

## Harriman, Rheannon CITZ:EX

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**Subject:** Minister Roundtable: Health Sector Engagement on FOIPPA

**Location:** Microsoft Teams

**Start:** Wed 2021-06-02 4:00 PM

**End:** Wed 2021-06-02 5:00 PM

**Recurrence:** (none)

**Meeting Status:** Accepted

**Organizer:** Pridmore, Kerry CITZ:EX

**Required Attendees** CITZ Deputy Minister, CITZ:EX; Ritchie, CJ CITZ:EX; Reed, Matt CITZ:EX; Harriman, Rheannon CITZ:EX; Barclay, Corrie A HLTH:EX; Shrimpton, Paul HLTH:EX; Sidhu, Sukhy HLTH:EX; Kingsford, Douglas HLTH:EX; Stuart.Bourhill@fnha.ca; XT:HLTH Hunter, Jeff; XT:Janssen, Norma HLTH:IN; XT:Malovec, Shannon HLTH:IN; McWalter, Gregor HLTH:IN; XT:Weeks, Guy HLTH:IN; XT:ClaiterLarsen, Catherine HLTH:IN; Quirk, Ron EHS:IN; XT:McDonald, Shannon HLTH:IN; XT:Gagnon, Alain HLTH:IN; Bharmal, Aamir Dr. HLTH:IN; XT:Grafstein, Eric HLTH:IN; XT:HLTH Fyfe, Mary-Lyn; XT:Lake, Dawn HLTH:IN

**Optional Attendees** XT:HLTH Grafstein; Brouwer, Shauna CITZ:EX; XT:Mann, Sandeep HLTH:IN

**\*Changing to Microsoft Teams Meeting\*** Please see link below

The Honourable Lisa Beare, Minister of Citizens' Services would like to invite you to a roundtable session on June 2nd to provide an overview and hear feedback on recent developments to improve B.C. public sector privacy and access to information rules and enable service modernization.

The focus of the session will be on how government is responding to issues raised by key stakeholders during previous engagement sessions and through comments provided to the Special Committee of the Legislative Assembly appointed to review the *Freedom of Information and Protection of Privacy Act* (FOIPPA).

The following topics will be of particular interest the health sector:

- *Data residency* – FOIPPA currently prohibits government from storing or accessing personal information outside of Canada, except in specific circumstances. The pandemic has highlighted the need for a longer-term solution to the current Ministerial Order as more and more government business is shifting to being conducted virtually.
- *Privacy Enhancements* – It has been recommended to government that all public bodies should implement Privacy Management Programs as well as be required to report privacy breaches that pose real risk of significant harm to the Office of the Information and Privacy Commissioner and to the impacted individual(s). These types of controls are becoming more commonplace within privacy compliance frameworks.
- *FOI-related concerns* – Clarifying access rights and increasing situations where public bodies can request permission to disregard requests are two solutions that have been recommended to government as a means of prioritizing access resources for most requestors.

Microsoft Teams Link Below

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# Agenda

## FOIPPA Engagement Health sector

**Date: June 2, 2021**

**Time: 4:00 – 5:00pm**

**Location: via Zoom**

<b>BC Government Attendees:</b>	<i>Ministry of Citizens' Services</i>	<i>Ministry of Health</i>
	<p>Lisa Beare, Minister of Citizens' Services</p> <p>CJ Ritchie, Associate Deputy Minister</p> <p>Kerry Pridmore, ADM, Corporate Information and Records Management</p> <p>Matt Reed, ED, Strategic Policy &amp; Legislation</p>	<p>Corrie Barclay, ADM, Health Sector IM/IT</p> <p>Paul Shrimpton, ED, Health IT Strategy and CIO</p> <p>Sukhy Sidhu, Senior Director, Privacy</p> <p>Dr. Douglas Kingsford, Provincial Chief Medical Information Officer</p>
<b>Health Sector Attendees:</b>	<p>Stuart Bourhill, VP, Information Management, and Information Technology and CIO, First Nations Health</p> <p>Dr. Shannon McDonald, A/Chief Medical Officer, First Nations Health</p> <p>Jeff Hunter, CIO, Northern Health</p> <p>Norma Janssen, VP and CIO, Interior Health</p> <p>Gregor McWalter, CIO, Fraser Health</p> <p>Dr. Aamir Bharmal, Chief Medical Information Officer, Fraser Health</p> <p>Guy Weeks, Chief Technology Officer, Island Health</p> <p>Catherine Claiter-Larsen, CIO and VP Strategy, Island Health</p> <p>Dr. Mary-Lyn Fyfe, Chief Medical Information Officer, Island Health</p> <p>Dr. Eric Grafstein, Chief Medical Information Officer, Vancouver Coastal Health</p> <p>Ron Quirk, Vice Chair, Executive Vice President, Digital Information Services &amp; Innovation, Provincial Health Services Authority and Vancouver Coastal Health</p> <p>Shannon Malovec, Chief Digital Innovation Officer, Provincial Health Services Authority</p> <p>Dr. Alain Gagnon, Chief Medical Information Officer, Provincial Health Services Authority</p> <p>Dawn Lake, Director, Digital Health Strategy, Doctors of BC</p>	

