

**From:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
**Sent:** November 25, 2021 4:10 PM  
**To:** Pinske, James CITZ:EX; Robinson, Francoise CITZ:EX; Prodan, Matthew CITZ:EX; Mullane, Loren CITZ:EX; Reed, Matt CITZ:EX; Sime, Mark CITZ:EX; Ghag, Kris CITZ:EX; Kukucska, Cindy L CITZ:EX; Appleton, Natalie CITZ:EX; Romero, Jenny CITZ:EX; Meyer, Darcie CITZ:EX; Drohan, David A CITZ:EX; Jones, Emily CITZ:EX  
**Subject:** App fees - summary and next steps

Hey all,

Just a quick summary of where things are at:

- Waiting for a resource from MIRR, expect that EOD today or first thing tomorrow
- DN sent to Kerry just now. Recommended option to not charge app fees for IGEs and to look at broader definition and search/processing fees at a later date. Big thanks to SPL for their policy work on this and to Emily for drafting. AMAZING!
- I will report back to this group when I hear back on DN
- Interim web content proposed to Kerry for feedback: If you are an Indigenous Governing Entity ([link to def](#)) you are not required to pay application fees. Please contact IAO by email ([link](#)) or mail ([address](#)) to submit your general request as a representative of an IGE, instead of using this online form. For additional support, please contact IAO by phone ([number](#)).
- Webform development underway, should be ready mid-week next week. Will include check box to enable bypassing PayBC and some certification language that leads to a text box where the applicant will fill out what IGE they are representing.

Will likely need to press for web content updates tomorrow, but will need decision on note before we can proceed with that.

I'll be in touch as I learn more. Thanks so much all for the amazing and fast work on this!  
Rhianna

**Rhianna Begley** | she/her  
Executive Director, Information Access Operations  
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**From:** Pridmore, Kerry CITZ:EX <Kerry.Pridmore@gov.bc.ca>  
**Sent:** November 26, 2021 11:24 AM  
**To:** CITZ CIRMO ALL  
**Subject:** CIRMO - FOIPPA Royal Assent



## Citizens' Services Kerry Pridmore



Hi everyone:

I wanted to provide you with an update on a major milestone. Last night, Bill 22 – the *Freedom of Information and Protection of Privacy Amendment Act* – received royal assent.

Most changes to FOIPPA come into effect immediately (*in reality Monday once final documentation is finalized*) and will enhance CIRMO's ongoing work to improve information access and privacy protection for the people of British Columbia. Thank you to everyone across the Division who has provided input, support, and expertise to these important updates.

As discussed at the CIRMO all staff on October 21st, highlights of the amendments include:

- Updating FOIPPA's data-residency provisions so public bodies can use modern tools while continuing to protect the personal information people entrust to government.
- Enhancing public-sector privacy protections and increasing accountability by implementing mandatory privacy breach reporting and increasing penalties for offences.
- Introducing an application fee for most general (non-personal) FOI requests.
- Increasing information sharing with Indigenous peoples, adding Indigenous cultural protections and replacing non-inclusive language.

To inform the changes, significant engagement was undertaken with Indigenous leaders, businesses, organizations, the public, and subject-matter experts across the public sector. A summary of the conversations can be found on the [govTogetherBC website](https://www.govtogetherbc.ca).

I recognize this is a first step in a longer journey as, for many of us, these changes will significantly impact our day-to-day work. A FOIPPA Implementation project has launched with representatives from all branches and Mark Sime as the sponsor. Through this project, support guides and resource materials are well underway and will be available as soon as possible.

We will hold a CIRMO information session in the coming week, in addition sessions are being offered for ministries and the broader public sector through December and into 2022. Check [www.gov.bc.ca/privacytraining](https://www.gov.bc.ca/privacytraining)

for updates. If you have questions, please do reach out to the Executive Director within your Branch for specific questions that impact your Branch – we would ask for patience as this will take time. Specific legislation questions can be directed to: the Strategic Policy and Legislation Branch at [IM.ITPolicy@gov.bc.ca](mailto:IM.ITPolicy@gov.bc.ca).



Thank you for all for the dedication and hard work on these changes. If you can, enjoy the sunshine today, before more rain in the forecast over the weekend.

Kerry Pridmore  
Assistant Deputy Minister  
Chief Records Officer  
Corporate Information and Records Management Office  
Ministry of Citizens' Services

**From:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
**Sent:** November 26, 2021 12:19 PM  
**To:** CITZ CIRMO IAO FOI  
**Subject:** FOIPPA Royal Assent - IAO implementation

Good afternoon all,

With Kerry's exciting news below, I'm sure you're wondering what this means for you? For starters, you'll want to review the proposed changes related to FOI – it doesn't look like they are up on QP yet, so for now take a look at the amendments via [Bill 22](#), or the summaries below:

- s.13

- s.13

We anticipate that most folks

will submit their request and pay their application fee through our web form. Alternatively, application fees will be collected by IAO Intake directly through the recently installed POS machines or by cheque. IAO's web content will be updated on Monday with information about application fees. Application fees will not be charged for general FOI requests submitted by Indigenous Governing Entities. Application fees will not be charged for personal requests. A quick note to share my gratitude to all of the many folks who have worked incredibly hard over the last few weeks to develop the systems, processes and web content that will enable us to collect application fees.

- s. 3(5)(b)(c) and (d): Part 2 no longer applies to records that do not relate to the business of the public body; a record of metadata that is i) generated by an electronic system, and ii) describes an individual's interaction with the electronic system; or, an electronic record that has been lawfully deleted by an employee of a public body and can no longer be accessed by the employee.
- s. 16: Repeal of s. 16(3), meaning that where related to an Indigenous Governing Entity, s. 16 can be applied, regardless of whether the records have been in existence for 15 or more years.
- s. 18.1/s. 23: This is a new *mandatory* exception. Given the consent requirement, please also be aware that there are new s. 23 requirements

Disclosure harmful to interests of an Indigenous people: 18.1 (1) The head of a public body must refuse to disclose information if the disclosure could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop any of the following with respect to the Indigenous people: (a) cultural heritage; (b) traditional knowledge; (c) traditional cultural expressions; (d) manifestations of sciences, technologies or cultures. (2) Subsection (1) does not apply if the Indigenous people has consented in writing to the disclosure.

- s. 43: The criteria that the Commissioner can use to authorize a public body to disregard a request has expanded to include when: the request is for a record that has been disclosed to the applicant or that is accessible by the applicant from another source, or; responding to the request would unreasonably interfere with the operations of the public body because the request; is excessively broad or is repetitious or systematic.

As you know, there are a number of IAO staff involved in supporting implementation of the amendments, including development of operational policy for the above amendments. Please expect updates from the teams working on operational policy in the coming weeks.

In the meantime, I'm sure you are wondering what this means for your current files. As a general guideline, IAO will:

- Not revisit files that are already in sign off\*
- Revisit files that are actively being reviewed by IAO, unless that file is over 500 pages\*
- \*The above parameters do not apply to files that may include content that will be severed under s. 18.1. Because s. 18.1 is a mandatory exception, all response packages that are released must have s. 18.1 applied. Please escalate to your TL and Manager any files that are in sign off that may need to be pulled back.



- Please also escalate to your TL and Manager if you have files that meet the above parameters, but you feel should still be revisited because of one of the other amendments (e.g. there is content that will attract s. 16 now that the 15 year requirement is no longer applicable).

There will be broader implications at the intake stage. For the most part, the Intake team will handle application fees. Anticipate more information from the Intake team on implementation and any new actions for you early next week.

If you have questions on a specific file, please raise to your TL and Manager. Cindy, Kris and I will be available to hear these issues and respond as quickly as possible. I'll also draw your attention to the highlighted portion of Kerry's note below if you have general questions related to the amendments.

Thank you all.

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Ministry of Citizens' Services  
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**From:** Pridmore, Kerry CITZ:EX <Kerry.Pridmore@gov.bc.ca>  
**Sent:** November 26, 2021 11:24 AM  
**To:** CITZ CIRMO ALL <CIRMOALL@Victoria1.gov.bc.ca>  
**Subject:** CIRMO - FOIPPA Royal Assent



## Citizens' Services Kerry Pridmore



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I recognize this is a first step in a longer journey as, for many of us, these changes will significantly impact our day-to-day work. A FOIPPA Implementation project has launched with representatives from all branches and Mark Sime as the sponsor. Through this project, support guides and resource materials are well underway and will be available as soon as possible.

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Kerry Pridmore  
Assistant Deputy Minister  
Chief Records Officer  
Corporate Information and Records Management Office  
Ministry of Citizens' Services

**From:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
**Sent:** November 26, 2021 1:48 PM  
**To:** Grimes, Melissa IRR:EX; Grieve, Richard IRR:EX; Chan, Debbie AG:EX; Alexis, Darcie AG:EX  
**Cc:** Reed, Matt CITZ:EX; Sime, Mark CITZ:EX; Hill, Hayley AG:EX; Romero, Jenny CITZ:EX; Robinson, Francoise CITZ:EX; Jones, Emily CITZ:EX; Leece, Robert IRR:EX; Smith, Alanya C IRR:EX; Kelly, Susan M IRR:EX; Filmer, Cam A IRR:EX; Zborowski, William IRR:EX; Caswell, Dave IRR:EX; Berkhout, Juanita IRR:EX; Williams, Karen IRR:EX; Capsey, Nicole IRR:EX  
**Subject:** RE: Time sensitive request for support: Indigenous Governing Entities, FOIPPA amendments

Hi Melissa,

Thank you so much to you and everyone who was involved in supporting CITZ in pulling this together so quickly. I am incredibly grateful to be able to move forward with concrete information to support IAO staff.

