministerial Orders establishing centralized ministry services as “common programs” for the purposes of FOIPPA.
 - The Acting Commissioner has expressed support for all of these proposals.
- **See Appendix C for analysis and recommended government response to each of these issues.**

Attachment(s):

- Appendix A: Letter of August 4, 2017 from Acting Commissioner Drew McArthur
- Appendix B: Background on the Information and Privacy Commissioner
- Appendix C: Analysis of Acting Commissioner’s Recommendations

Contact:

Jill Kot, Deputy Minister, Ministry of Citizens’ Services

David Curtis, Assistant Deputy Minister, Ministry of Citizens’ Services

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Appendix B: Background on the Information and Privacy Commissioner

- The Information and Privacy Commissioner for BC (Commissioner) is an independent Officer of the Legislature appointed for a renewable six-year term by an all-party Special Committee of the Legislative Assembly.
- The Office of the Information and Privacy Commissioner (OIPC) provides independent oversight and enforcement of British Columbia's access and privacy laws, including *the Freedom of Information and Protection of Privacy Act* (FOIPPA) and the *Personal Information Protection Act* (PIPA).
 - FOIPPA applies to over 2,900 public bodies, including ministries, local governments, schools, Crown corporations, hospitals, and municipal police forces;
 - PIPA applies to over 380,000 private sector organizations, including businesses, charities, associations, trade unions, political parties and trusts.
- BC's Commissioner has the strongest oversight powers of any Information and Privacy Commissioner in Canada. As the provincial privacy and access regulator, the Commissioner has mandate and power to:
 - investigate, mediate and resolve appeals concerning access to information disputes, including issuing binding orders;
 - investigate and resolve privacy complaints;
 - initiate Commissioner-led investigations and audits of public bodies or organizations, if there are reasonable grounds of non-compliance or if in the public interest;
 - comment on the access and privacy implications of proposed legislation, and public sector programs or policies;
 - comment on the privacy implications of new public sector technologies and/or data linking initiatives;
 - conduct research into anything affecting access and privacy rights; and
 - educate and inform the public about access and privacy rights and the relevant laws.
- The Lieutenant Governor in Council appointed Drew McArthur as Acting Commissioner on June 29, 2016.
- On March 17, 2017, Drew McArthur was appointed Acting Commissioner for a second time.
- A Special Committee to appoint an Information and Privacy Commissioner has been established by the Legislative Assembly and is currently carrying out its work.

Analysis of Acting Commissioner’s Recommendations and Issues Raised
Issues Raised in the August 4, 2017 Letter to Minister Sims

Issue	Background	Suggested Response
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Recommended Amendments to the *Freedom of Information and Protection of Privacy Act* (FOIPPA)

Recommendation	Background	Response
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Recommendation	Background	Response
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Recommendation	Background	Response
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Recommendation	Background	Response
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Recommendation	Background	Response
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Recommendation	Background	Response
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Recommended Amendments to the *Personal Information Protection Act* (PIPA)

Recommendation	Background	Response
s.13		

Recommendation	Background	Response
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Recommendation	Background	Response
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Recommendation	Background	Response
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Other Issues that may be raised by the Acting Commissioner

Issue	Background	Response
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Issue	Background	Response
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Issue	Background	Response
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2018 Information Note Advice to Minister

Date: Feb 15, 2018

Ref: 108081

Issue: The “Duty to Document”

Conclusion:

- This note expands on one of the issues raised in the Minister’s Transition materials to provide detailed background information.
- Bill 6-2017, which received Royal Assent in March 2017, added a “duty to document” to the *Information Management Act* (IMA).
- The Bill has not been brought into force and can be brought into force by Order in Council.
- Although this is the first time that a broad “duty to document” has been codified in law, it is not a new requirement, and the amendment simply formalizes in law an existing policy requirement and accepted good business practice.

Background / Facts:

The “Duty to Document”

- A “duty to document” is a positive obligation — in law or policy — to create government records.
- A duty to document supports openness and transparency, facilitation of effective decision making, preservation of corporate memory, accurate reporting of decisions to the public, and documentation of government’s legacy for future generations.
- Importantly, the duty to document is not a requirement to make and keep records of every action a government employee takes or decision they make. Decisions related to key, mandated functions and activities are within the scope of the duty to document.
- For example:
 - Within the Ministry of Citizens’ Services, records that would be within scope would include: Records of decisions related to IT procurement; records related to the preparation of legislation; records documenting a policy decision; records related to hiring; records related to budgeting decisions.
 - Within the Ministry of Citizens’ Services, records that would not be within scope would include: Records respecting requests for and scheduling of meetings or calls; announcements of social events; lists of tasks to be completed by an employee.
- In a 2017 survey of the leaders of the three major political parties in BC administered by the Freedom of Information and Privacy Association (FIPA), the BC NDP responded that it supported a legislated duty to document.

