

**From:** [Nancy Taylor](#)  
**To:** [Nancy Taylor](#)  
**Cc:** [Reed, Matt CITZ:EX](#); [Harriman, Rheannon CITZ:EX](#); [LGMA Office](#); [Adrian Paradis](#)  
**Subject:** FOIPPA Roundtable June 24  
**Date:** June 14, 2021 10:35:29 AM

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**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Good morning, thank you for volunteering your time to join the Ministry of Citizens' Services to participate in a one-hour roundtable **Thursday, June 24 from 10-11:00 a.m.** to provide an overview and hear feedback on opportunities to improve B.C. public sector privacy and access-to-information rules as well as enabling service modernization. The session will focus on how local governments could potentially be impacted by recommendations received by government during previous engagements, including [submissions](#) made 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 for discussion:

- *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 and also 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 the majority of requestors.

You will receive a Zoom link to join the session on June 24 by separate email.  
Please don't hesitate to be in touch if you have any questions or concerns.  
Nancy



**NANCY L TAYLOR**  
*Executive Director*

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## Harriman, Rheannon CITZ:EX

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**To:** Nancy Taylor  
**Subject:** RE: FOIPPA Roundtable with Ministry of Citizen Services

-----Original Appointment-----

**From:** Nancy Taylor <ntaylor@lgma.ca>

**Sent:** June 14, 2021 10:50 AM

**To:** Nancy Taylor; lcharlton@fortstjames.ca; nbest@tofino.ca; WGould@qualicumbeach.com; snichols@kamloops.ca; danderson@kamloops.ca; XT:Temple, Sarah CITZ:IN; clee@kentbc.ca; kjensen@rdffg.bc.ca; thlushak@rdek.bc.ca; atownsend@langford.ca; lhewson@coquitlam.ca; Kkim@crd.bc.ca; Sheila.Gurrie@nanaimo.ca; Jacqueline Killawee; tpennell@districtoftaylor.com; corporate@rdkb.com; Kathleen.Harrison@cvrd.bc.ca; sandi.horning@rdco.com; Reed, Matt CITZ:EX; Harriman, Rheannon CITZ:EX

**Cc:** 'sloehrich@surrey.ca'; 'Sharon Byrch'; Kim Paterson; Brandon Hill; Jeanette McDougall; Elle.brovold@campbellriver.ca; Deb Hopkins; Peter Smith

**Subject:** FOIPPA Roundtable with Ministry of Citizen Services

**When:** June 24, 2021 10:00 AM-11:00 AM (UTC-08:00) Pacific Time (US & Canada).

**Where:** Zoom Link below

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

LGMA is inviting you to a scheduled Zoom meeting.