I hear your message that further work is needed, and have connected with CITZ policy (Matt Reed) to discuss an approach for continuing this policy work. We'll look forwarding to connecting on the next iteration of this work after the policy folks and I have had time to dig in.

Thanks again,  
Rhianna

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**From:** Grimes, Melissa IRR:EX <Melissa.Grimes@gov.bc.ca>  
**Sent:** November 25, 2021 4:55 PM  
**To:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>; Grieve, Richard IRR:EX <Richard.Grieve@gov.bc.ca>; Chan, Debbie AG:EX <Debbie.Chan@gov.bc.ca>; Alexis, Darcie AG:EX <Darcie.Alexis@gov.bc.ca>  
**Cc:** Reed, Matt CITZ:EX <Matt.Reed@gov.bc.ca>; Sime, Mark CITZ:EX <Mark.Sime@gov.bc.ca>; Hill, Hayley AG:EX <Hayley.Hill@gov.bc.ca>; Romero, Jenny CITZ:EX <Jenny.Romero@gov.bc.ca>; Robinson, Francoise CITZ:EX <Francoise.Robinson@gov.bc.ca>; Jones, Emily CITZ:EX <Emily.Jones@gov.bc.ca>; Leece, Robert IRR:EX <Robert.Leece@gov.bc.ca>; Smith, Alanya C IRR:EX <Alanya.Smith@gov.bc.ca>; Kelly, Susan M IRR:EX <Susan.Kelly@gov.bc.ca>; Filmer, Cam A IRR:EX <Cam.Filmer@gov.bc.ca>; Zborowski, William IRR:EX <Bill.Zborowski@gov.bc.ca>; Caswell, Dave IRR:EX <Dave.Caswell@gov.bc.ca>; Berkhout, Juanita IRR:EX <Juanita.Berkhout@gov.bc.ca>; Williams, Karen IRR:EX <Karen.Williams@gov.bc.ca>; Capsey, Nicole IRR:EX <Nicole.Capsey@gov.bc.ca>  
**Subject:** RE: Time sensitive request for support: Indigenous Governing Entities, FOIPPA amendments

Hello Rhianna,

A few caveats to our response:

- The policy work for IGE should be led by CITZ, given the term is linked to your legislation and your Minister made the decision to have exemptions apply to them. That being said, we are happy to continue to support, given inclusion in the term to Indigenous Governing Bodies (IGBs)
- In the absence of criteria to determine what would constitute an IGE, what we can do is provide a robust list of Indigenous Nations, groups, organizations that *could* potentially be captured under IGE and some initial considerations for factors/criteria
- I have done my best to canvass across my ministry and others to identify the most fulsome a distribution lists. I would advise that if your staff encounters a request relating to the exemption, to follow up with your policy team and potentially MIRR/MAG before making any determinations

- The advice to your last two questions would need to be further developed, especially the third, which would require the policy expertise of your shop to help determine. Some initial suggestions are provided below:

i) I understand there is a list of all of the 200+ First Nations communities, including the Head with contact information and wonder whether this is inclusive enough of the IGE definition (i.e. does it include urban Indigenous, Metis and Inuit partners);

You're correct in that the list of 204 First Nations would not be inclusive enough. I have attached a spreadsheet (FN leadership contacts), which includes First Nations, treaty Nations, elected/hereditary leaders, and tribal councils. I've also included a very comprehensive excel sheet (guide to Indigenous organizations and services), which might be useful as a reference tool for your staff. There is lots of duplication with First Nations, so some analysis of this would be required

In addition to rights holders, Indigenous political organizations could be considered as well:

- First Nations Leadership Council (FNLC)  
Union of BC Indian Chiefs (UBCIC)  
First Nations Summit (FNS)  
BC Assembly of First Nations
- Alliance of BC Modern Treaty Nations
- Métis Nation BC

One thing that came up in my discussions with MAG is the potential need to also include sector-specific organizations, that could arguably exercise governmental functions. This is a non-exhaustive list, some with contact info:

- First Nations Fisheries Council
- FN Major Projects Coalition - Niilo Edwards [executivedirector@fnmpc.ca](mailto:executivedirector@fnmpc.ca)
- FN LNG Alliance:  
Karen Ogen, CEO [ceo@fnlngalliance.com](mailto:ceo@fnlngalliance.com)  
Pearl, Executive Assistant - FNLNGA [ea@fnlngalliance.com](mailto:ea@fnlngalliance.com)
- First Nations Forestry Council  
Charlene Higgins  
[charlene@forestrycouncil.ca](mailto:charlene@forestrycouncil.ca)
- FNEMC  
staff level its Paul Blom [paul.blom@fnemc.ca](mailto:paul.blom@fnemc.ca)  
For DM/Minister level its Dave Porter [dave.porter@fnemc.ca](mailto:dave.porter@fnemc.ca)
- BC First Nations Justice Council:  
PH: 778.940.1520  
[info@bcfnjc.com](mailto:info@bcfnjc.com)
- Metis Nation Justice Council (we contact MNBC head office for them – 604.557.5851)

Other Indigenous groups and partners could include:

- BC First Nations Gaming Commission
- BC Indigenous Agriculture Council for Agriculture and Food
- Citxw Nlaka'pamux Assembly
- Coastal First Nations / Nanwakolas Council
- FNLC sub-council – Joint working Group on First Nations Heritage Conservation
- First Nations LNG Alliance
- Secwepemc Fisheries Commission
- Greater Victoria Urban Indigenous Community Leadership Table
- Minister's Advisory Council on Indigenous Women

- Metro Vancouver Aboriginal Executive Council
- Sto:lo - Solh Temexw Stewardship Alliance
- Surrey Urban Indigenous Leadership Committee (SUILC)
- WSANEC Leadership Council (WLC)
- Association of Aboriginal Friendship Centres – ED is Leslie Varley - [lvarley@bcaafc.com](mailto:lvarley@bcaafc.com)

ii) create a list of factors that should be considered as contributing to the status of IGE

- Some considerations could be found under the UN Declaration itself, including the following articles:
  - **Article 3:** Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
  - **Article 4:** Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
  - **Article 5:** Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.
  - **Article 18:** Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
  - **Article 20(1):** Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
  - **Article 33:**
    - (1) Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
    - (2) Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.
  - **Article 34:** Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.
  - **Article 35:** Indigenous peoples have the right to determine the responsibilities of individuals to their communities.
- Guidance on Indigenous Governing Bodies, which are included in the definition of IGEs, could also be useful: [https://gwww.nrs.gov.bc.ca/mirr/files/mirr/media/documents/pdf/7928\\_declaration\\_act-indigenous\\_governing\\_bodies\\_guidance\\_final.pdf](https://gwww.nrs.gov.bc.ca/mirr/files/mirr/media/documents/pdf/7928_declaration_act-indigenous_governing_bodies_guidance_final.pdf)
- Consideration could also be given to any decisions by the Office of the Information and Privacy Commissioner regarding how it approached the term “aboriginal government” in s. 16(1)(a)(iii), which included an entity that carried out various administrative, legislative and financial functions on behalf of its members, or exercising governmental functions such as negotiating “government to government” agreements with the Province or Canada. Other entities that have been found to be included in that term include those who have concluded self-government agreements or treaties, as well as bands under the federal *Indian Act*.

or;

iii) an illustrative list of the types of organizations that would fall under the definition of IGEs

- Indigenous Governing Bodies, as defined in the Declaration Act
- Indigenous political organizations with resolutions from rights and title holders to undertake the functions of an IGE

Again, I hope this is useful. Would be happy to discuss this further as needed, and please let me know if you have additional questions/concerns.