The Information Management Act

- The IMA applies to all ministries and to 41 designated “government bodies”.
- The IMA sets out requirements for the management of government records throughout their lifecycle, and contains requirements to *retain* records related to key business decisions, though it does not specify when records must be *created* in the first place.

- In March 2017, Bill 6-2017 received Royal Assent. The Bill added a number of new provisions to the IMA, including a “duty to document” provision.
- Those amendments have not been brought into force.
- At the time that the Bill was introduced, stakeholders were told to expect the “duty to document” provision to be implemented within a year.
- s.12,s.13

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Criticisms of Bill 6-2017

- Criticism of the Bill from stakeholders including the Information and Privacy Commissioner, the then-opposition and advocacy groups has included:
 - Concerns about the relatively narrow scope of the IMA (ministries and 41 BPS entities).
 - Concern that the provision only becomes effective at the discretion of the CRO rather than as a mandatory requirement when the Act comes into force.
 - Internal oversight by the CRO rather than independent oversight by an officer of the Legislature.

Analysis:

Effect of Bill 6-2017

- As written, the not-in-force provision:
 - Requires a holistic system to be in place to support the creation of records.
 - Situates this requirement within the same enactment as other records management obligations.
 - Authorizes government’s Chief Records Officer (CRO) to oversee compliance with this provision.
 - Requires the CRO to issue directives and guidelines to support government bodies in operationalizing this requirement.
- This is consistent with the approach taken in other jurisdictions that have legislated the requirement.
- It is also consistent with the planned legislative approach in other Canadian provinces, as well as the existing policy governance structure in other provinces, where oversight over records management from creation to destruction is provided by a Provincial Archivist or by a Records Management Committee that provides advice to a minister.

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Attachments: *Appendix A:* s.12,s.13
Appendix B
Contact: *David Curtis, ADM, 778-698-5845*

Appendix A:

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Appendix A:

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Appendix B:

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Appendix B: ^{s.12,s.13}

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Definitions:

Responsible: Who owns the problem/projects

Accountable: Who must sign off or approve on the work

Consulted: Who has information and capability necessary to complete the work

Informed: Who must be notified of results but not consulted.

Teams:

SPP (Legislation) = SPP Legislation Team (Director = Melissa Sexsmith)

SPP (Policy) = SPP Policy Team (Director = Colleen Rice)

ITB = Information Transformation

GRS (DIS Team) = Digital Information Strategies Team (Director = Alex; Team Lead = Susan Hart)

GRS (D2D Leads) = New AO 27 positions ^{s.12,s.13} (aka IMA Client Service Managers)

GRS (Records Officers) = Existing AO 24 positions supporting Ministries

**MINISTRY OF HEALTH & MINISTRY OF CITIZENS' SERVICES
BRIEFING NOTE**

Cliff # 108098

PREPARED FOR: Honourable Adrian Dix, Minister of Health and
Honourable Jinny Sims, Minister of Citizens' Services

TITLE: Resolving name mismatches on the BC Services Card

PURPOSE: To present a plan to resolve name mismatches on the BC Services Card.

BACKGROUND:

Government's vision for the BC Services Card is for "citizens to safely and securely access multiple government services, both in person and online, through the creation of the security-enhanced photo identification card." In order for government to provide information and services securely, it is necessary to know with confidence the identity of the person requesting the information and/or service.

The BC Services Card provides a strong identity credential and assists with reducing inaccuracies in electronic records and potential risks to citizen safety, data integrity and privacy. It is a key enabler and a foundational element for digital government and personalized service to citizens.

The BC Services Card currently provides access to the Medical Services Plan (MSP) and drivers' licences. Some potential future uses of the card include:

- applying for a student loan online
- accessing electronic health records
- accessing grades, attendance, homework, curriculum online
- retrieving educational records for an online application to college or university
- accessing services or information from home (e.g. for rural residents or those with mobility issues).

DISCUSSION:

On February 15, 2013, card issuance began for the primary target group of MSP beneficiaries. This initial five-year issuance cycle will be completed in February 2018. Currently, over 4.3 million residents have been issued a BC Services Card (approximately 90% of existing MSP beneficiaries).

In March 2014, the Services Card was enhanced, providing citizens the ability to 'tap' the card, enter a passcode and authenticate themselves to government online. Citizens' Services is working with programs across government to utilize this new capability.

CURRENT ISSUE:

Some residents (approximately 232,000) are having challenges getting a photo BC Services Card for a variety of reasons, including:

- Pre-existing recorded name differences at HIBC and ICBC
- Immigration, Refugee and Citizenship Canada name mismatch issue

- Assumed hyphenated names due to marriage

PROPOSED REMEDIATION PLAN:

A five-step implementation plan is being proposed to address these challenges. Steps one to four can be implemented by May, 2018 through policy and business process changes resolving the majority of outstanding citizen concerns. The final cohort (step five) requires further analysis as system changes to ICBC and HIBC may be required.