Topic: FOI Roundtable

Time: Jun 24, 2021 10:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

s.15; s.17

Meeting ID: s.15; s.17

One tap mobile

s.15; s.17

Dial by your location

s.15; s.17

Meeting ID: s.15; s.17

Find your local number: s.15; s.17

# FOIPPA update

**Local government roundtable**

**June 24, 2021**

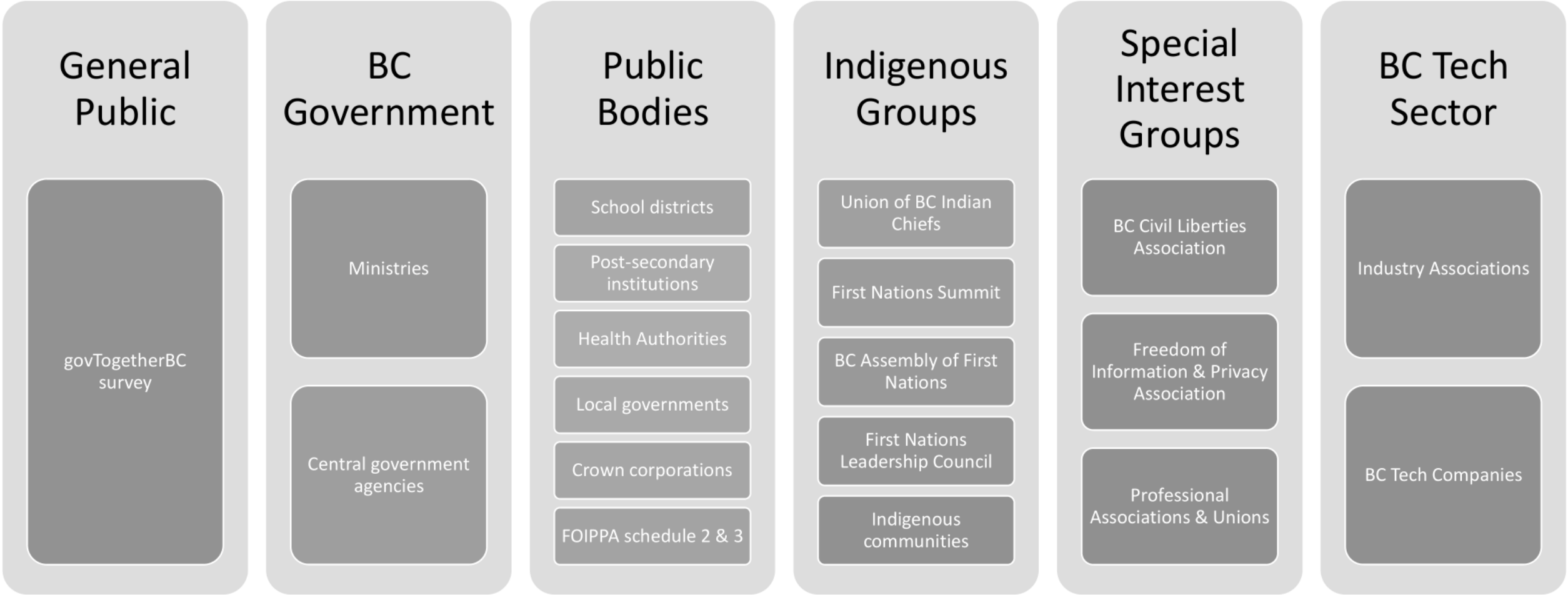


Ministry of  
Citizens' Services

# Agenda

- Background
- FOIPPA key issues for 2021
- Closing and next steps

# Stakeholders



# Data residency

## **Issue:**

- B.C. public bodies have access to a limited set of services delivery tools.
- Public bodies need more modern communications and collaboration tools, software and other technologies people expect.
- Ministerial Order enabling use of similar tools during the COVID-19 state of emergency is useful but only temporary measure.

## **Potential approach:**

- Government has received recommendations suggesting a regulatory framework that places controls on the disclosure of personal information outside of Canada (in lieu of restricting it).
- Government has also received recommendations suggesting the data residency regime stay in place as-is.

# Data residency

## Questions:

What kinds of criteria do you think should be considered as part of this new regulatory framework? (e.g. technical, administrative or contractual controls)

What “classes of information” do you think require differential treatment? (e.g. high/medium/low sensitivity; or health information vs employment information; others?)

# Privacy enhancement

## **Issue:**

- Stakeholders have raised opportunities to enhance B.C.'s robust privacy management framework and ensure B.C. remains at the forefront of privacy protection in Canada.

## **Potential approach (per Special Committee recommendations):**

- Require public bodies to report privacy breaches to the Office of the Information and Privacy Commissioner (OIPC) and notify affected individuals.
- Require public bodies to have a privacy management program.
- Repeal and replace data-linking provisions.
- Strengthen Privacy Impact Assessment requirements.



# Privacy enhancement

## **Questions:**

Do you see any barriers to implementing the proposed measures?

What kind of support or resources could government provide to make implementation easier?

# FOI service improvements

## **Issue:**

- Increasing costs for public bodies to process FOI requests due to rise in requests
- Increasing number of broad, recurring, and complex requests that are not related to government business and possibly vindictive in nature.

## **Potential approach:**

- 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.
- Expanded criteria under which a public body can apply to the Commissioner to disregard a request.

# FOI service improvements

## Questions:

Do you think the proposed measures will improve the FOI process for your organization?

Do you see any barriers to implementing the proposed measures?

What kind of support or resources could government provide to make implementation easier?

# Questions?

Matt Reed, Executive Director  
Strategic Policy & Legislation  
[Matt.Reed@gov.bc.ca](mailto:Matt.Reed@gov.bc.ca)

Rheannon Harriman, Director  
[Rheannon.Harriman@gov.bc.ca](mailto:Rheannon.Harriman@gov.bc.ca)

# Minutes

## FOIPPA Engagement – Local Governments

**Date: June 24, 2021**

**Time: 10:00 – 11:00am**

**Location: via Zoom**

**Ministry of Citizens' Services  
Attendees:**

Kerry Pridmore, ADM, Corporate Information and Records Management  
Matt Reed, ED, Strategic Policy & Legislation  
Rheannon Harriman, Director, Strategic Policy & Legislation