Best,

**Melissa Grimes, M.A. (she/her)**

Director | Legislative Alignment & Process  
Reconciliation Transformation and Strategies Division  
Ministry of Indigenous Relations and Reconciliation  
O 778-974-2146 | C 778-678-4900

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**From:** Begley, Rhianna CITZ:EX <[Rhianna.Begley@gov.bc.ca](mailto:Rhianna.Begley@gov.bc.ca)>

**Sent:** November 25, 2021 9:02 AM

**To:** Grimes, Melissa IRR:EX <[Melissa.Grimes@gov.bc.ca](mailto:Melissa.Grimes@gov.bc.ca)>; Grieve, Richard IRR:EX <[Richard.Grieve@gov.bc.ca](mailto:Richard.Grieve@gov.bc.ca)>; Chan, Debbie AG:EX <[Debbie.Chan@gov.bc.ca](mailto:Debbie.Chan@gov.bc.ca)>; Alexis, Darcie AG:EX <[Darcie.Alexis@gov.bc.ca](mailto:Darcie.Alexis@gov.bc.ca)>

**Cc:** Reed, Matt CITZ:EX <[Matt.Reed@gov.bc.ca](mailto:Matt.Reed@gov.bc.ca)>; Sime, Mark CITZ:EX <[Mark.Sime@gov.bc.ca](mailto:Mark.Sime@gov.bc.ca)>; Hill, Hayley AG:EX <[Hayley.Hill@gov.bc.ca](mailto:Hayley.Hill@gov.bc.ca)>; Romero, Jenny CITZ:EX <[Jenny.Romero@gov.bc.ca](mailto:Jenny.Romero@gov.bc.ca)>; Robinson, Francoise CITZ:EX <[Francoise.Robinson@gov.bc.ca](mailto:Francoise.Robinson@gov.bc.ca)>; Jones, Emily CITZ:EX <[Emily.Jones@gov.bc.ca](mailto:Emily.Jones@gov.bc.ca)>

**Subject:** Time sensitive request for support: Indigenous Governing Entities, FOIPPA amendments

Good morning all,

I am writing to this group seeking time sensitive support related to the upcoming FOIPPA amendments, expected to receive Royal Assent this week.

I am responsible for Information Access Operations, government's operational FOI shop. Upon Royal Assent IAO will be responsible for operationalizing the amendments, including conducting consultation with IGEs\* per the new s. 18.1 and s. 23 requirements. Although I am waiting for Minister direction, I think it is also likely that IAO will implement a policy not to charge application fees for IGEs. In both instances, I need to provide the approx. 135 IAO analysts with information they can use to operationalize the IGE definition. In a perfect world I would be able to provide analysts with an exhaustive list of IGEs, I understand from discussions with Matt Reed and Mark Sime that this is likely not feasible. In the absence of this, I am hoping to rely on this group's wisdom to prepare something for my analysts. I think there are few different paths we could take: i) I understand there is a list of all of the 200+ First Nations communities, including the Head with contact information and wonder whether this is inclusive enough of the IGE definition (i.e. does it include urban Indigenous, Metis and Inuit partners); ii) create a list of factors that should be considered as contributing to the status of IGE or; iii) an illustrative list of the types of organizations that would fall under the definition of IGEs. There may be other options that are better suited to the problem as well. I know this is ambitious, but I am hopeful that I can have this product by end of day today so that it can be distributed to IAO staff tomorrow.

\*"Indigenous governing entity" (IGE) means an Indigenous entity that exercises governmental functions, and includes but is not limited to an Indigenous governing body as defined in the *Declaration on the Rights of Indigenous Peoples Act*.

Thank you in advance,

**Rhianna Begley** | she/her

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**From:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
**Sent:** November 29, 2021 8:43 AM  
**To:** Kukucska, Cindy L CITZ:EX; Ghag, Kris CITZ:EX; Sinnott, Michelle CITZ:EX; Elbahir, Cindy CITZ:EX; Bejcek, Ken CITZ:EX; Onciul, Jamie CITZ:EX; Robinson, Francoise CITZ:EX; Pinske, James CITZ:EX; Kane, Meghan M CITZ:EX; Kotchonoski, Darlene E CITZ:EX  
**Subject:** FOIPPA Royal Assent and IAO implementation

Good morning Managers 😊

The note below has been prepared for you to share with your client ministry contacts. Let me know if you see a need for tweaks for your group, otherwise, please feel free to share.

Thanks,  
Rhianna

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Good morning all,

We wanted to take a moment to highlight some of the important changes to the FOI portion of the legislation, as well as IAO operations which have been created to support implementation. It doesn't look like the amendments are up on QP yet, so for now take a look at the amendments via [Bill 22](#), or the summaries below:

- Application fees: As of this morning, IAO will begin to receive application fees for all general requests. We anticipate that most folks will submit their request and pay their application fee through our web form. Alternatively, application fees will be collected by IAO Intake directly through the recently installed POS machines or by cheque. Application fees will not be charged for general FOI requests submitted by Indigenous Governing Entities. Application fees will not be charged for personal requests. A quick note to share my gratitude to all of the many folks in CIRMO who have worked incredibly hard over the last few weeks to develop the systems, processes and web content that will enable us to collect application fees.
- s. 3(5)(b)(c) and (d): Part 2 no longer applies to records that do not relate to the business of the public body; a record of metadata that is i) generated by an electronic system, and ii) describes an individual's interaction with the electronic system; or, an electronic record that has been lawfully deleted by an employee of a public body and can no longer be accessed by the employee.
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  - Disclosure harmful to interests of an Indigenous people: 18.1 (1) The head of a public body must refuse to disclose information if the disclosure could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop any of the following with respect to the Indigenous people: (a) cultural heritage; (b) traditional knowledge; (c) traditional cultural expressions; (d) manifestations of sciences, technologies or cultures. (2) Subsection (1) does not apply if the Indigenous people has consented in writing to the disclosure.
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IAO staff are currently working hard to support implementation of the amendments, including development of operational policy for the above amendments.

In the meantime, I'm sure you are wondering what this might mean for active FOI requests. As a general guideline, IAO staff have been asked to:

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Thank you,

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Executive Director, Information Access Operations

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**From:** Pinske, James CITZ:EX <James.Pinske@gov.bc.ca>  
**Sent:** November 29, 2021 9:16 AM  
**Cc:** Pinske, James CITZ:EX; Kukucska, Cindy L CITZ:EX  
**Subject:** FOIPPA Royal Assent - IAO implementation

BCC: CITZ CIRMO IAO FOI

Good morning,

Further to Rhianna's email on Friday, Bill 22 has received Royal Assent and is now law. The changes to Section 75 and the authority to issue an application fee represents a significant impact to IAO. The regulation has set the application fee to \$10 and is in effect as of 8:30am this morning. A number of internal policy and procedure discussions have taken place recently to address the changes at an operational level, which I will provide some clarity on below. The intent of this email is to provide IAO's processing teams with an understanding of how Intake will be supporting these changes, and to provide additional confidence to analysts in how to respond to anticipated scenarios consistently. Further documentation will be written over the coming weeks and published in our corporate OneNote.

If you have unanswered questions, please contact Patrick Craib, Team Lead of Generals Intake and Flex Team, or myself.

#### **Basic Guidelines**

- The application fee reflects the administrative work in opening a General FOI file.
- Application fees cannot be waived.
- All public facing material indicates that the application fee is non-refundable.
- Indigenous Governing Entities (IGE) will not be required to pay an application fee.
- Personal FOI requests will continue to be processed with NO application fee.
- Application fees can be paid via the online portal, where we anticipate the majority of application fee payments to be collected. NOTE: Processing fees cannot be accepted via the online portal at this time, but is a planned future enhancement.
- Application fees can also be paid by mail (cheque/money order) or by phoning 250 387-1321 option 2 (toll free within Canada: 833-283-8200).

#### **Start Dates/On Hold**

- The clock starts on the date payment is received by IAO, not the date the request was received by the public body. Files will be put on hold as of the day the request was received by the public body and taken off hold the day payment has been received.
- Requests received via the online portal will start immediately (during business hours), as payment is made the date it was submitted.

#### **Section 3/5**

- Intake will continue to confirm requests received via the portal meet Section 3 and 5 before proceeding to assign them to the Flex Team
- Where a request does not meet Section 5, but the applicant has already paid their fee, intake will open the file, put the file on hold pending Section 5.
- Where the request has been received via email, and does not meet Section 5, intake will continue to work with the applicant to ensure their request meets Section 5 before taking payment.

#### **Transfers – Full and Partial**

- Payments follow the file when fully transferring one file to a new Ministry

- When transferring to an existing open request, the application fee is generally not refundable.
- As additional application fees would be required upon partial transfer, it may not be practical to initiate partial transfers. Ministries may instead notify applicants, via email or response letter, with advice that further records may be held by an additional ministry. This process will ensure the appropriate application fees are collected. If a processing team wishes to pursue a partial transfer, please contact Intake to facilitate the process.

### **Combining requests**

- Intake will not be combining requests with the same enthusiasm as before, particularly when an application fee has been paid. There will still be circumstances when this will be considered, such as when an applicant is deliberately splitting a request to avoid a processing fee.
- Decisions regarding combining requests will still be conducted on an ad hoc basis, in collaboration with the processing team and the responsive Ministry.