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2018 Decision Note Advice to Minister

Date: January 19, 2018

Ref: 107391

Issue: Ministerial Orders are required to confirm four mandated government shared service providers as common or integrated programs under the *Freedom of Information and Protection of Privacy Act*.

Recommendation / Next Steps (if any):

- Sign the Ministerial Orders confirming Corporate Information and Records Management Office (CIRMO), the Office of the Chief Information Officer (OCIO), Government Communications and Public Engagement (GCPE) and BC Mail Plus as common or integrated programs under the *Freedom of Information and Protection of Privacy Act* (FOIPPA).
- This will ensure CIRMO, OCIO, GCPE and BC Mail Plus have the appropriate authority to collect, use and disclose the personal information required to provide services to ministries.
- The Office of the Information and Privacy Commissioner (OIPC) has reviewed these four Ministerial Orders and has no concerns.
- The Orders have also been reviewed by Legal Services Branch.
- s.13

Background / Facts:

- A ministry or program area must have an appropriate authority under FOIPPA to collect, use or disclose personal information.
- FOIPPA provides specific authority for central agencies providing centralized services – known as “common or integrated programs or activities”.
- In order to rely on these authorities, a central agency or other shared service must first be confirmed as a “common or integrated program or activity” through the use of either:
 - a common or integrate program agreement, or
 - a Ministerial Order issued by the Minister responsible for FOIPPA.
- Four Ministerial Orders confirming CIRMO, OCIO, GCPE, and BC Mail Plus have been prepared for signature by the minister.


Analysis:

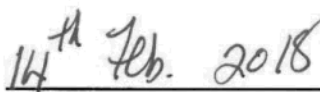
- Privacy experts in PCT and legislative experts in the Strategic Policy and Legislation Branch have worked closely with these program areas to determine that these authorities are necessary and that a Ministerial Order is advisable.
- A Ministerial Order establishing CIRMO as a common program will authorize the collection, use and disclosure of personal information for Information Access Operations’ administration of Freedom of Information services as well as PCT’s information incident response service and compliance reviews.

- The Ministerial Order establishing GCPE as a common program will provide the necessary authority under FOIPPA to collect, use and disclosure personal information necessary to provide the following services for ministries:
 - The provision of a corporate content management framework for government, including web delivery, search functions, analytics, and feedback channels.
 - Graphic design and maintenance of a photo bank, and accompanying consent/model release forms for government publications.
 - Planning and implementation of citizen engagement activities.
 - Service and interface design, related to user experience and citizen interaction.
 - Advertising and marketing services.
 - Social media and digital services.
 - Organizing provincial government activities to respond to or inform British Columbians about issues and promote awareness of programs, policies and services.
- The Ministerial Order establishing BC Mail Plus as a common program will provide the necessary authority under FOIPPA to collect, use and disclosure personal information necessary to provide the following services for ministries:
 - Mail pickup and delivery.
 - Mail processing.
 - Mail preparation.
 - Document imaging and data capture scanning services.
 - ID card production services.
 - Variable data printing services.
 - Employee household relocation services.
 - Document development services.
- The Ministerial Order establishing the OCIO as a common program will authorize the collection of personal information for the following mandatory corporate technology services:
 - Electronic messaging, including email and instant messaging.
 - Telecommunication and network services.
 - Telephony services, including voice messaging, teleconference, telepresence, video conferencing, and Voice over Internet Protocol.
 - Digital file storage and file transfer services.
 - Identity and authentication services.
 - Workstation and mobile device management.
 - Digital printing.
 - Digital logging.
 - Cybersecurity, forensics, and investigations.
 - IT maintenance and support.
- The OIPC has reviewed the four Ministerial Orders and has no concerns.

Approved / Not Approved

Minister to specify if the recommendation has been approved or one of the other options or simply not approved.


Honourable Jinny Jogindera Sims


Date

Attachments: *The Ministerial Orders confirming CIRMO, GCPE, OCIO and BC Mail Plus are attached as Attachments A, B, C and D respectively.*

Contact: *David Curtis, Assistant Deputy Minister 778 698 5845*

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF CITIZENS' SERVICES

Freedom of Information and Protection of Privacy Act

Ministerial Order No.

I, Jinny Jogindera Sims, Minister of Citizens' Services make the following order under s. 12 (b) of the Freedom of Information and Protection of Privacy Regulation, B.C. 155/2012:

That the Corporate Information and Records Management Office (CIRMO), under the Office of the Chief Records Officer, Ministry of Citizens' Services, is a common program for the purposes of the *Freedom of Information and Protection of Privacy Act* (FOIPPA).

