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BULLETIN

**OIPC ISSUES NEW RECOMMENDATIONS ON
DISCLOSURE OF RECORDS – INVESTIGATION REPORT 25-01**

The Office of the Information and Privacy Commissioner for British Columbia (“OIPC”) released a new [Investigation Report](#) (the “Report”) earlier this week on local governments’ disclosure of records under the *Freedom of Information and Protection of Privacy Act* (“FIPPA”). A number of issues were identified, with the OIPC noting that a “patchwork of inconsistent approaches” highlighted a need for municipal and provincial governments to improve access and strengthen freedom of information (“FOI”) to “provide transparent and accountable service to the public”.

Local governments will likely recall completing a survey in September of 2024 for the OIPC – this survey was the foundation of the Report and asked questions targeting three main categories of FOI processes: (1) the administration of the application fee; (2) proactive disclosure; and (3) records made available for purchase. The OIPC identified four specific issues in the Report, and provided corresponding recommendations to improve upon FOI processes. The first three are aimed directly at local governments, while the last one requires clarity from the provincial government.

- 1. Local governments should have telephone or online payment options when administering application fees*

The OIPC found that local governments vary in how they administer application fees for an FOI request, including for waivers of fees and for the fee payment options made available. Local governments, on average, provided at least six different payment options, with some providing ten or more. Some, however, had no options for applicants to pay application fees by telephone or online (such as by credit card or e-transfer). The OIPC noted that online and digital payment options are commonplace nowadays, and far more convenient for applicants, providing greater expediency and accessibility. Conversely, limiting forms of payment to those that require applicants to pay in person, or via regular mail, may create barriers to the right of access. **As such, the OIPC recommended that all public bodies that administer an application fee should have fee payment options that allow applicants to pay by telephone or online.**

- 2. Local governments should provide mandatory and more comprehensive routine training to staff*

The OIPC noticed a discrepancy between several local governments' proactive disclosure practices and what their staff actually knew about their proactive disclosure practices. Nearly a quarter of municipalities reported that they did not proactively make records available to the public. The OIPC reviewed the official website for each municipality and found that, in all cases, those municipalities did, in fact, proactively release records to the public. The OIPC described this as "concerning", suggesting municipal staff are either unaware that their municipality routinely releases records or do not understand the requirements of section 71 of FIPPA, potentially having a substantial impact on the public's access to records. **As such, the OIPC recommended that municipalities should provide mandatory routine training to all staff on:**

- **FIPPA and their responsibilities under FIPPA;**
- **municipal routine disclosure and FOI policies and processes; and**
- **how and where to locate records available for routine disclosure.**

3. *Local governments should publish meaningful categories for routine disclosure*

FIPPA requires the head of a public body to establish categories of records available to the public without an FOI request, but the survey data showed that local governments differ in the volume and types of records made available. Many local governments established categories of records that were generally well-documented, descriptive, and meaningful, while others reported they had not established any categories. In other circumstances, the OIPC found that established categories were overly broad, not descriptive, and less meaningful (such as simply categorizing records as "routine release"). **As such, the OIPC recommended that municipalities publish meaningful categories for routine disclosure, meaning they:**

- **regularly consider their records and establish meaningful categories for routine disclosure;**
- **publish the records in an easily accessible and highly visible location; and**
- **ensure that staff direct people to the records without delay upon request.**

4. *The provincial government should establish clear criteria to determine when a record is excluded from FIPPA*

Finally, the OIPC found inconsistencies across local governments about which records are made available for purchase, and whether obtaining a record for purchase still requires an FOI request and staff intervention. Section 3(5) of FIPPA sets out certain records that are not subject to the access provisions in Part 2 of FIPPA, including records available for purchase or records that do not relate to the business of the public body. The OIPC acknowledged that further guidance is needed on this section and that the absence of clear criteria has led to a broad application of this provision. As such, the OIPC directed its final recommendation toward the provincial government

to establish clear criteria that would help local governments, and other public bodies, determine which records should be provided for purchase as opposed to for proactive disclosure or regular FOI processes, along with the associated costs.

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