Regards,

**James Pinske**

Manager, Consolidated Intake and Open Information  
**Information Access Operations | Ministry of Citizens' Services**

Phone: 778.698.3023

PO Box 9569, Stn Prov Gov, Victoria BC V8W 9K1

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**From:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>

**Sent:** November 26, 2021 12:19 PM

**To:** CITZ CIRMO IAO FOI <IAOFOI@Victoria1.gov.bc.ca>

**Subject:** FOIPPA Royal Assent - IAO implementation

Good afternoon all,

With Kerry's exciting news below, I'm sure you're wondering what this means for you? For starters, you'll want to review the proposed changes related to FOI – it doesn't look like they are up on QP yet, so for now take a look at the amendments via [Bill 22](#), or the summaries below:

- s.13  
 s.13 We anticipate that most folks will submit their request and pay their application fee through our web form. Alternatively, application fees will be collected by IAO Intake directly through the recently installed POS machines or by cheque. IAO's web content will be updated on Monday with information about application fees. Application fees will not be charged for general FOI requests submitted by Indigenous Governing Entities. Application fees will not be charged for personal requests. A quick note to share my gratitude to all of the many folks who have worked incredibly hard over the last few weeks to develop the systems, processes and web content that will enable us to collect application fees.
- s. 3(5)(b)(c) and (d): Part 2 no longer applies to records that do not relate to the business of the public body; a record of metadata that is i) generated by an electronic system, and ii) describes an individual's interaction with the electronic system; or, an electronic record that has been lawfully deleted by an employee of a public body and can no longer be accessed by the employee.
- s. 16: Repeal of s. 16(3), meaning that where related to an Indigenous Governing Entity, s. 16 can be applied, regardless of whether the records have been in existence for 15 or more years.
- s. 18.1/s. 23: This is a new *mandatory* exception. Given the consent requirement, please also be aware that there are new s. 23 requirements

Disclosure harmful to interests of an Indigenous people: 18.1 (1) The head of a public body must refuse to disclose information if the disclosure could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop any of the following with respect to the Indigenous people: (a) cultural heritage; (b) traditional knowledge; (c) traditional cultural expressions; (d) manifestations of sciences, technologies or cultures. (2) Subsection (1) does not apply if the Indigenous people has consented in writing to the disclosure.

- s. 43: The criteria that the Commissioner can use to authorize a public body to disregard a request has expanded to include when: the request is for a record that has been disclosed to the applicant or that is accessible by the applicant from another source, or; responding to the request would unreasonably interfere with the operations of the public body because the request; is excessively broad or is repetitious or systematic.

As you know, there are a number of IAO staff involved in supporting implementation of the amendments, including development of operational policy for the above amendments. Please expect updates from the teams working on operational policy in the coming weeks.

In the meantime, I'm sure you are wondering what this means for your current files. As a general guideline, IAO will:

- Not revisit files that are already in sign off\*
- Revisit files that are actively being reviewed by IAO, unless that file is over 500 pages\*
- \*The above parameters do not apply to files that may include content that will be severed under s. 18.1. Because s. 18.1 is a mandatory exception, all response packages that are released must have s. 18.1 applied. Please escalate to your TL and Manager any files that are in sign off that may need to be pulled back.
- Please also escalate to your TL and Manager if you have files that meet the above parameters, but you feel should still be revisited because of one of the other amendments (e.g. there is content that will attract s. 16 now that the 15 year requirement is no longer applicable).

There will be broader implications at the intake stage. For the most part, the Intake team will handle application fees. Anticipate more information from the Intake team on implementation and any new actions for you early next week.

If you have questions on a specific file, please raise to your TL and Manager. Cindy, Kris and I will be available to hear these issues and respond as quickly as possible. I'll also draw your attention to the highlighted portion of Kerry's note below if you have general questions related to the amendments.

Thank you all.

**Rhianna Begley** | she/her

Executive Director, Information Access Operations

Corporate Information and Records Management Office (CIRMO)

Ministry of Citizens' Services

T: (250) 507-5110 (texts welcome) E: [Rhianna.Begley@gov.bc.ca](mailto:Rhianna.Begley@gov.bc.ca)

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**From:** Pridmore, Kerry CITZ:EX <[Kerry.Pridmore@gov.bc.ca](mailto:Kerry.Pridmore@gov.bc.ca)>

**Sent:** November 26, 2021 11:24 AM

**To:** CITZ CIRMO ALL <[CIRMOALL@Victoria1.gov.bc.ca](mailto:CIRMOALL@Victoria1.gov.bc.ca)>

**Subject:** CIRMO - FOIPPA Royal Assent

**From:** Pinske, James CITZ:EX <James.Pinske@gov.bc.ca>  
**Sent:** November 29, 2021 9:21 AM  
**To:** CITZ CIRMO IAO Management Team  
**Cc:** Pinske, James CITZ:EX; Kukucska, Cindy L CITZ:EX; Ghag, Kris CITZ:EX  
**Subject:** Limited Discretion for Refunds with Intake

Please be advised that although all external communication has indicated that the application fee is non-refundable, IAO has received Executive support to retain limited discretion to provide refunds in extenuating circumstances. Where a refund is believed to be appropriate, the escalation path and authority to approve will reside with myself as the Intake Manager. The direction that has been provided to my team is noted below:

- The intention is for application fees to be non-refundable. In addition, application fees cannot be waived.
- In limited and extenuating circumstances, refunds may be considered in plainly obvious circumstances, such as when an application fee is paid for a request that does not meet Section 3, or if the applicant has accidentally paid for personal records.
- The Manager of Intake will be responsible for adjudicating refund decisions.
- For requests, including redirects, where there is any work whatsoever in verifying information our standing principle is that the application fee is not refundable.

If you have any concerns or questions regarding refunds, please contact me or Cindy Kukucska.

Regards,

**James Pinske**  
Manager, Consolidated Intake and Open Information  
**Information Access Operations | Ministry of Citizens' Services**

Phone: 778.698.3023  
PO Box 9569, Stn Prov Gov, Victoria BC V8W 9K1

**From:** Bejcek, Ken CITZ:EX  
**Sent:** November 30, 2021 11:42 AM  
**To:** MTI FOI REQUESTS TRAN:EX; FOI Economy Sector MUNI:EX  
**Subject:** RE: FOIPPA Royal Assent and IAO implementation

Hi all,

In light of the application fees for FOI requests, please note the approach with respect transferring requests – in particular, the approach to partial transfers.

Full transfers:

- Payments follow the file when fully transferring one file to a new Ministry
- When transferring in full to an existing open request, the application fee is generally not refundable.

Partial transfers:

- As additional application fees would be required upon partial transfer, it may not be practical to initiate partial transfers. We may instead notify applicants, via email or response letter, with advice that further records may be held by an additional ministry, should they wish to submit an FOI request. This process will ensure the appropriate application fees are collected.

Thanks,

Ken

**Ken Bejcek** | Manager | Information Access Operations | Ministry of Citizens' Services  
**Ph:** 250 356-5702 | **m:** 250-514-2158 | **e:** [Ken.Bejcek@gov.bc.ca](mailto:Ken.Bejcek@gov.bc.ca) |  
**m:** PO Box 9569, Stn Prov Gov, Victoria BC V8W 9K1

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**From:** Bejcek, Ken CITZ:EX  
**Sent:** November 29, 2021 9:26 AM  
**To:** MTI FOI REQUESTS TRAN:EX <mtifoirequests@gov.bc.ca>; FOI Economy Sector MUNI:EX <FOI.Inbox@gov.bc.ca>  
**Subject:** FOIPPA Royal Assent and IAO implementation

Good morning all,

We wanted to take a moment to highlight some of the important changes to the FOI portion of the legislation, as well as IAO operations which have been created to support implementation. It doesn't look like the amendments are up on QP yet, so for now take a look at the amendments via [Bill 22](#), or the summaries below:

- **Application fees:** As of this morning, IAO will begin to receive application fees (\$10.00) for all general requests. We anticipate that most folks will submit their request and pay their application fee through our web form. Alternatively, application fees will be collected by IAO Intake directly through the recently installed POS machines or by cheque. Application fees will not be charged for general FOI requests submitted by Indigenous Governing Entities. Application fees will not be charged for personals requests.

- s. 3(5)(b)(c) and (d): Part 2 no longer applies to records that do not relate to the business of the public body; a record of metadata that is i) generated by an electronic system, and ii) describes an individual's interaction with the electronic system; or, an electronic record that has been lawfully deleted by an employee of a public body and can no longer be accessed by the employee.
- s. 16: Repeal of s. 16(3), meaning that where related to an Indigenous Governing Entity, s. 16 can be applied, regardless of whether the records have been in existence for 15 or more years.
- s. 18.1/s. 23: This is a new *mandatory* exception. Given the consent requirement, please also be aware that there are new s. 23 requirements  
 Disclosure harmful to interests of an Indigenous people: 18.1 (1) The head of a public body must refuse to disclose information if the disclosure could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop any of the following with respect to the Indigenous people: (a) cultural heritage; (b) traditional knowledge; (c) traditional cultural expressions; (d) manifestations of sciences, technologies or cultures. (2) Subsection (1) does not apply if the Indigenous people has consented in writing to the disclosure.
- s. 43: The criteria that the Commissioner can use to authorize a public body to disregard a request has expanded to include when: the request is for a record that has been disclosed to the applicant or that is accessible by the applicant from another source, or; responding to the request would unreasonably interfere with the operations of the public body because the request; is excessively broad or is repetitious or systematic.

IAO staff are currently working hard to support implementation of the amendments, including development of operational policy for the above amendments.

In the meantime, as a general guideline, IAO staff have been asked to:

- Not revisit files that are already in sign off\*
- Revisit files that are actively being reviewed by IAO, unless that file is over 500 pages\*
- \*The above parameters do not apply to files that may include content that will be severed under s. 18.1. Because s. 18.1 is a mandatory exception, all response packages that are released from today onwards must have s. 18.1 applied. Please connect with your analyst if you believe you have an open file that may contain content that could attract the new s. 18.1.