**Local Government RSVPs:**

Nancy Taylor, Executive Director, Local Government Management Association  
Andrea Townsend, Records and FOI Coordinator, City of Langford  
Anitra Winje, Manager of Corporate Administration / Corporate Officer, Regional District of Kootenay Boundary  
Brandon Hill, RDFFG  
Clair Lee, Director of Corporate Services, District of Kent  
Deb Hopkins, District of Highlands  
Denise Anderson, Legislative Assistant, City of Kamloops  
Elle Brovold, City of Campbell River  
Jacque Killawee, City Clerk, City of New Westminster  
Karla Jensen, GM Legislative and Corporate Services, RD of Fraser- Fort George  
Kathleen Harrison, Deputy Corporate Officer, Cowichan Valley Regional District  
Kevin Kim, Manager, FOI & Privacy, Capital Regional District  
Lauren Hewson, Information, Privacy & Administrative Services Manager, City of Coquitlam  
Luke Charlton, Corporate Officer, District of Fort St. James  
Megan Waggoner, Records/Information & Privacy Coordinator, City of Nanaimo  
Nikki Best, Manager of Corporate Services, District of Tofino  
Peter Smith  
Sandi Horning, Supervisor-Corporate Services, Regional District of Central Okanagan  
Sarah Temple, Deputy Corporate Officer, District of Sooke  
Sharon Byrch, Manager Information Services  
Sheila Gurrie, Director, Legislative Services, City of Nanaimo  
Sophie Loehrich, City of Surrey  
Stephanie Nichols, Privacy Officer, City of Kamloops  
Tina Hlushak, Acting Corporate Officer, Regional District of East Kootenay  
Tyla Pennell, Corporate Officer & Deputy Financial Officer, District of Taylor  
Weslie Gould, Deputy Corporate Administrator, Town of Qualicum Beach

#	ITEM	LEAD
1	Welcome and introductions	Nancy Taylor
	•	
2	Freedom of Information and Protection of Privacy Act – Key Issues	Kerry Pridmore / Matt Reed

•		
3	Roundtable Discussion	All
	<p><b>Data residency</b></p> <ul style="list-style-type: none"> <li>• s.22 I support contractual controls with clear guidelines for companies.</li> <li>• s.22 even if there are controls, aren't the privacy rights of Canada? <ul style="list-style-type: none"> <li>○ As well, I find companies such as Microsoft are wanting to do business in Canada and are putting in data centres in BC or Canada to store our data</li> <li>○ s.22 to Everyone: 10:14 AM</li> <li>○ Guidelines or regulations is better. It would be good to define what Reasonable Security is. Have a Canadian Standard to meet as we currently only rely on US standards such as SAS 70 compliance. For example, encrypting security at rest and in transit but ensure that the Public Bodies maintain the encryption keys.</li> </ul> </li> <li>• s.22 Contractual controls are problematic – big companies like Microsoft don't want to make specific contracts for your smaller organizations. Have basic ones. End up coming up with equivalency to what we'd normally be asking for contractual obligations. Understand why you would want enforceable contract but difficult with larger companies</li> <li>• Moved building permit to US and have consent form in place but causing a lot of grief. People who use other US resident company because being overt about location of information. Causing a lot of concerns. Putting consent in place causing a lot more concerns than it needs to or is valid. The company is small, good security so isn't really an issue but people are seeing it as an issue</li> <li>• s.22 Any local government is very overworked and understaffed, want to streamline services/work but often aren't compliant. Have to balance privacy vs. security risk <ul style="list-style-type: none"> <li>○ Email and personal names not being part of requirement would open a lot of options to give better service. Identify what really is personal information and classifying as such</li> </ul> </li> <li>• s.22 Common issue we have - finding new solutions to bring us into the present day. Surveys for the public (public engagement), time tracking for employees, etc. ... not a lot of choices and the choices are often not great <ul style="list-style-type: none"> <li>○ Consent form ... if there was a clear "you need to say THIS" in the legislation, that would be very helpful (group agreement)</li> </ul> </li> <li>• s.22 I support controls over restrictions. There should be different classes I believe. i.e. health, personal information having a higher standard of protection is important. Needs to be strong awareness for how and what information would be. Contracts can be an issue. Monday.com is one we are using but are restricting use. <ul style="list-style-type: none"> <li>○ email is a good point. one challenge we had is sending out employee/elected official paystubs electronically but having to limit to RD email address instead of personal email address due to out of country email providers and this has not sat well with some employees and elected officials.</li> </ul> </li> <li>• s.22 Have experienced issues with service providers, particularly recreation program service providers not meeting section 33 and therefore not being able to provide service.</li> <li>• s.22 Has been seeing that data residency issue is big across government. Pro-guidelines and standards so we can host data outside Canada. Only issue – don't have Canadian standard, rely a lot on US standards for compliance. With FOI legislation, doesn't define what reasonable security is. Means different to different people. Potential to add security risk assessments to PIAs. BC/Canadian standard as best practice to help security folks. Use cloud privacy protection schedule but get a lot of pushback. Say they're meeting GDPR so why do they need to meet additional standards?</li> <li>• s.22 confusion around employee personal information. Distinction between "contact info" and "work product. Looking at new intranet which has social media type components – leads to situation where ending</li> </ul>	