1)

- a) CIRMO is responsible for providing access to information services under or on behalf of all ministries of the Government of British Columbia ("Ministries" or "Ministry"):
- i. reviewing records determined by the ministry to be responsive to requests for access under FOIPPA (FOI requests), or records provided by Ministries pursuant to a Ministerial Directive under section 71.1 of FOIPPA;
 - ii. providing disclosure recommendations to the Ministry;
 - iii. providing front line services to applicants, including responding to request queries, seeking and providing clarifications or extensions of time limits for response;
 - iv. severing records as required or appropriate pursuant to Part 2 of FOIPPA or a Ministerial Directive issued under section 71.1 of FOIPPA;
 - v. transferring records to, or consulting with, Ministries or third parties as required;
 - vi. calculating and issuing fee estimates;
 - vii. receiving, processing and tracking payment of fees and refunds;
 - viii. processing fee waiver requests and making recommendations with respect to accepting or denying fee waiver requests;
 - ix. managing all Freedom of Information (FOI) related correspondence to applicants;
 - x. responding to reviews/inquires by the Information and Privacy Commissioner for British Columbia (IPC);
 - xi. tracking and monitoring FOI requests and documenting the FOI access request process from inception to completion in order to facilitate reporting/statistics to Ministries or the IPC;
 - xii. facilitating compliance with FOIPPA by Ministries;

14th Feb. 2018
Date


Minister of Citizens' Services

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Freedom of Information and Protection of Privacy Regulation, Section 12(b)

Other: _____

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF CITIZENS' SERVICES

Ministerial Order No.

- xiii. coordinating similar or identical FOI requests received by multiple Ministries for administrative efficiency; and
 - xiv. facilitating proactive disclosure of records pursuant to a Ministerial Directive issued under section 71.1 of FOIPPA.
 - b) CIRMO is responsible for providing Information Incident and Compliance services on behalf of Ministries and public bodies bound by the Core Policy and Procedures Manual ("Core Policy") including:
 - i. coordinating, investigating and resolving information incidents as defined in Chapter 12 of Core Policy, which includes actual or suspected privacy breaches and privacy complaints;
 - ii. investigating allegations that a Ministry has not complied with its obligations under FOIPPA; and
 - iii. investigating allegations that there has been a contravention of the *Information Management Act* (IMA) and/or applicable records management policies.
 - c) CIRMO is also responsible for conducting audit and compliance review activities to assess compliance with FOIPPA, IMA, and related government policy and procedures for Ministries and public bodies bound by Core Policy.
- 2) In order to fulfill its responsibilities as listed above, CIRMO may use and disclose all types of personal information held by the Ministries or those public bodies bound by Core Policy it serves.
- 3) The objectives and benefits of the services provided by CIRMO include:
- a) assisting Ministries in meeting their obligations under Part 2 of FOIPPA;
 - b) supporting the implementation of the Open Information and Open Data Policy;
 - c) supporting government transparency by ensuring services are provided in a timely, consistent and efficient manner;
 - d) providing a centralized place for the public to submit FOI access requests;
 - e) providing streamlined, efficient, consistent and cost effective service for government;
 - f) facilitating openness and accountability;
 - g) ensuring information incidents, including privacy breaches and complaints, are swiftly and adequately managed, contained, and remediated;

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF CITIZENS' SERVICES

Ministerial Order No.

- h) developing prevention strategies and issuing recommendations to assist government in dealing with and avoiding future information incidents;
 - i) ensuring overall compliance with FOIPPA, IMA and related government policy and procedures;
 - j) a centralized intake process, providing a central point of contact for individuals to report all information incidents, including privacy breaches and complaints, and allegations of non-compliance under FOIPPA, IMA and related government policy and procedures;
 - k) providing specialized support and expertise regarding the steps to effectively coordinate, investigate and resolve information incidents, including privacy breaches and complaints, and allegations of non-compliance under FOIPPA, IMA and related government policy and procedures; and
 - l) providing centralized mechanisms to audit and conduct compliance review activities on public sector compliance with FOIPPA, IMA and related government policy and procedures.
- 4)
- a) The roles and responsibilities of Ministries served by CIRMO for the purpose of providing access to information include:
 - i. determining records responsive to a request for access;
 - ii. conducting a thorough search and providing any and all records responsive to a request for access to Information Access Operations (IAO), in a timely fashion, subject to any applicable legal requirements;
 - iii. providing assistance to CIRMO in determining whether any exceptions to the disclosure of information apply to information in a record;
 - iv. making reasonable efforts to assist applicants openly, accurately and completely;
 - v. providing records in the manner and according to the timelines required by a Ministerial Directive issued under section 71.1 of FOIPPA, or policy set by IAO;
 - vi. making final decisions by the head of the Ministry, respecting access responses, fee waiver approvals and other statutory decisions required to be made under FOIPPA;
 - vii. working/cooperating with CIRMO in resolving/addressing reviews/inquiries by the Office of the Information and Privacy Commissioner (OIPC);
 - viii. complying with orders of the OIPC; and
 - ix. providing information and support to CIRMO as appropriate.