If you have questions on a specific file, please connect with me or Neva Everitt. You can also check [www.gov.bc.ca/privacytraining](http://www.gov.bc.ca/privacytraining) for more information. Questions about the legislation can be directed to the Strategic Policy and Legislation Branch at [IM.ITPolicy@gov.bc.ca](mailto:IM.ITPolicy@gov.bc.ca)

Thanks,

Ken

Ken Bejcek | Manager | Information Access Operations | Ministry of Citizens' Services  
 Ph: 250 356-5702 | m: 250-514-2158 | e: [Ken.Bejcek@gov.bc.ca](mailto:Ken.Bejcek@gov.bc.ca) |  
 m: PO Box 9569, Stn Prov Gov, Victoria BC V8W 9K1

**From:** Robinson, Francoise CITZ:EX  
**Sent:** December 1, 2021 3:47 PM  
**To:** Bacigalupo, James CITZ:EX; Batt, Regan CITZ:EX; Bullard, Dan CITZ:EX; Coutts, Kathy CITZ:EX; Graves, Debra CITZ:EX; Hamdi, Rhiannon CITZ:EX; Joseph, Marie CITZ:EX; Kennedy, Kimberly CITZ:EX; Kewley, Mark CITZ:EX; Letawske, Julianne CITZ:EX; Wan, Anthony CITZ:EX  
**Subject:** Updates from Team Meeting: PHO and phone numbers, Deemed Refusal Process, Section 16/18, Holiday Celebrations

Hi Everyone,

Here's the updates from the team meeting today:

**Provincial Health Officer (PHO) and Phone Numbers:** Other teams are releasing PHO phone numbers since this information is readily available online. These are published in many requests and are easily available online. To be inline with other teams no need to redact these phone numbers.

**Deemed Refusals Process:** New change is that when a deemed refusal email is received from the OIPC the review file will be opened regardless of whether the official letter is attached or not. This is so there is consistency across teams and there is a clear way to track these. Updated Process is:

- Analysts gets informal notice of complaint from OIPC – email manager with cc to both TLS and open a review file
- File will be brought up on weekly ministry calls
- Analyst to make the potential DR a top priority; may need files reassigning or the file itself depending on complexity.
- Analyst to provide regular updates to TL/manager
- TL/Manager to provide guidance, support, and escalation as needed

**Section 16/18 issues:** as these arise please make sure to loop in TL who will loop in manager. Whilst operational policy is being sorted we will tackle these on a case by case basis and tracking will also be done by Kris/Cindy.

**Holiday Celebrations:** If you have ideas please email Francoise. Email to come out later this week with options to vote on.

**Françoise Robinson** | Manager – Resource Sector | Information Access Operations | Ministry of Citizens' Services  
**Ph:** 778-698-7794 | **m:** 250-217-5390 | **e:** [francoise.robinson@gov.bc.ca](mailto:francoise.robinson@gov.bc.ca) |  
**m:** PO Box 9569, Stn Prov Gov, Victoria BC V8W 9K1

*Grateful to live, work, and play within the traditional territories of the Lekwungen people – known today as the Esquimalt and Songhees Nations.*

**From:** IMIT Policy CITZ:EX  
**Sent:** December 22, 2021 10:10 AM  
**To:** Pommelet, Lisa EMLI:EX  
**Subject:** RE: FOIPPA Legislation Questions

Hi Lisa,

Thank you for your email, which was forwarded to the Information Management and Information Technology (IM IT) policy inbox for response. I would like to preface my response by saying that the suggestions we provide below are not legal advice.

1. **Why was S. 16 limited to 15 years?** Both section 16 and section 12(4)(b) had references to a 15 year time limit. This was deemed to be an appropriate amount of time such that the release of records which are 15 years or older would likely not result in harms. This time period does not apply to law enforcement information.
2. **Why was it repealed?** While the 15 year limitation is reasonable for information pertaining to other governments, it does not adequately address the risk of harm respecting information related to Indigenous governing entities, in a cultural context where the concept of time is non-linear and the risk of harm persists long after 15 years has elapsed. This amendment ensures protections of information that Indigenous governing entities choose to share with other governments related to Indigenous cultural heritage, traditional knowledge and traditional cultural expressions that are shared in alignment with the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act) and other BC legislation. As per the title of the section, this protection is imperative to building trust and preserving relations with our Indigenous partners.
3. **Is that now tied to S. 18 regarding heritage and cultural sites?** Section 18(1) – Disclosure harmful to interests of an Indigenous people was added to provide additional protections for information related to Indigenous cultural heritage; traditional knowledge and traditional cultural expressions; and the manifestations of sciences, technologies and cultures as expressed in the Declaration Act. Section 16 amendments are not ‘tied’ to section 18, but both sections aim to provide additional protections for Indigenous knowledge.
4. **Do records now have to be withheld indefinitely?** If the disclosure of the record could result in the harms outlined in section 16, then the records could be withheld indefinitely (i.e., regardless of the age of the record).
5. **Does this affect retention periods at all?** Records retention is based on Information Schedules as per the *Information Management Act*. We would encourage you to connect with your records officer if you need more information about this.
6. **S. 43: The criteria that the Commissioner can use to authorize a public body to disregard a request has expanded to include when: the request is for a record that has been disclosed to the applicant or that is accessible by the applicant from another source, or; responding to the request would unreasonably interfere with the operations of the public body because the request; is excessively broad or is repetitious or systematic.**
  - a. **What is the definition of excessive?** There is no specific definition included, and we are currently in the process of developing guidance for this section. The important thing to remember is that this determination involves a two part test. It must be both excessively broad and as a result



“unreasonably interfere with the operations of the public body”. This latter piece requires a contextual assessment. Some factors that may come into consideration include, but is not limited to, the number of pages normally processed for Freedom of Information (FOI) requests, and the number of ministry resources necessary to process requests. It is reasonable to expect that the threshold for meeting the tests for “excessively broad” under section 43 will likely be set somewhat higher by the Commissioner given that government ministries have and FOI service provider (IAO) and are accustomed and resourced to manage larger requests - as compared to much smaller broader public sector bodies for example. Ultimately, the changes to section 43, are intended to provide additional criteria for ministries to make their case and apply to the Commissioner to authorize the head of a public body to disregard a request. It will be up to the Commissioner to determine what qualifies as ‘excessive’ under this section, and we will receive more clarity over time as the Commissioner makes their rulings under this section.

**b. Does it apply to everyone or are there exceptions? For instance, if it’s regarding litigation or coming from a law firm or Indigenous Nation, is there the expectation that we will disregard this section?** This section allows public bodies to apply to the Commissioner to disregard a request based on the outlined criteria – FOI requests cannot be disregarded without the Commissioner’s authorization. So long as the request is made as an FOI request under Part 2 of FOIPPA there are no exceptions to this section, and it will be up to the program areas to determine which requests are appropriate to put forward to the Commissioner.

**7. Does S. 43 relate to the Minister’s calendar and every other routine FOI request we receive?**

Currently, minister’s calendars are proactively disclosed on the Open Information website as per Directions issued by the Minister responsible for FOIPPA. The decision to proactively disclose such calendars (outside of the FOI request process) was done to support public accountability and transparency. There is no intention to rescind any of the proactive disclosure directions and these ministerial directions are not considered FOI requests under Part 2 of FOIPPA.

**8. Could you please clarify, or give an example of, s. 3(5)(b)(c) and (d) and those changes?** Section 3(5)(b) excludes records that do not relate to the business of the public body. Examples of this include requesting screenshots of Outlook folders or phones, or requesting the internet browser history of named individuals. This addition removes nuisance requests from the backlog of requests that cause delays and protects the personal privacy of public servants and government officials. Section 3(5)(c) excludes a record of metadata that is generated by an electronic system and describes an individual’s interaction with the electronic system. An example of this is message tracking logs (see Order in Council F15-63). This type of information can show a pattern of behaviour which has the potential for privacy implications for employees. Section 3(5)(d) excludes records that have been lawfully deleted and can no longer be accessed. This is good for public bodies as it ensures that backup data and copies of records retained only for legal or investigative purposes cannot be accessed through FOI requests. This also supports government’s records management practices.

Thank you,  
Darcie

Darcie Meyer  
Senior Legislative and Policy Analyst  
Strategic Policy and Legislation Branch  
Office of the Chief Information Officer  
[Darcie.Meyer@gov.bc.ca](mailto:Darcie.Meyer@gov.bc.ca) | Phone 778-698-4820



Office of the  
Chief Information Officer

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**From:** Pommelet, Lisa EMLI:EX <[Lisa.Pommelet@gov.bc.ca](mailto:Lisa.Pommelet@gov.bc.ca)>  
**Sent:** December 15, 2021 2:10 PM  
**To:** Robinson, Francoise CITZ:EX <[Francoise.Robinson@gov.bc.ca](mailto:Francoise.Robinson@gov.bc.ca)>  
**Cc:** Crockett, Janine EMLI:EX <[Janine.Crockett@gov.bc.ca](mailto:Janine.Crockett@gov.bc.ca)>; Gobeil, Daniel EMLI:EX <[Daniel.Gobeil@gov.bc.ca](mailto:Daniel.Gobeil@gov.bc.ca)>; EMLI FOI EMLI:EX <[MEM.FOI@gov.bc.ca](mailto:MEM.FOI@gov.bc.ca)>  
**Subject:** FOIPPA Legislation Questions

Hello Francoise,

As we mentioned last week, we have some questions regarding the new FOIPPA legislation and have compiled our questions below. We understand this is new to everyone and very much look forward to learning more as details are released.