#	ITEM	LEAD
1	Welcome and introductions	Minister Beare
2	Freedom of Information and Protection of Privacy Act – 2021 Update	Minister Beare
3	Roundtable discussion	Minister Beare
4	Next steps and closing	Minister Beare

# Annotated Agenda

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TIME	#	ITEM	LEAD
10 min.	<b>1</b>	Welcome and introductions	Minister Beare
<ul style="list-style-type: none"> <li>• Thank you to everyone for taking the time to attend today</li> <li>• Introduce BC Government participants</li> <li>• Outline of what will be covered</li> </ul>			
10 min.	<b>2</b>	FOIPPA – 2021 Update	Minister Beare
<ul style="list-style-type: none"> <li>• Summarize topics of concern raised by sector in 2018 engagement / 2015 SC</li> <li>• Reminder of the Ministerial Order – its purpose, successes and limitations</li> <li>• High level overview of sector topics of interest               <ul style="list-style-type: none"> <li>○ Data Residency</li> <li>○ FOI related proposals</li> <li>○ Privacy enhancements</li> </ul> </li> </ul>			

- Offences and penalties
- Mandatory breach notifications

30 min.

**3**

Roundtable Discussion

Minister Beare

*Reaffirm input*

- Recognizing the landscape may have changed due to COVID, have your concerns regarding FOIPPA changed since we last engaged in 2018?

*Socialize potential impacts*

- A Ministerial Order was put in place to enable government to use online tools which previously were unavailable to us. Has the Ministerial Order allowed you to access programs or services you were unable to before? After the Ministerial Order is over, what do you want to be able to use? What are the current barriers?
- Do you see any concerns being raised by your stakeholders regarding the key issues we identified?

*Implementation planning*

- Based on what we've described, do you see any major barriers to implementation?
- What resources could government produce to make implementation easier?

10 min.

**4**

Next steps and closing

Minister Beare

- Will be working with Cabinet colleagues to advance this file
- Staff available for follow-up conversations with organization SMEs if needed
- Will follow-up with a summary of today's discussion

# Minutes

## FOIPPA Engagement Health sector

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## Have the concerns regarding FOIPPA have changed at all since last engaged in 2018?

s.22 a lot of conversation about amending FOIPPA, wondering where the conversation is happening about s.12 working with the Doctors of BC.

- HLTH working to update policy, hopeful they can move forward soon.

s.22 did a survey of what clinical tools being used, 80-90 tools at issue with compliance. Significant change management program to be able to shift people off the tools. Seeing AI tools in US systems that we can't use in health if still have data residency restrictions

s.22 heads down in health authorities with COVID and appreciate the strategic convo. Even before covid were struggling with this issue. Have a number of applications in use and future applications in use that they'd like to use. Feel strongly regarding analytics component and other tools where data flows to the states and being limited for health care services reform. COVID highlighted need to do things differently doing work across jurisdictions (Canada/US/other countries). A number of solutions available to US colleagues that can't take advantage. Strategies to health human resources/fiscal challenges/analytical resources are impacted if can't change. Can leverage what's being done already and what could be done in the future

s.22 FOI a huge undertaking during pandemic. Triple the number of requests that they'd normally receive in a monthly period. Not just pandemic related, just a general increase in FOI requests. Not sure if that means that people are more aware of rights but wanted to emphasis point. Currently at breaking point. Problems/solution – the fees able to charge not reflective of the amount of time responding to an FOI. Numbers are at a certain level but don't comprehend amount of pages as part of single record. Could look at fees – aligning with how long it actually takes to process requests, more close to reality. Redacting what is responsive/not in a record. At the moment guidance can't remove unresponsive information in responsive document. Small number of applicants constantly using FOI is definitely a significant burden. Since start of fiscal, single person/org has made 20 requests. Possible to broaden criteria to not respond to types of requests? Time extensions – having a look at criteria of 60 day extensions. Not for lack of trying to be able to process within the timeframe, hard to do all the harms/checking in time. OIPC has been reluctant to extend times.