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF CITIZENS' SERVICES

Ministerial Order No.

- b) The roles and responsibilities of Ministries and public bodies bound by Core Policy that are served by CIRMO for the purpose of addressing information incidents, compliance, and audit issues include:
- i. immediately reporting to CIRMO, any actual or suspected information incident;
 - ii. taking appropriate action, as recommended by CIRMO, to contain and resolve an information incident to limit its impact;
 - iii. making reasonable efforts to cooperate fully with CIRMO investigators, providing any information and/or records required where necessary for the purposes of an investigation being conducted by CIRMO;
 - iv. ensuring evidence of an information incident or other event under investigation by CIRMO is preserved and details are properly documented;
 - v. determining whether to notify individuals affected by a privacy breach, in consideration of recommendations issued by CIRMO;
 - vi. implementing any and all recommendations from CIRMO in order to prevent a similar incident from occurring again in future; and
 - vii. working with CIRMO in resolving reviews and inquiries by OIPC.

5) This order is effective as of January _____, 2018.

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF CITIZENS' SERVICES

Freedom of Information and Protection of Privacy Act

Ministerial Order No.

I, Jinny Jogindera Sims, Minister of Citizens' Services make the following order under s. 12 (b) of the Freedom of Information and Protection of Privacy Regulation, B.C. 155/2012:

That Government Communications and Public Engagement (GCPE), under the Ministry of Finance, is a common program for the purposes of the *Freedom of Information and Protection of Privacy Act*.

- 1) GCPE is responsible for providing the following services on behalf of the ministries ("Ministries or Ministry"), agencies or offices it serves:
 - a) the provision of a corporate content management framework for government; including web delivery, search functions, analytics, and feedback channels;
 - b) graphic design and maintenance of a photo bank, and accompanying consent/model release forms for government publications;
 - c) planning and implementation of citizen engagement activities;
 - d) service and interface design, related to user experience and citizen interaction;
 - e) advertising and marketing services;
 - f) social media and digital services; and
 - g) organizing provincial government activities to respond to or inform British Columbians about issues and promote awareness of programs, policies and services.
- 2) In order to fulfill its responsibilities as listed above, GCPE may collect, use and disclose the following types of personal information:
 - a) personal identity information;
 - b) demographic information;
 - c) personal opinion;
 - d) IP address;
 - e) personal information that is necessary to respond to or inform British Columbians about issues;
 - f) audio recording; and
 - g) photo or video image.

Date

14th Feb. 2018

Minister of Citizens' Services



(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Freedom of Information and Protection of Privacy Regulation, Section 12(b)

Other: _____

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF CITIZENS' SERVICES

Ministerial Order No.

- 3) The objectives and benefits of the services provided by GCPE include:
- a) maintaining a consistent web presence across all ministries to ensure government is connecting with citizens in a clear and effective manner;
 - b) augmenting written and online material produced by government for internal and external audiences;
 - c) providing a large breadth of centrally coordinated citizen engagement approaches for government, inclusive of the Province's demographic and regional diversity;
 - d) delivering enhanced program outcomes, which improve service levels and increase citizen satisfaction when interacting with government; and
 - e) fulfilling government's responsibility to respond to and inform British Columbians about issues, services, programs and policies that they and their families depend upon or may benefit from.
- 4) The roles and responsibilities of the ministries served by GCPE include:
- a) managing the types of information shared in the public space;
 - b) safeguarding the information collected through gov.bc.ca feedback mechanisms;
 - c) complying with GCPE-mandated format and presentation;
 - d) participating in the governance of the content management framework as it pertains to information architecture and content design;
 - e) providing subject matter expertise and contributing content to any materials prepared for public consumption;
 - f) assisting GCPE in the planning, design, communication, marketing and reporting of engagement activities;
 - g) reviewing, providing feedback and approving deliverables;
 - h) performing analysis on information compiled through citizen engagement;
 - i) implementing service design strategy;
 - j) collaborating with GCPE on advertising initiatives to establish how best to inform the public on a particular government priority, policy, program or service; and
 - k) promoting services and programs through social media platforms, video, and photos.
- 5) This order is effective as of January _____, 2018.

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF
CITIZENS' SERVICES

Freedom of Information and Protection of Privacy Act

Ministerial Order No.

I, Jinny Jogindera Sims, Minister of Citizens' Services make the following order under s. 12 (b) of the Freedom of Information and Protection of Privacy Regulation, B.C. 155/2012:

That BC Mail Plus, Ministry of Citizens' Services, is a common program for the purposes of the *Freedom of Information and Protection of Privacy Act* (FOIPPA).