1. Why was S. 16 limited to 15 years? Why was it repealed? Is that now tied to S. 18 regarding heritage and cultural sites? Do records now have to be withheld indefinitely? Does this affect retention periods at all?
2. s. 43: The criteria that the Commissioner can use to authorize a public body to disregard a request has expanded to include when: the request is for a record that has been disclosed to the applicant or that is accessible by the applicant from another source, or; responding to the request would unreasonably interfere with the operations of the public body because the request; is excessively broad or is repetitious or systematic.
  - b. What is the definition of excessive?
  - c. Does it apply to everyone or are there exceptions? For instance, if it's regarding litigation or coming from a law firm or Indigenous Nation, is there the expectation that we will disregard this section?
  - c. Does S. 43 relate to the Minister's calendar and every other routine FOI request we receive?
3. Could you please clarify, or give an example of, s. 3(5)(b)(c) and (d) and those changes?

Thank you,

Lisa Pommelet  
Team Lead, FOI and Records Management  
Ministry of Energy, Mines and Low Carbon Innovation  
Business Operations Branch, Deputy Minister's Office  
Ph. (778) 974-5980

## PayBC Credit Card Refund Process

### Refund steps

1. Client contacts IAO Intake Team to request a refund. Provides amount, date, transaction number, order number and if needed request description
2. IAO Intake Team investigates. Searches correspondence log in AXIS for the original emails that include payment information (amount, order number, transaction number); if not in AXIS, search Intake Inbox
3. The business unit determines if the refund is approved. E.g. duplicate charge would be refunded.
4. If the refund is approved, Intake team requests the refund by email to CAS staff managing the [FIN.CASReconciliation@gov.bc.ca](mailto:FIN.CASReconciliation@gov.bc.ca) mailbox.
5. The email contains the following details:
  - Order number (generated by PayBC)
  - Transaction date and time
  - Transaction amount
  - Transaction number
6. CAS staff managing the [FIN.CASReconciliation@gov.bc.ca](mailto:FIN.CASReconciliation@gov.bc.ca) mailbox will enter the refund through Beanstream and reply all to the email with the word 'Done'.

Processing Time: 10 – 14 days

## Purpose

This document combines FAQs from various sources for IAO Intake's use when receiving questions about application fees. This will allow quick reference to consistent language used throughout public-facing web pages and communications.

## Contacts

Generally speaking, if a citizen is requesting information on the operational application of the legislation and/or regulation it would be Intake's responsibility. If a citizen is asking a more grey-area question related to the interpretation of the legislation OR if they have any questions regarding the rationale for making changes to the legislation, IAO will forward the question to Strategic Policy and Legislation (SPL) and/or give the caller SPL's email address (IM.ITPolicy@gov.bc.ca).

For general questions about application fees: IAO Intake

Questions about the application fee policy: [IM.ITPolicy@gov.bc.ca](mailto:IM.ITPolicy@gov.bc.ca)

Escalation points within IAO:

Patrick Craib  
James Pinske  
Cindy Kukucska  
Kris Ghag  
Rhianna Begley

## Useful Public Links

- [Fees for Freedom of Information Requests \(webpage\)](#)
- [Freedom of Information – Frequently Asked Questions \(webpage\)](#)
- [Submit a General Freedom of Information Request \(webpage\)](#)
- 1-pager Overview (placeholder)
- 1-pager on Application Fees (placeholder)

## Information to share with callers

### **Why is government introducing a fee for general Freedom of Information (FOI) application requests?**

B.C. receives among the highest volumes of FOI requests in Canada. Other provinces and territories have effectively established application fees to encourage focused FOI requests.

Clear requests help ensure more timely processing and keep the FOI process working effectively for everyone.

For personal requests, there are no application fees or processing fees.

Indigenous Governing Entities will not be required to pay application fees.

### **How much is the application fee?**

A non-refundable application fee of \$10 is required for all General FOI requests, for every public body included in the request. Additional processing fees may apply, depending on the size and complexity of the request. If a processing fee is chargeable for your General FOI request, the IAO analyst can work with the applicant to explore options to reduce or possibly eliminate the fee by narrowing the description.

This fee must be paid before the request will be processed and will apply to every public body included in the request (e.g., records requested from three separate ministries would be \$30).

#### **Notes:**

- Indigenous Governing Entities are not required to pay application fees.
- There are no application fees or processing fees for personal FOI requests.

### **Can applicants have the application fee waived?**

Application fees cannot be waived.

### **What happens if an applicant doesn't pay the FOI application fee(s)?**

The application fee(s) must be paid before any work can commence on a general FOI request.

### **How does an applicant submit a request if they represent an Indigenous Governing Entity?**

If an applicant is representing an Indigenous Governing Entity (*definition below*) they are not required to pay application fees.

A representative of an Indigenous Governing Entity can contact IAO by email ([FOI.Requests@gov.bc.ca](mailto:FOI.Requests@gov.bc.ca)), by fax (250-387-9843), or by hardcopy mail (shown below) to submit a general request, instead of using the online FOI request form. For additional support, please direct them to contact IAO by phone at 250-387-1321 or toll free at 833-283-8200.

Mailing Address:  
Freedom of Information Request  
PO Box 9569  
Stn Prov Govt  
Victoria BC V8W 9K1

**"Indigenous governing entity"** means an Indigenous entity that exercises governmental functions, and includes but is not limited to an Indigenous governing body as defined in the *Declaration on the Rights of Indigenous Peoples Act*;

### **Are refunds available on the FOI application fee?**

FOI application fees are non-refundable. It is possible for fees to be refunded in extenuating circumstances.

### **If the applicant does not receive records, or is unsatisfied with the records received, can they get a refund of the FOI application fee?**

FOI application fees are non-refundable. The application fee is for the administrative work required to initiate the request, and not for the records themselves.

### **How does an applicant pay the application fee online?**

They can pay online with a credit card when they submit their FOI request. They are to follow the steps in the Freedom of Information Request webform. They will be prompted to enter their payment information in the final steps. Once their payment is successfully processed their FOI request will be submitted.

### **Can an applicant pay online without a credit card?**

They may use a Visa Debit Card or Debit MasterCard that is linked to their bank account. When they use the card online, it's processed like a credit card, but the money is taken from their bank account. They can check with their bank to learn more about getting one of these cards.

### **Will the applicant get a receipt for their online payment?**

If they provided an email address when submitting their FOI request, a receipt will be emailed to that address. If they did not provide an email address and they require a receipt, they are directed to please contact Information Access Operations with their transaction ID.

**How does an applicant pay their fee if submitting their request by email, fax or hardcopy mail?**

Fee payments are accepted 8:30am to 4:30pm PST Monday to Friday, excluding statutory holidays, by phone at 250-387-1321 option 2. If they are calling from outside of Victoria, they can call toll free at 833-283-8200 option 2. All major credit cards are accepted.

To pay this fee by cheque, they can send a cheque or money order made payable to the Minister of Finance. They should quote the FOI Request file number (on cheques this would be on the memo line). They can mail it to:

Information Access Operations  
PO Box 9569  
Stn Prov Govt  
Victoria BC V8W 9K1

**Why are applicants being charged additional application fees to transfer their request to another ministry/body?**

The application fee applies to each public body that they request information from. If additional public bodies have records beyond the original request, the request may be transferred to ensure the applicant gets the information requested and additional application fees would apply.

Applicants will be notified before the request is transferred to an additional public body and additional requests will not be processed until all application fees are paid.

# CIRMO Divisional All Staff Meeting

FOIPPA Amendments Implementation  
December 8, 2021




Ministry of  
Citizens' Services





## Territorial Acknowledgement

# Agenda

An hourglass with white sand is positioned in the center-right of the page. To its right, a portion of a calendar is visible, showing dates 21, 22, 23, and 24. The background is a light gray with a subtle texture.

Time	Topic	Speaker(s)/Facilitator
09:00 – 09:05	<b>Welcome</b>	Kerry Pridmore
09:05 – 09:15	<b>Refresher on FOIPPA Amendments</b>	Matt Reed
09:15 – 09:45	<b>Implementation Status</b>	Susan Laidlaw Rheannon Harriman Mark Sime Loren Mullane
09:45 – 10:00	<b>Q&amp;A</b>	Susan Laidlaw



# Refresher on FOIPPA Amendments Discussed at Oct 21<sup>st</sup> Townhall

# Background

- Besides some minor changes in 2019, FOIPPA has not been substantially updated since 2011
- Substantial stakeholder engagement undertaken in 2018/19 and 2021 to inform proposed changes



# Key issues

## Service Modernization

- Ensure government services remain responsive through the COVID-19 pandemic and recovery.
- Support delivery of government services in modern, digital ways that people expect.
- Enable important improvements to Freedom of Information services.

