



July 23, 2012

Douglas Horne, Chair
Select Standing Committee on Finance
and Government Services
Legislative Assembly of British Columbia
Parliament Buildings
Victoria BC V8V 1X4

Dear Douglas Horne:

As requested by the Select Standing Committee on Finance and Government Services (“Committee”) in its Annual Review of the Budgets of the Independent Legislative Offices published in December 2011, I am writing to provide a progress report on the implementation of my expanded statutory mandate under the *Freedom of Information and Protection of Privacy Act* (“FIPPA”).

Background

Bill 3, the *Freedom of Information and Protection of Privacy Amendment Act*, was proclaimed on October 25, 2011 and received Royal Assent on November 14, 2011. This Bill made significant changes to government’s authority to share personal information, and expanded the mandate of the Office of the Information and Privacy Commissioner to include:

- Review and comment on privacy impact assessments respecting all common or integrated programs or activities or data-linking initiatives [s. 69(5.2) of FIPPA].
- Provide expert advice on the development of an information sharing code of practice [s. 69(9) of FIPPA].
- Provide expert advice on the development of regulations relating to collection of personal information based on consent [s. 76(2.1)(a) of FIPPA].
- Provide expert advice on the development of regulations respecting how data sharing initiatives must be carried out [s. 76(2.1)(b) of FIPPA].

Start-up funding

Since many of these new responsibilities required immediate action by my office, I requested one-time start-up funding of \$115,000, re-allocated from my 2011/12 budget, to procure the required resources to prepare for our new mandate. On November 7, 2011 the Committee

approved this request, and we used these funds to hire one full-time temporary policy analyst, one part-time temporary policy analyst as well as additional contractors.

Funding for implementation of expanded statutory mandate

To ensure that my office could deliver on our new oversight responsibilities, I requested a budget increase in order to hire up to four new FTEs on a permanent basis in 2012/13 and one further FTE in 2013/14. The Committee granted my request, and we have since used these funds to hire three new policy analysts. As the regulations are completed and my office begins to receive more privacy impact assessments for review and comment, we will require an additional policy analyst in the fiscal year 2013/14.

We have also hired specialized contractors to provide technical expertise as we review proposals for data sharing and data linking, common or integrated programs or activities, and complex networked systems. We will continue to hire these contractors on an as-needed basis to ensure my office has the flexibility to respond to the changing technical needs of these projects.

Privacy impact assessments

Privacy impact assessments (“PIAs”) are mandatory for public bodies seeking to implement common or integrated programs or activities or data linking initiatives. Amendments to FIPPA require these public bodies to submit PIAs to the Commissioner for review and comment.

My staff have completed an extensive review of existing privacy impact assessment templates, both nationally and internationally, and have also completed stakeholder consultations on a draft template. We are now collaborating with the Office of the Chief Information Officer to publish consistent PIA guidelines for public bodies. We expect the guidance to be completed and published this fall.

In the meantime, to assist public bodies in meeting this new requirement, in March 2012 my office established interim requirements for the form and content of PIAs.

My office has also established early notice policies, which require public bodies to notify the Commissioner in writing of their intention to implement a data-linking initiative or of a common or integrated program or activity when the project is in the conceptual stages. These policies were first released in March 2012 and were updated in July 2012.

Information sharing code of practice

Consultations have yet to be initiated by government on an information sharing code of practice for BC. In the interim, my office has completed research on information sharing codes of practice in other jurisdictions. I hope to provide you with a more fulsome update on this aspect of our new mandate later this year.

Regulations

With regard to regulations on the collection of personal information based on consent and regulations pertaining to confirming a common or integrated program or activity, I am pleased to report that our consultations with government are complete and the regulations were deposited on June 25, 2012.

We continue to consult with government on the development of regulations respecting data linking. We have provided detailed comments on draft regulations and look forward to receiving an update from government in the near future.

Other duties

In addition to the expanded oversight responsibilities explicitly enumerated in amendments to FIPPA, my office has devoted considerable resources to actively monitoring and consulting with government on new programs, initiatives and activities that flow from these amendments.

For example, in the area of open government, my office is researching and developing guidelines for the implementation of open information and open data, including suggested categories of records, and evaluation criteria for open information and open government. These activities are for the purposes of gauging compliance with s. 71.1, which requires that ministries establish categories of records to make available to the public without a request for access under FIPPA.

The amendments also gave government the authority to proceed with an identity information management program, which will facilitate integrated and online service delivery for British Columbians. BC is the first Canadian jurisdiction to venture into this very challenging and complex area, and it is critical we ensure government's requirements and efficiencies are balanced with transparency, personal privacy and data security. My office will continue to devote considerable resources to actively monitor this initiative throughout the project lifecycle.

Public reporting on our progress

In the spirit of transparency, I have included a summary of our expanded legislative mandate and the work completed to date in my 2011/12 Annual Report. I have enclosed a copy of the report for your reference.

Yours sincerely,

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

pc: Doug Donaldson, MLA-Stikine
Deputy Chair
Select Standing Committee on Finance
and Government Services

Kate Ryan-Lloyd
Deputy Clerk and Clerk of Committees
Legislative Assembly of British Columbia

Enclosure