- 1) BC Mail Plus is responsible for providing the following services on behalf of all ministries of the Government of British Columbia ("Ministries or Ministry"):
 - a) mail pickup and delivery;
 - b) mail processing;
 - c) mail preparation;
 - d) document imaging and data capture scanning services;
 - e) ID card production services;
 - f) variable data printing services;
 - g) employee household relocation services; and
 - h) document development services.
- 2) In order to fulfill its responsibilities as listed above, BC Mail Plus may collect, use and disclose all types of personal information held by the Ministries.
- 3) The objectives and benefits of the services provided by BC Mail Plus include:
 - a) centralizing mailing services for government;
 - b) providing easily accessible mailing services;
 - c) ensuring a high level of information protection through physical and technological security measures;
 - d) streamlining an important medium for communicating with the public; and
 - e) providing efficiencies and cost savings to ministries through leveraging expertise, specialty equipment, the use of advanced technology and procurement of volume discounts from suppliers.

14th Feb. 2018
Date

Jinny Sims.
Minister of Citizens' Services

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Freedom of Information and Protection of Privacy Regulation, Section 12(b)
Other: _____

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE MINISTER OF CITIZENS' SERVICES

Ministerial Order No.

- 4) The roles and responsibilities of Ministries served by BC Mail Plus include:
- a) preparing mail items for pickup;
 - b) completing any required forms to initiate or chargeback for services provided;
 - c) initiating the coordination of mail preparation distributions via Ministry specific BC Mail Plus Production Coordinator;
 - d) securely sending data files to BC Mail Plus for processing prior to printing;
 - e) working with BC Mail Plus as required for preparation of scanning services; and
 - f) providing information and images to BC Mail Plus for ID card production.
- 5) This order is effective as of January _____, 2018.

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF
CITIZENS' SERVICES

Freedom of Information and Protection of Privacy Act

Ministerial Order No.

I, Jinny Jogindera Sims, Minister of Citizens' Services make the following order under s. 12 (b) of the Freedom of Information and Protection of Privacy Regulation, B.C. 155/2012:

That the Office of the Chief Information Officer (OCIO), Ministry of Citizens' Services, is a common program for the purposes of the *Freedom of Information and Protection of Privacy Act* (FOIPPA).

- 1) OCIO is responsible for delivering the following technology services on behalf of all ministries of the Government of British Columbia ("Ministries"):
 - a) electronic messaging, including email and instant messaging;
 - b) telecommunication and network services;
 - c) telephony services, including voice messaging, teleconference, telepresence, video conferencing, and Voice over Internet Protocol;
 - d) digital file storage and file transfer services;
 - e) identity and authentication services;
 - f) workstation and mobile device management;
 - g) digital printing;
 - h) digital logging;
 - i) cybersecurity, forensics and investigations; and,
 - j) IT maintenance and support.
- 2) OCIO may collect all types of personal information held by the Ministries in order to fulfill its responsibilities in providing the services listed above.
- 3) The objectives and benefits of the services provided by OCIO include:
 - a) provides centralized information technology services for government;
 - b) provides efficiencies and cost savings for ministries;
 - c) provides streamlined, efficient, consistent, modernized and cost effective service for government; and,
 - d) provides the technological infrastructure that supports information management, electronic communications and digital delivery of citizens' services.

14th Feb. 2018
Date

Jinny Sims
Minister of Citizens' Services

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Freedom of Information and Protection of Privacy Regulation, Section 12(b)

Other:

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF CITIZENS' SERVICES

Ministerial Order No.

- 4) The roles and responsibilities of the Ministries served by OCIO include:
- a) submitting service requests and service orders;
 - b) providing information as required by OCIO for the provision of the services listed;
 - c) following established policies and procedures related to the use of services;
 - d) making reasonable efforts to cooperate fully with OCIO investigators, providing any information and/or records required where necessary for the purposes of an investigation being conducted by the OCIO; and,
 - e) ensuring evidence of an information incident or other event under investigation by the OCIO is preserved and details are properly documented;
- 5) This order is effective as of January _____, 2018.