## Privacy Enhancement

- Continue to improve government's public sector data security and privacy practices to ensure that British Columbians' personal information is safeguarded.

## Support Diversity, Inclusion, Reconciliation and/or Equity

- Improvements based on the principles of lasting and meaningful reconciliation, and equity and anti-racism.
- Apply a critical *Gender-based Analysis Plus* lens to the Act and address the unintended consequences of how it is currently drafted.

# Application fee for general requests

## Issue

- B.C. receives among the highest volumes of FOI requests in the country.
- A large proportion of the general FOI requests received by public bodies in B.C. are made by a small number of applicants who make hundreds or thousands of requests per year.

## Solution

- \$10 application fee for general FOI requests (per public body).
- Will not apply to personal requests or Indigenous governing entities.
- Encourages applicants to be purposeful in making their FOI requests, enabling increased service efficiencies for the benefit of all FOI applicants.

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# Support diversity, inclusion, reconciliation and/or equity

## Issue

- DRIPA and government's commitment to reconciliation highlight the need for existing legislation to recognize and reflect the rights of Indigenous peoples.
- GBA+ review of the Act, its purposes and its language reveals that there are unintended consequences to how the Act is currently drafted.

## Solutions

- Update outdated and non-inclusive language.
- Remove the 15-year limitation on nondisclosure of information that could reasonably be expected to harm the conduct of relations with an Indigenous government.
- Replace "aboriginal government" in Schedule 1 of the Act with a new definition of "Indigenous governing entity".
- Protect Indigenous cultural information.
- Permit indirect collection of personal information from other jurisdictions.
- Enable more information sharing with Indigenous governing entities.

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# Modernize data-residency provisions

Repealed data-residency provisions and added supplement to PIA when disclosing and storing information outside Canada.

Assessment considers:

- ➔ If the sensitive personal information is stored by a service provider.
- ➔ Where and how the sensitive personal information is stored.
- ➔ The likelihood that unauthorized collection, use, disclosure or storage of sensitive personal information will occur.
- ➔ The impact to an individual(s) if unauthorized collection, use, disclosure or storage of their sensitive personal information occurs.

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# Privacy enhancements

## Issue

- Opportunities exist to improve government's public sector data security and privacy practices.
- Counterbalance needed to data residency change to ensure that British Columbians' personal information continues to be safeguarded.

## Solutions

- Mandatory breach reporting for public bodies.
- Require public bodies to have a privacy management program
- Add an offence for wilfully collecting or using personal information.
- Raise penalties for offences up to a maximum of \$50,000.
- Add an offence for wilfully destroying, altering, falsifying, or concealing records with the intent to evade a request for access to the records.
- Add the power to add subsidiary entities in scope of FOIPPA



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# Data-linking clarification

## Issue

- Data-linking provisions had a complex and cumbersome schema defining what constitutes a new or expanded data-linking “initiative”

## Solution

- Repealed and replaced data linking provisions to be more inclusive
- Regulation with requirements still to be developed, likely to include:
  - Applies appropriate controls that are commensurate with reasonable risks and
  - Ensures public bodies follow fair information practices and protect the rights and interests of any affected individuals.
  - Transparency on summary data about the initiative



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# Other amendment highlights

## Service modernization

- Access limited to public body business.
- Exclude lawfully deleted records from access under the Act.
- Protect the identity of a third-party character reference from access under the Act.
- Expand criteria where the Commissioner may approve a public body to disregard access requests.
- Permit proactively disclosed records to be severed in the same way as they would in response to FOI.

## Administrative

- Add police chief associations as public bodies.
- Indirect collection authorities when collecting from other provinces' "public bodies".
- Modernize collection notice requirements.
- Remove definition of "social media".

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FOIPPA Amendment Act received royal assent Nov. 25  
Data residency regulation passed Nov. 26  
Application fee regulation passed Nov. 26

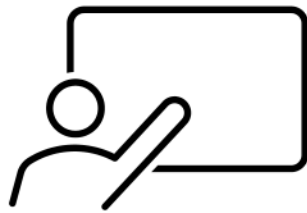


# Moving into Implementation



## In Scope for Implementation

- Drafting of required **regulations** (e.g. data residency, fees)
- **Engagement with stakeholders** on relevant changes including the general public, BC Government ministries, public bodies, and Indigenous partners.
- **Training** for BC Government ministries, public bodies and others as identified
- Creation (and revision) of relevant **policies** and **guidelines**
- Creation (and revision) of **templates**, including Privacy Impact Assessment (**PIA**) **template** and **contract schedules**
- **CIRMO staff training** and **change management**
- Implementation of a **payment solution** for Freedom of Information (FOI) requests



# Key Deliverables Communications & Client Training

## Communications & Client Training key deliverables:

Status as of  
Dec 8, 2021

Communication materials and activities to support engagement of stakeholders on 2021 FOIPPA Amendments



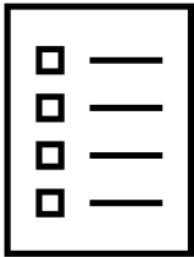
Materials for trainers responsible for training BC Government ministries and public bodies



Updates to existing training, including BC Information Privacy Certificate (BCIP) decks, IM117, FOIPPA all day training and ad hoc training slide decks



LEGEND  = complete  = in progress/partially complete  = not yet started or just starting



## Key Deliverables – Policies & Guidance

Policies and Guidance Key Deliverables	Status as of Dec 8, 2021
Fee Regulation	
Data Residency Regulations	

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Continued...

LEGEND = complete = in progress/partially complete = not yet started or just starting

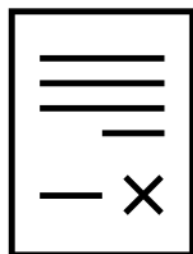




## Key Deliverables – Policies & Guidance (2)

Policies and Guidance Key Deliverables	Status as of Dec 8, 2021
Updates to: <ul style="list-style-type: none"><li>○ Core Policy Chapter 12</li><li>○ PMAP</li><li>○ FOIPPA Policies and Procedures Manual</li></ul>	
FOIPPA cross-section reference	
Division and branch webpage updates	

LEGEND = complete = in progress/partially complete = not yet started or just starting



## Key Deliverables - Templates

Template Deliverables	Status as of Dec 8, 2021
Contract schedule updates, including Privacy Protection Schedule (PPS) and Cloud Privacy Protection Schedule (CPPS)	
Input into updating privacy guidelines for simple Software-as-a-Service (SAAS) procurement	
PIA directions for: PIA for non-ministry public bodies Service Design Data Residency	
Redesigned PIA template	
PIA template for broader public sector (BPS)	

LEGEND = complete = in progress/partially complete = not yet started or just starting



# Key Deliverables – CIRMO Training + Change Management

## CIRMO Training and Change Management Deliverables

Status as of  
Dec 8, 2021

Internal communications and change  
management plan



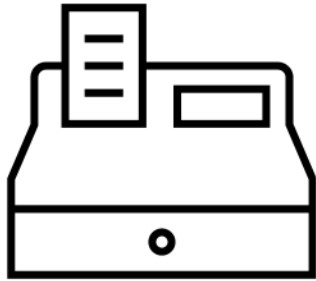
Materials for trainers training CIRMO staff



Guidance and training for Privacy & Access  
helpline staff



LEGEND ● = complete ◐ = in progress/partially complete ○ = not yet started or just starting



# Key Deliverables – Online and Manual Payment Solutions

Payment Deliverables	Status as of Dec 9, 2021
Implement a net new Contact Centre solution	●
Install Point of Sale terminals to facilitate phone payments	●
Procure online payment solution	●
Complete PIA, STRA and audit for online payment	●
Test and implement new online solution	●
Training on online and manual payments, including operational procedures	●
Update webpages	●

LEGEND ● = complete ◐ = in progress/partially complete ○ = not yet started or just starting

Want more info?  
Visit these two simple, useful URLs...

[www.gov.bc.ca/foippaupdates](http://www.gov.bc.ca/foippaupdates)

[www.gov.bc.ca/privacytraining](http://www.gov.bc.ca/privacytraining)



# Questions and Discussion

# APPLICATION FEE FOR GENERAL REQUESTS

## Background

Proposed amendments to the *Freedom of Information and Protection of Privacy Act* (FOIPPA) received Royal Assent on November 25, 2021. As part of these changes, the B.C. government introduced a \$10 fee for general freedom of information (FOI) requests.

B.C. receives among the highest volumes of FOI requests in Canada with over 10,000 requests annually. This volume has increased by more than 40% between 2018 and 2020. And while work is being done to modernize and streamline the FOI system, stakeholders have told government they are not getting their information fast enough. This is mostly because of overly broad requests that are slowing down the system.

The application fee for non-personal requests is designed to get people the information that they deserve, faster and more efficiently by encouraging FOI applicants to be more purposeful when making requests. Other provinces and territories have effectively established application fees to encourage focused and streamlined FOI requests.