up collecting not information that is needed to manage employee relationship but is it so sensitive that we need explicit consent? Can we treat those types of info differently

- s.22 Smaller municipalities are really pressed to do more with less. Trend towards free services and things like google tools. Concerned that without tightening PIA and security controls, will trend toward free services that may not have good security resources/IT departments to provide oversight and support. Could trend towards troubles. Some info that might end up outside Canada would be things that don't want those jurisdictions managing the data. E.g. criminal record checks, employee records etc. could end up in US/elsewhere without much thought and suddenly data is exposed. Just don't know enough about what neighbours are doing. Interested in how we can leverage third party services better but has to be more legislation details regarding security and appropriate use.
- s.22 Has there been consideration about pre-approving third party providers? A lot of local governments are doing the same work. E.g. setting up a green list of companies that could be used – single sourced approval process for providers (lots of support)
  - Follow-up with links regarding PIAs and privacy email

### Privacy enhancement

- s.22 additional requirements for PIAs and requirement for privacy mgt program puts more pressure on small local governments that staff where multiple hats. If this is required, could the province develop a pro forma privacy mgt program that local governments could use as a starting point?
- s.22 current FOIPPA makes PIA mandatory but find it rigid. Even PIA without personal information being captured. Can skip majority of parts but writers still feel overwhelmed by having to do it. If possible to just focus on doing PIA when personal information is involved. PIA threshold assessment/check list – If not collecting personal information reduce the content substantially. E.g. decision tree to reduce the amount of work.
- s.22 Town of Qualicum Beach to Everyone: 10:31 AM
- Generally, I find training on all FOIPPA issues to be lacking. A lot of on the job training, which is only as good as the person training you ...
- s.22 -RDKB to Everyone: 10:31 AM
- Workshops would be helpful. Templates, guidelines.
- s.22 -RDKB to Everyone: 10:32 AM
- Even a local government working group for ongoing support.
- s.22 to Everyone: 10:33 AM
- I think it is good to do the PIA exercise to make your organization think about what information they are collecting and thinking about personal information that could be included
- or not included, brings an awareness to the workplace
- s.22 Do need clarification on PIA language. With MO it says that local bodies need to do pIA if data linking but doesn't say that after that you need to do the PIA. Still need to be compliant with privacy provisions of FOIPPA. PIA is a way to show you're compliant. Best practice is to do PIA but current language is causing confusion – doesn't look like you have to do them. Government process works. Have short form PIA where if not using personal information – do a quick review. The ones that come back saying that don't have personal information, often is. Security and privacy issues on those ones. Have a two step process – can share with group. Need clarification on language. Don't know why different language between BC public bodies and local public bodies?
- s.22 org is going through process with senior management team to do re-org of departments and have been so lean for so long that every department is requesting additional people just to keep up with regular practices. If there's a requirement from the province for a PMP – might give the weight to get additional employee to be focused on privacy rather than adding on the edge of someone's desk.
- s.22 to Everyone: 10:39 AM

- I think a legislated privacy management program for local governments would help - but there would need to be some kind of audit process to ensure compliance