2018 Information Note Advice to Minister

Date: January 23, 2018

Ref: 107959

Issue: Name Mismatches and Two-Step Enrolment for BC Services Card

Conclusion / Next Steps (if any):

- Ministry of Health is implementing Two-Step Enrolment for MSP on February 21, 2018. Individuals making new requests for Medical Service Plan (MSP) coverage with name mismatches may be unable to get a BC Services Card (BCSC) if they choose not to apply for a legal name change. s.13
- Existing Medical Services Plan (MSP) clients requesting card renewal would not be issued a new BCSC. They would continue to be able to access provincially insured health care services using their Public Health Number (PHN) on their expired card, but would be expected to show additional ID alongside their PHN. s.13

Background / Facts:

- Currently, if an individual has a name mismatch between MSP and Insurance Corporation of BC (ICBC), they can get a non-photo card in one name and a driver's licence in their other name.
 - Name mismatch can arise for several reasons, including hyphenation upon marriage or use of preferred name as opposed to legal name on immigration documents, for example.
- Under Two-Step Enrolment, an individual must complete two steps to enroll in MSP and receive a BC Services Card:
 - (1) Submit an application to HIBC, with proof of their foundational status in Canada and
 - (2) Attend the ICBC counter for identity proofing
- The scope of Two-Step Enrolment applies to all adult British Columbians over the age of 19 who are new or returning residents.
 - Adults over the age of 75 are exempt from the requirement to renew enrolment but new or returning residents are required to complete two-steps.
 - Two-Step Enrolment does not apply to children or individuals who hold temporary documents (e.g. foreign students).
- s.13
 - Government-issued photo ID is a requirement for accessing many public and private sector services.
 - s.13
- After February 21, 2018, if an individual is unable to complete two-step enrollment modified processes will be available in specific circumstances.

- These modified processes apply if an individual is:
 - **Medically unable to attend a counter:** In this case, they would get a medical professional to say they are unable to attend a counter and they would be eligible for a non-photo card.
 - **Attending school out-of-province:** If an individual or their partner are going to school out-of-province and provide evidence of attendance, they would be eligible for a non-photo card.
 - **Have difficulty acquiring Secondary ID:** In the case that obtaining secondary ID is impractical or an undue hardship, an individual can fill out a "Secondary ID Attestation Form" (through SDPR or ICBC) and complete the identity proofing process at a Driver Licensing counter for a photo BCSC.
- In all cases an individual must be eligible for MSP to get a BC Services Card.

Analysis:

- s.13
- Operationally, the partnership has created job aids and training covering Secondary ID Attestation and the Two-Step Enrolment process, and has been liaising with SDPR and ICBC
- Joint Operational Committee will review scripting to ensure that message to citizen is carefully considered given the complexity and sensitivity of this issue.

Two Step Enrolment:

- Encourages individuals to have consistent names across their identification. This is very important as government moves more services online that are high value and high risk as it provides greater assurance the right services are provided to the right citizen.
- Encourages uptake of the photo BC Services Card – government-issued photo ID is a requirement for accessing many services (public and private).
- Having a photo on the card helps reduce identity fraud and helps to protect the health care system against misuse.
- Helps to ensure that we have one identity record per individual, and that non-photo cards are only issued when there is need for modification of Two-Step Enrolment.

Negative Impacts of Two Step Enrolment:

- s.13
- s.13 . See Appendix I for details.
- After Two Step Enrolment is implemented, individuals will no longer be able to get a non-photo card – or **any** BCSC - if their names do not match.
- If an individual's names do not match, after February 21, 2018, they would be required to get a legal name change, or use the name that is on their foundational identification or on an existing BC Services Card.
- This is cumbersome for impacted individuals as they may have had ID in different names for many years. Doing a legal name change also costs money and poses an administrative burden.
- Expected increase in negative publicity, and complaints to Ministers, when Two-Step Enrolment is implemented.

Attachment(s): *Appendix I Impacts to MSP Coverage, Appendix II Medical and Health Care Services Regulation*

Contact: *Beverly Dicks –ADM, Service BC* s.17 (cell)

Appendix I: Impacts to MSP Coverage

s.13

- **New or returning residents:** After February 21, 2018, if a new or returning resident does not complete a legal change of name, and also chooses not to enroll under the name on their foundation document, they may not be able to complete their enrolment in the MSP.
- **Existing beneficiaries with non-photo card:** Would not be able to get a *new* card without a legal name change. Their MSP would continue, assuming they were still enrolled, and they would continue to be able to access provincially insured health care services using their PHN on their expired card. They would be expected to show additional ID alongside their PHN. s.13

s.13

s.13 *This is outlined in Medical and Health Care Services Regulation section 29.1 - Duty to Enrol.*

Appendix II: Medical and Health Care Services Regulation

For most adults, the enrolment process is governed by section 7.1(2) and (3) of the Regulation. Section 7.1 states:

- 7.1 (2) An adult resident must apply for enrolment as a beneficiary by
- (a) attending in person before an agent to provide proof of the applicant's identity, and
 - (b) submitting to the commission
 - (i) an application [in the prescribed form]
 - (ii) the documents required to be provided as set out in the applicable application form referred to in subparagraph (i).
- (3) For the purposes of subsection (2) (a) of this section, the applicant must provide proof of the applicant's identity that meets the identity proving requirements set out in Direction 3/12, as amended from time to time, given to the commission by the minister responsible for the Freedom of Information and Protection of Privacy Act under section 69.2 (3) of that Act.