## Overview

A non-refundable application fee of \$10 will now applied to all General FOI requests. This fee must be paid before the request will be processed and will apply to every public body included in the request (e.g., records requested from three ministries would be \$30).

If additional public bodies have records beyond the original request, the request may be transferred to ensure a fulsome response is provided. Those submitting the request will be notified before it is transferred to an additional public body as there will be an additional fee for any added public bodies.

To ensure the fee is not a barrier to access, Indigenous Governing Entities will not be required to pay application fees.

This fee also does not apply to personal FOI requests, those continue to be without a cost.

## More information

Additional information regarding FOI requests and associated fees can be found [here](#) or contact the Information and Access Operations at [FOI.Requests@gov.bc.ca](mailto:FOI.Requests@gov.bc.ca) or 250-387-1321.

Information sessions are being held for ministries and the broader public sector through December and into 2022. Check [www.gov.bc.ca/privacytraining](http://www.gov.bc.ca/privacytraining) for updates.

*December 2021*

## AMENDMENTS OVERVIEW

### Background

Introduced in 1993, *Freedom of Information and Protection of Privacy Act* (FOIPPA) balances government's accountability to the public through access to information with a person's right to information privacy. There are over 2,900 public bodies covered by FOIPPA including government ministries, agencies, boards commissions, Crown corporations, municipalities, post-secondary institutions, school boards, health authorities, and self-governing bodies of professions.

### Amendments Highlights

On November 25<sup>th</sup>, the *Freedom of Information and Protection of Privacy Amendment Act* received Royal Assent [link TBC]. Most amendments take effect right away, however, select amendments will come into force at a later date to give public bodies more time to develop implementation plans, and some amendments will be further detailed in regulation or ministerial directions.

Highlights include:

- Updating FOIPPA's data-residency provisions.
- Requiring public bodies to have a privacy management program.
- Implementing mandatory privacy breach reporting.
- Increasing penalties for offences and adding new offences for evading FOI.
- Introducing an application fee for non-personal FOI requests.
- Enabling more information sharing with Indigenous peoples.
- Adding Indigenous cultural protections.

### More information

Guidance materials and training opportunities to support public bodies' understanding of the changes as they work through implementation in their organizations.

Information sessions are being held for ministries and the broader public sector through December 2021 and into 2022. Check [www.gov.bc.ca/privacytraining](http://www.gov.bc.ca/privacytraining) for updates.

For questions about the 2021 amendments, please contact [IM.ITPolicy@gov.bc.ca](mailto:IM.ITPolicy@gov.bc.ca).

For more general privacy related questions, please contact [privacy.helpline@gov.bc.ca](mailto:privacy.helpline@gov.bc.ca).



# DATA RESIDENCY CHANGES

## Background

Proposed amendments to the *Freedom of Information and Protection of Privacy Act* (FOIPPA) received Royal Assent on November 25, 2021. As part of these changes, the B.C. government updated its data-residency provisions to help public bodies keep pace with new technology and provide the services people expect in a modern age.

Previously, the Act required that personal information be stored and accessed within Canada except under limited circumstances. Government has heard feedback from people, businesses, Indigenous groups, and organizations that they want to continue accessing government services, such as healthcare and education opportunities, using the tools that have made their lives easier during the COVID-19 pandemic.

## Overview

The 2021 amendments bring B.C. in line with other jurisdictions by removing restrictions that prevented public bodies from storing information outside of Canada.

To ensure the personal information people entrust to government continues to be protected, due diligence requirements will be strengthened for public bodies through privacy impact assessments. These assessments consider risk on a case-by-case basis, based on the sensitivity of the information involved and where it is stored.

When sensitive personal information will be stored outside Canada, a supplementary assessment will be required. This additional assessment will consider factors that impact the risk of unauthorized collection, use, disclosure or storage of the personal information and risk responses that are commensurate to the risk posed.

An informed decision can then be made by the head of the public body on whether to proceed with the project.

## More information

Additional information, including guidance documentation, can be found at [\[link\]](#) or contact the B.C. Privacy and Access Helpline at [Privacy.Helpline@gov.bc.ca](mailto:Privacy.Helpline@gov.bc.ca) or 250-356-1851.

Information sessions are being held for ministries and the broader public sector through December and into 2022. Check [www.gov.bc.ca/privacytraining](http://www.gov.bc.ca/privacytraining) for updates.

# APPLICATION FEE FOR GENERAL REQUESTS

## Background

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B.C. receives among the highest volumes of FOI requests in Canada with over 10,000 requests annually. This volume has increased by more than 40% between 2018 and 2020. And while work is being done to modernize and streamline the FOI system, stakeholders have told government they are not getting their information fast enough. This is mostly because of overly broad requests that are slowing down the system.

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This fee also does not apply to personal FOI requests, those continue to be without a cost.

## More information

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Information sessions are being held for ministries and the broader public sector through December and into 2022. Check [www.gov.bc.ca/privacytraining](http://www.gov.bc.ca/privacytraining) for updates.

## DECISION NOTE

### Advice to Minister Beare

**Date:** November 25, 2021

**CLIFF#:** 99999

**ISSUE:** Indigenous Governing Entities not required to submit application fees for non-personal Freedom of Information requests

#### **BACKGROUND:**

Bill 22, *Freedom of Information and Protection of Privacy Amendment Act* ("the Act") introduces an Application Fee ("the fee") charged for non-personal freedom of information (FOI) requests. The Ministry has consistently expressed a commitment to *Declaration Act* (DRIPA) through the process of developing legislative amendments.

On November 23<sup>rd</sup>, 2021 the Union of British Columbia Indian Chiefs (UBCIC) submitted an open letter to the Premier and Minister Beare calling for the immediate withdrawal of Bill 22. Based on the concerns identified by UBCIC and building on prior reconciliation efforts, the Province is considering not requiring Indigenous Governing Entities (IGEs) to submit application fees for non-personal FOI requests. As defined in Bill 22, IGEs "means an Indigenous entity that exercises governmental functions, and includes but is not limited to an Indigenous governing body as defined in [the Declaration Act]". While this definition is broader than the definition of Indigenous Governing Body, some Indigenous groups such as

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#### **DISCUSSION:**

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**OPTIONS:**  
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**RECOMMENDATION:**

*(please circle)*

**APPROVED**

**NOT APPROVED**

**OPTION \_\_\_\_\_**

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**Lisa Beare**  
**Minister**

---

**Date**

Attachment: Kerry Pridmore  
Contact: 250-507-1485

**From:** [Begley, Rhianna CITZ:EX](#)  
**To:** [Sinnott, Michelle CITZ:EX](#)  
**Subject:** FW: Announcing the successful launch of the IAO Contact Centre!  
**Date:** December 1, 2021 11:10:35 AM

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Can you please save this email with the other amendment related announcements per my earlier email?

---

**From:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
**Sent:** November 3, 2021 9:50 AM  
**To:** CITZ CIRMO IAO FOI <IAOFOI@Victoria1.gov.bc.ca>  
**Subject:** Announcing the successful launch of the IAO Contact Centre!

Good morning IAO,

I wanted to take a moment to announce and celebrate the successful launch of the IAO Contact Centre!

On November 1, IAO enhanced our public facing phone number, 250-387-1321, from a single line telephone to a modern Contact Centre solution. The investment in and implementation of the Contact Centre has positioned IAO to be properly equipped to better support the public generally, and specifically to enhance our service in response to the pending legislated amendments. Although the catalyst for this change came from the legislated amendments, the improvement is a tangible step towards modernizing our service delivery and will provide long term value to IAO and the citizens we serve.

Benefits of the new solution include:

- Increased capacity to handle concurrent calls and distribute call volume between multiple analysts and/or teams based on skill and availability
- Directs fee related calls to an analyst that is ready to accept payment using our new Point of Sale (POS) devices (reducing process time from hours to minutes)
- Introduces automated call handling to redirect callers to external bodies, when appropriate, and reduce internal effort on non IAO calls
- Adds the ability to monitor live calls for training and quality purposes
- Provides real time and historical reporting capabilities to better understand and adapt to evolving needs
- Provides a direct toll free option at 833-283-8200

The standard lead time to implement a new contact centre is generally between 8-12 weeks. **Our Contact Centre was delivered in 8 days!** The speed at which this solution was implemented IS AMAZING and showcases the strength of our team and the value of our partnerships!

**A big thank you to James Pinske for the thoughtful and proactive work that he put in to developing, designing, securing approvals and implementing this solution. I know Patrick Craib and Gitta Fekete were both instrumental in supporting the design development and handling the logistics of coordinating the employee training under very tight timelines. I also want to share my**

**gratitude to the Flex and Intake Personals Teams who have had very little time to learn this new system, but have demonstrated enthusiasm, resiliency and positivity – not to mention that they are already doing extremely well with the new tools! Thank you!**

If anyone wants to know more, or has any questions, please connect with James.

With thanks,

**Rhianna Begley** | she/her

Executive Director, Information Access Operations

*Corporate Information and Records Management Office (CIRMO)*

*Ministry of Citizens' Services*

*T: (250) 507-5110 (texts welcome) E: [Rhianna.Begley@gov.bc.ca](mailto:Rhianna.Begley@gov.bc.ca)*