#### FOI service improvements

- s.22 Town of Qualicum Beach to Everyone: 10:39 AM
- Yes ... keeping up with FOIPPA, records management, are items that are 'on the side' tasks to my regular duties and they really deserve a full-time staff person, but that's a hard sell
- General support for application fee and fee for time severing information
  - Concerned about equity of application fee
  - Want to charge for severing time and increase the time charges/costs
  - Potential to reimburse or subtract from subsequent fee estimate
  - Modernizing the fee schedule
  - sometimes it takes more effort to collect fees than what the fees are - we always weight that out. I agree with cost recovery for severing.
  - I think it depends on the time needed for severing info. We often redact personal info related to building files but the severing is minimal.
- s.22 coming into unique world of commercial transactions – asking for personal information on property information for transacting on personal property to do business. Creating a surplus of work new to them. Don't have tools to separate this work from normal personal information requests. New stream of requests – realtors/lawyers asking for clients. They're all commercially related. Potential to redefine commercial applicants related to this
  - Redundant and outdated things in fee schedule (e.g. floppy disks).
  - Also not every local government is outfitted to distribute content of records requested. Looking for ways to support local government when not able to access technology to produce records.
- s.22 people asking for electronic versions using pdf but can't send for sending electronic copies. Putting out thousands of pages of documents but no way to charge for it. Amount of time it takes to sever personal information 0 asking for documents for 20 years, severing takes hours when going through thousands of pages of documents. A lot of people putting in requests as "in public interest" so want fee waiver. Difficult to confirm it actually is in public interest, takes time, when put fee estimate on have had people go to OIPC and complain that unfair. Then have to develop response to fee waiver, cost thousands in staff time to recoup \$300
- s.22 very much agree with previous comments. Can't charge for severing doesn't seem reasonable. Fee can be charged for prep but doesn't include severing or reviewing doesn't make sense.
- s.22 in COVID state when not dealing with paper records, spending a lot of time converting to electronic files that can't be charged for.
- s.22 in favour of an application fee. Depends if first 3 hours of search is free – seeing increase in people splitting up single large request into small requests to reduce fee. Difficult to classify these as vexatious, people work around it.
  - s.22 OIPC confirmed that can group them together
  - s.22 personal experience of grouping and then applicant then complained to the OIPC then ended up needing to respond
- ACTION – ministry session on FOI process improvements
- s.22 support application fee to reduce the amount of time to create fee estimate. Feel like we should be able to charge for severing. Would be nice to collaborate with real estate industry to figure out what is driving the personal/commercial requests. Want to figure out how to work together better on this subject.
- s.22 commercial applicants. As part of schedule can charge actual cost to commercial cost but not able to charge for first 3 hours or time spent severing. Wondering if there's an opportunity to charge commercial applicants for processing request?



- Supports and resources – having fact sheets/check list on standards (e.g. processing petition, building records)
- s.22 suggest doing this kind of event annually and talk about these issues being raised. Send issues ahead of time and figure out how to address these advanced topics. Training is often basic not high level needed.
- s.22 to Everyone: 10:44 AM
- like to make it easier to not respond to requests - when they are repeat requests
- s.22 move to a fee for service - this is what we have done
- s.22 -RDKB to Everyone: 10:44 AM
- same with us.
- s.22 to Everyone: 10:45 AM
- Agree s.22 the application fee may cause more administrative work than it's worth, like the idea of making it optional. Updating the fee schedule to recover more costs the municipality incurs would help justify staff positions required to process requests.
- s.22 to Everyone: 10:45 AM
- s.22 that is our experience also.
- s.22 to Everyone: 10:45 AM
- 100% agree, we are facing that exact influx in requests because of realtors. Its a struggle.
- s.22 -RDKB to Everyone: 10:46 AM
- We take large plans to a local printer and charge accordingly.
- 90% of our FOI requests are related to building plans.
- s.22 to Everyone: 10:46 AM
- resources need - Fact Sheets we can rely on such as here is out to handle Petitions, Permits, etc..
- s.22 to Everyone: 10:47 AM
- Local governments have the power to implement fee estimates separate from the FOI fee schedule. Maybe fee schedule for building records?
- s.22 to Everyone: 10:47 AM
- agree s.22 - checklists would be so helpful and time-saving
- s.22 -RDKB to Everyone: 10:50 AM
- Yes not having an application fee promotes the concept of open and accessible government.
- s.22 to Everyone: 10:51 AM
- A small application fee will hopefully deter folks from requesting just because... I think regardless we should have an application fee..
- s.22 to Everyone: 10:52 AM
- On the flip side of charging for severing and charging more, which I'm not saying is an issue, it could be a barrier for a lot of requesters and not the spirit of the Act.... just to be devil's advocate! :)
- s.22 to Everyone: 10:52 AM
- Or maybe a mix and match - charge for protecting third party personal information, but not for s.13 (policy advice to public body, etc.)
- s.22 to Everyone: 10:54 AM
- I think there is a need for advance training on FOI.
- s.22 Mgr. Information Services to Everyone: 10:54 AM
- Just for comments record (I raised this already): I'm good with a small application fee but I'd like to see commercial applicants redefined to include a request for personal information if it is used for commercial purposes.