2018 Information Note Advice to Minister

Date: February 2, 2018

Ref: 108009

Issue: Meeting with the Acting Information and Privacy Commissioner

Background / Facts:

- In August 2017, the Acting Information and Privacy Commissioner, Drew McArthur wrote to the Minister Jinny Sims to highlight a number of “priority amendments” to the *Freedom of Information and Protection of Privacy Act* (FOIPPA) and the *Protection of Privacy Act* (PIPA), and to request a meeting with the Minister. The letter is attached as **Appendix A**.
- In September 2017, the Minister, Deputy Minister Jill Kott, and other support staff met with Mr. McArthur and his staff to discuss those issues.
- The Acting Commissioner has requested a follow up meeting to seek an update on the priorities discussed with the Minister in the September meeting.
- **See Appendix B for background information on the role and mandate of the Information and Privacy Commissioner.**

Analysis:

Issues raised in the Acting Commissioner’s letter:

- s.13

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Other developments since the September meeting:

- In July 2017, the Acting Commissioner launched an investigation into government’s compliance with s. 71 of FOIPPA, which requires public bodies to establish categories of records that are available to the public without a Freedom of Information (FOI) request.
- On Sept. 20, 2017, Acting Commissioner released the annual report on the timeliness of government’s FOI responses.
- Beginning in November, the Minister has undertaken a number of roundtable engagement sessions with key stakeholder groups, in order to understand their perspectives on government’s information management practices, including FOI, proactive access to information and protection of privacy.
- **See Appendix C for analysis and recommended government response to each of these issues.**

Attachment(s):

- Appendix A: Letter of August 4, 2017 from Acting Commissioner Drew McArthur
- Appendix B: Background on the Information and Privacy Commissioner
- Appendix C: Analysis of Acting Commissioner's Recommendations

Contact:

Jill Kot, Deputy Minister, Ministry of Citizens' Services

David Curtis, Assistant Deputy Minister, Ministry of Citizens' Services

Page 03 to/à Page 10

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Appendix B: Background on the Information and Privacy Commissioner

- The Information and Privacy Commissioner for BC (Commissioner) is an independent Officer of the Legislature appointed for a renewable six-year term by an all-party Special Committee of the Legislative Assembly.
- The Office of the Information and Privacy Commissioner provides independent oversight and enforcement of British Columbia's access and privacy laws including *the Freedom of Information and Protection of Privacy Act* (FOIPPA) and the *Personal Information Protection Act* (PIPA).
 - FOIPPA applies to over 2,900 public bodies including ministries, local governments, schools, Crown corporations, hospitals, and municipal police forces.
 - PIPA applies to over 380,000 private sector organizations including businesses, charities, associations, trade unions, political parties and trusts.
- BC's Commissioner has the strongest oversight powers of any Information and Privacy Commissioner in Canada. As the provincial privacy and access regulator, the Commissioner has the mandate and power to:
 - Investigate, mediate and resolve appeals concerning access to information disputes, including issuing binding orders.
 - Investigate and resolve privacy complaints.
 - Initiate Commissioner-led investigations and audits of public bodies or organizations, if there are reasonable grounds of non-compliance or if in the public interest.
 - Comment on the access and privacy implications of proposed legislation, and public sector programs or policies.
 - Comment on the privacy implications of new public sector technologies and/or data linking initiatives.
 - Conduct research into anything affecting access and privacy rights.
 - Educate and inform the public about access and privacy rights and the relevant laws.
- The Lieutenant Governor in Council appointed Drew McArthur as Acting Commissioner on June 29, 2016.
- On March 17, 2017 Drew McArthur was appointed Acting Commissioner for a second time.
- A Special Committee to appoint an Information and Privacy Commissioner has been established by the Legislative Assembly and is currently carrying out its work.

Analysis of Acting Commissioner's Recommendations and Issues Raised

Issues Raised in the August 4, 2017 Letter to Minister Sims

Issue	Background	Suggested Response
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s.13

s.13

Recommended Amendments to the *Freedom of Information and Protection of Privacy Act* (FOIPPA)

s.13

Recommendation	Background	Response
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s.13

Recommendation	Background	Response
s.13		

Recommendation	Background	Response
s.13		

Recommendation	Background	Response
s.13		

Recommendation	Background	Response
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s.13

Recommended Amendments to the *Personal Information Protection Act* (PIPA)

Recommendation	Background	Response
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s.13

Recommendation	Background	Response
s.13		

Recommendation	Background	Response
s.13		

Recommendation	Background	Response
s.13		

Other Issues that may be raised by the Acting Commissioner

Issue	Background	Response
s.13		

s.13