s.22 data residency requirements – data residency requirements increases costs. See increase in FOI requests that are possibly punitive. Not sure of solution, maybe fees but could be more of pointed requests. Future issue – as we develop portals for people to access information, interpretation of information, need to train people on how to interpret information on info (patient, doctor, nurse practitioner, etc.). Could inadvertently mis-interpret information. Seeing it already through myeHealth gateway. Something that as people have greater access to info, need to be more thoughtful on how info is created and delivered.

s.22 FNHA not a public body. Though elements of work a part of provincial legislation, challenge is the interaction between PIPA and FOIPPA requiring special orders. Regarding FOI, not subject to FOI directly but are indirectly. Legal team spends a lot of time responding to requests that reference FNHA. Not resourced for that – becomes very challenging to be able to respond in timely manner.

- ACTION: Follow-up conversation
- Scope of government records – how could we put a box around what is a government record and what is being asked that isn't useful information. If CITZ can box things and ensure that the public can get info they need about themselves. Provide feedback offline if possible

s.22 example had request from someone that wanted every email s.22 sent that referred to HIV (10 years worth of email – to go through all of them was a lot of work but unclear what purpose was).

s.22 red sticker on data residency as an issue to be solved. International access to data and services is paramount. Regarding privacy – issue of informed consent is tricky challenge at times, not sure if legislation is addressing

- s.22 s.12; s.13  
s.12; s.13

s.22 from Doctors of BC perspective, physicians have to deal with various acts with various requirements. Get caught up in FOI requests, not resourced to do the FOI requests appropriately. Usually consulted on media ones or “advocates” FOIPPA doesn’t apply to Doctors of BC but interactions do. Also agree with all comments so far

s.22 wanted to comment about what hoping to see with portals regarding personal release of info. While there are things that will never be achieved through portals through FOI, by providing more transparency to nursing care plans/physician notes, will change relationship between care providers and patients. May reduce FOI requests for paper documentation. Significant change management on how practitioners work and divulge information. Need to prepare medical staff so the documentation is appropriate. Pre-test counselling/post-test counselling, want to reduce confusion by increasing transparency.

s.22 data residency = data privacy has moved further apart in past few years with change in cloud services. If want “world class services”, won’t be all hosted in Canada

#### **Barriers for stakeholders or implementing what being outlined?**

s.22 Have been delaying initiatives to conform to privacy standards. Have filled out more PIAs. Have 2-3 examples right now where spending so much times to take functionality out of systems so that can meet privacy requirements. Removes all the benefits that they want. Obviously still have obligation to protect privacy; what will the requirements of the future be to enforce and work with vendors around what new standards are going to be put in place? How can do effective monitoring to show that we’re protecting information? How does cyber security come into play – when data is hacked; more and more exposure on protection of data.

- Will still take same rigor we’re applying today but hopefully will have broader access to tools

#### **4 Next steps and closing**

Minister Beare

Open offer for deeper dive if anyone wants to get more information

Want to continue conversation and make sure we’re getting it right.

#### **CIRMO follow up**

s.12; s.13

- Presentation to the CCIO community that includes health on vaccine credentials and FOIPPA (Hayden contact for committee)





Ministry of  
Citizens' Services

**SPEAKING NOTES**  
for  
**MINISTER LISA BEARE**

**ROUNDTABLE WITH HEALTH SECTOR  
REPRESENTATIVES**  
*FOIPPA AMENDMENTS*

**Date: June 2**

**Time: 4:00 – 5:00pm**

**Run Time: Approx. 5 min**

## Opening Remarks

- **Good afternoon and thank you for joining us today to discuss B.C. public sector privacy and access to information.**
- **To start, I would like to acknowledge that I'm speaking from the traditional territory of the Lekwungen [La-kwung-en] speaking peoples, today known as the Songhees and Esquimalt Nations.**
- **Joining me today are:**
  - **CJ Ritchie, Associate Deputy Minister and our Government Chief Information Officer,**
  - **Kerry Pridmore, Assistant Deputy Minister, who leads the Corporate Information and Records Management Office, and**
  - **Corrie Barclay, Assistant Deputy Minister of Health Sector IM/IT from the Ministry of Health.**