- Also for comments record: legislate the privacy management program so local governments have a statutory requirement to fund it.
- s.22 to Everyone: 10:55 AM
- I think we need to consider the cost to the City of implementing an application fee - there is a cost to processing any type of payment
- s.22 to Everyone: 10:55 AM
- Yes, statutory requirement for funding please
- s.22 to Everyone: 10:55 AM
- I think not allowing commercial requests for personal information.
- s.22 Mgr. Information Services to Everyone: 10:56 AM
- Also, we aren't discussing this but I hope the previous submissions will be considered, such as the duty to document and giving the OIPC the powers to investigate authorized destruction of records
- s.22 to Everyone: 10:56 AM
- my approach was generally to group requests where the same areas would need to be searched. E.g. instead of separate 3 free hours for each search
- s.22 to Everyone: 10:57 AM
- Agree with comments re fee estimates. We made extensive use of "preliminary" fee estimates at the start of the process
- s.22 Mgr. Information Services to Everyone: 10:58 AM
- If you embed the duty to document & give the OIPC the powers to investigate authorized records destruction, it will provide full lifecycle control over records in one clear legislation
- s.22 to Everyone: 10:59 AM
- Past experience with a repeat requestor and asking the OIPC for guidance/comment to determine if vexatious, we were told good luck, it's rarely possible to meet the test. This is a huge strain on limited municipal resources and ends up costing tax payers. Would love to see this expanded to support municipalities.

#### 4 Next steps and closing

Kerry Pridmore /  
Matt Reed

-

# Summary of Discussion

## FOIPPA Engagement – Local Governments

**June 24, 2021**

**10:00 – 11:00am**

**Ministry of Citizens' Services attendees:**

Kerry Pridmore, ADM, Corporate Information and Records Management

Matt Reed, ED, Strategic Policy & Legislation

Rheannon Harriman, Director, Strategic Policy & Legislation

**Local Government attendees:**

Nancy Taylor, Executive Director, Local Government Management Association

Andrea Townsend, Records and FOI Coordinator, City of Langford

Anitra Winje, Manager of Corporate Administration / Corporate Officer, Regional District of Kootenay Boundary

Brandon Hill, Records Management Coordinator, Regional District of Fraser-Fort George

Deb Hopkins, District of Highlands

Denise Anderson, Legislative Assistant, City of Kamloops

Jacque Killawee, City Clerk, City of New Westminster

Karla Jensen, GM Legislative and Corporate Services, RD of Fraser- Fort George

Kathleen Harrison, Deputy Corporate Officer, Cowichan Valley Regional District

Kevin Kim, Manager, FOI & Privacy, Capital Regional District

Lauren Hewson, Information, Privacy & Administrative Services Manager, City of Coquitlam

Luke Charlton, Corporate Officer, District of Fort St. James

Nikki Best, Manager of Corporate Services, District of Tofino

Peter Smith

Sandi Horning, Supervisor-Corporate Services, Regional District of Central Okanagan

Sarah Temple, Deputy Corporate Officer, District of Sooke

Sharon Byrch, Manager Information Services

Sheila Gurrie, Director, Legislative Services, City of Nanaimo

Sophie Loehrich, City of Surrey

Stephanie Nichols, Privacy Officer, City of Kamloops

Tina Hlushak, Acting Corporate Officer, Regional District of East Kootenay

Weslie Gould, Deputy Corporate Administrator, Town of Qualicum Beach

**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:**

- Support easing data residency restrictions to allow access to modern tools; however, want to do it in a way that maintains security guidelines while also balancing pressure on staff time.
  - Encourage establishment of security standards / common contractual controls to ensure information protected appropriately without requiring each municipality to figure out their obligations.
  - Need definition of "reasonable security"
  - Concerned increased access to tools will result in a proliferation of services without the appropriate IT oversight/guidance.
- Supportive of Privacy Management Programs with appropriate supports and training.
  - Needs to be easy to follow and not super prescriptive

- High influx of FOI requests coming from various sources straining resources in local governments.
  - Supportive of application fees; however, want to ensure it does not become a barrier to access information and does not substantially increase administrative load for municipalities.
- Participants requested more support and training as moving through potential fall implementation – how this will change current processes and general privacy and information management training/materials