## FOIPPA Overview

- **The Freedom of Information and Protection of Privacy Act, also known as FOIPPA, is an important piece of legislation.**
- **It keeps government accountable to the public and protects the privacy of British Columbians.**
- **And, as you may be aware, the Act has not been substantially updated in nearly a decade.**

- **This has created issues for public bodies such as yourselves and has meant that B.C. is falling behind other provinces.**
- **We spoke with many of you as part of a roundtable with the previous minister in 2018 and we are keen to speak with you today because we want to hear how things have changed given evolving technology and a pandemic that has forced us to work differently.**
- **Specifically, we would like to discuss how we can:**
  - **Enable a modern public sector and allow public bodies to provide better services to British Columbians,**
  - **Strengthen public-sector privacy protections, and**
  - **Respond to a number of longstanding recommendations from two Special Committees of the Legislative Assembly; the Office of the Information and Privacy Commissioner (OIPC); the public and other stakeholders like yourself.**

## **Data residency**

- **The world has changed because of the pandemic.**
- **Demand for online services has become the norm.**
  - **People are meeting with their doctors online. If they see their doctor in person, they are using apps like WaitWhile to schedule their appointments and check in.**

- **Students are attending classes online while teachers provide them with lesson materials through cloud-based platforms like Google Docs.**
- **Health authorities need to make use of speciality medical testing that are not available within Canada.**
- **We can use many of these tools because of the Ministerial Order issued in March 2020 that I recently extended again.**
- **However, this Order is only temporary.**
- **While B.C. has been seen by many as privacy-leading, these provisions have kept the public sector from using technology that would allow us to provide better services for people.**
- **As highlighted in submissions to the most recent Special Committee review of the Act in 2016,**
- **FOIPPA's data residency restrictions are limiting your ability to access a range of modern tools including**
  - **accessing specialist consultations outside Canada and**
  - **using healthcare apps on the cloud.**
- **As the Ministerial Order is not a long-term solution, we would like to hear how your organizations are impacted by data residency.**

## **FOI-Related Concerns**

- **During the last minister roundtable in 2018, we heard your concerns regarding FOI and the ability to keep up with the increasing volume of requests.**
- **We know others share these concerns across the public sector.**
- **In 2019, Government commissioned a report from Deloitte to look into government's FOI system and assess its costs.**
- **This report estimated that the total cost to Government of processing one FOI request is \$3,000.**

**There's been a 40% increase in the cost of FOI services for Government which are the result of a small number of applicants making repetitious requests and seeking records unrelated to government operations.**

- **People who make a small number of requests are waiting much longer for their records because the frequent, repeat applicants are bogging down the system.**
- **We are keen to hear whether the same is true within your organizations and if there are measures that could help reduce the impact of these increasing FOI requests such as:**
  - **A minor application fee for general requests that would not apply to individuals requesting their own information,**

- **Limits to FOI requests not related to government business, and**
- **Expanded criteria under which a public body can apply to the Commissioner to disregard a request.**

## **Privacy enhancements**

- **There are also opportunities to enhance privacy protections.**
- **Though British Columbia already has a strong privacy management framework, we have heard calls for enhancements to this framework so that we remain at the forefront of privacy protection in Canada.**
- **These include new requirements to notify individuals of a privacy breach and report to the Commissioner.**
- **And for public bodies to have a privacy management program to ensure the necessary framework is in place to meet their obligations under the Act.**
- **While these requirements may not be extensive, they would significantly enhance privacy across the public sector.**
- **And will help balance any perceived loss of privacy protections associated with any potential changes to the Act's data-residency provisions.**

## **Closing Remarks**

- **I appreciate the time you've taken out of your busy schedules to speak with us today.**

- **We feel the timing is right to make the Act work better for both the people of British Columbia and the public sector.**
- **If there is any additional information you or others from your organization need from my Ministry, please reach out.**

...if needed, questions to prompt discussion

- **Recognizing the landscape may have changed due to COVID-19, have your concerns regarding FOIPPA changed since we last engaged in 2018?**
- **A Ministerial Order was put in place to enable public bodies to use online tools which previously were unavailable.**
  - **Has this allowed you to access helpful programs or services you were unable to before?**
  - **After the Ministerial Order is over, what do you want to be able to continue to use?**
  - **Are there current barriers you are dealing with?**
- **Do you see any concerns being raised by your stakeholders regarding the issues we identified?**
- **Based on what we've discussed, do you see any barriers to implementing any of these recommendations?**
- **What resources could government produce to make implementing these recommendations easier?**

## Biggs, Jackie CITZ:EX

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**From:** Garneau, Tanya CITZ:EX on behalf of Pridmore, Kerry CITZ:EX  
**Sent:** June 25, 2021 12:55 PM  
**To:** Bourhill, Stuart HLTH:IN; XT:McDonald, Shannon HLTH:IN; XT:HLTH Hunter, Jeff; XT:Janssen, Norma HLTH:IN; McWalter, Gregor HLTH:IN; XT:Hassanali, Dr. Amyeen HLTH:IN; Bharmal, Aamir Dr. HLTH:IN; XT:Mann, Sandeep HLTH:IN; XT:Weeks, Guy HLTH:IN; XT:ClaiterLarsen, Catherine HLTH:IN; XT:HLTH Fyfe, Mary-Lyn; XT:Grafstein, Eric HLTH:IN; Quirk, Ron EHS:IN; XT:Malovec, Shannon HLTH:IN; XT:Gagnon, Alain HLTH:IN; XT:Lake, Dawn HLTH:IN; Barclay, Corrie A HLTH:EX; Shrimpton, Paul HLTH:EX; Sidhu, Sukhy HLTH:EX; Kingsford, Douglas HLTH:EX  
**Cc:** Ritchie, CJ CITZ:EX; Pridmore, Kerry CITZ:EX; Reed, Matt CITZ:EX; Harriman, Rheannon CITZ:EX  
**Subject:** Follow-up: Minister roundtable on FOIPPA 2021-06-02  
**Attachments:** Summary - Minister roundtable - Health sector 2021-06-02.pdf

Good afternoon,

Thank you very much for attending the FOIPPA Roundtable on June 2<sup>nd</sup> with the Minister of Citizens' Services to discuss B.C.'s public sector privacy rules.

We heard some very interesting feedback and have developed the attached high-level summary of the conversation. If you have any additional thoughts on data residency or other FOIPPA topics, please be sure to get in touch.

We have recently launched a survey to solicit input on government information access and privacy: [Information Access and Privacy 2021 | govTogetherBC](#). The survey will be available until July 15<sup>th</sup>, please take a moment to provide your thoughts and share with your colleagues where appropriate.

Responses from the survey as well as roundtables like the one you participated in will help inform future decisions about online government services and how government manages the collection, storage, use and disclosure of personal information. If you have any questions, please contact [IM.ITpolicy@gov.bc.ca](mailto:IM.ITpolicy@gov.bc.ca).

Thank you again.

**Kerry Pridmore** | Assistant Deputy Minister |  
Corporate Information and Records Management Office |  
Ministry of Citizen Services |  
Cell: 250-507-1485 |



# Summary of Discussion

## FOIPPA Engagement - Health sector

June 2, 2021

4:00 – 5:00pm

### BC Government

#### Attendees:

#### *Ministry of Citizens' Services*

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Matt Reed, ED, Strategic Policy &  
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### Session purpose:

- Hear feedback on opportunities to improve B.C.'s public sector privacy rules with a focus on data residency, FOI, and privacy protection requirements.

### Key themes:

- Data residency restrictions slowing health care reform and impacting ability to collaborate
  - COVID highlighted need to collaborate across jurisdictions – restrictions impact data flow
  - Addressing restrictions could improve access to human resources, address fiscal challenges and improve analytical resources
  - When working within current privacy requirements – often end up reducing functionality of a tool to a point where it doesn't meet the original needs
- Intersection between FOIPPA / PIPA and HIMA and other acts
  - Need clarity on intersection between PIPA/FOIPPA/HIMA – especially for FNHA and Doctors of BC
- Increasing FOI requests need to be addressed – taking time away from patients
  - Substantial increase during pandemic on all requests
  - Encourage review of fees – currently doesn't align with cost of processing a request

- Increasing access to patient information through portals could possibly reduce FOI requests but also potential for inadvertent misinterpretation of results. Will increase need for patient supports.
- Potential improvements could include broadening criteria to not respond to certain requests and reviewing/broadening criteria for 60-day extensions.