



Ministry of
Citizens' Services

Report on the administration of the Freedom of Information and Protection of Privacy Act **2021/22**

November 23, 2022

The Honourable Raj Chouhan
Speaker of the Legislative Assembly
Suite 207 Parliament Buildings
Victoria, B.C. V8V 1X4

Dear Mr. Speaker,

I am pleased to present this report on the administration of the *Freedom of Information and Protection of Privacy Act* for the 2021/22 fiscal year. Outlined in this report are steps my ministry has taken in support of my November 2020 mandate letter:

- » Continue to improve government's public sector data security and privacy practices to ensure that British Columbians' personal information is safeguarded.
- » Continue to provide British Columbians with timely access to information and ensure the system provides public accountability.
- » Continue to improve access to information rules to provide greater public accountability.

There has been considerable progress made in 2021/22 to improve government accountability and transparency through increased privacy protections and the proactive disclosure of information. Government has also undertaken initiatives to modernize freedom of information (FOI) processes and launched free, interactive online training to help B.C. public bodies understand their privacy and access to information obligations.

This work would not be possible without the dedicated people across the public service who are committed to access to information and the protection of privacy.

Sincerely,



Honourable Lisa Beare
Minister of Citizens' Services

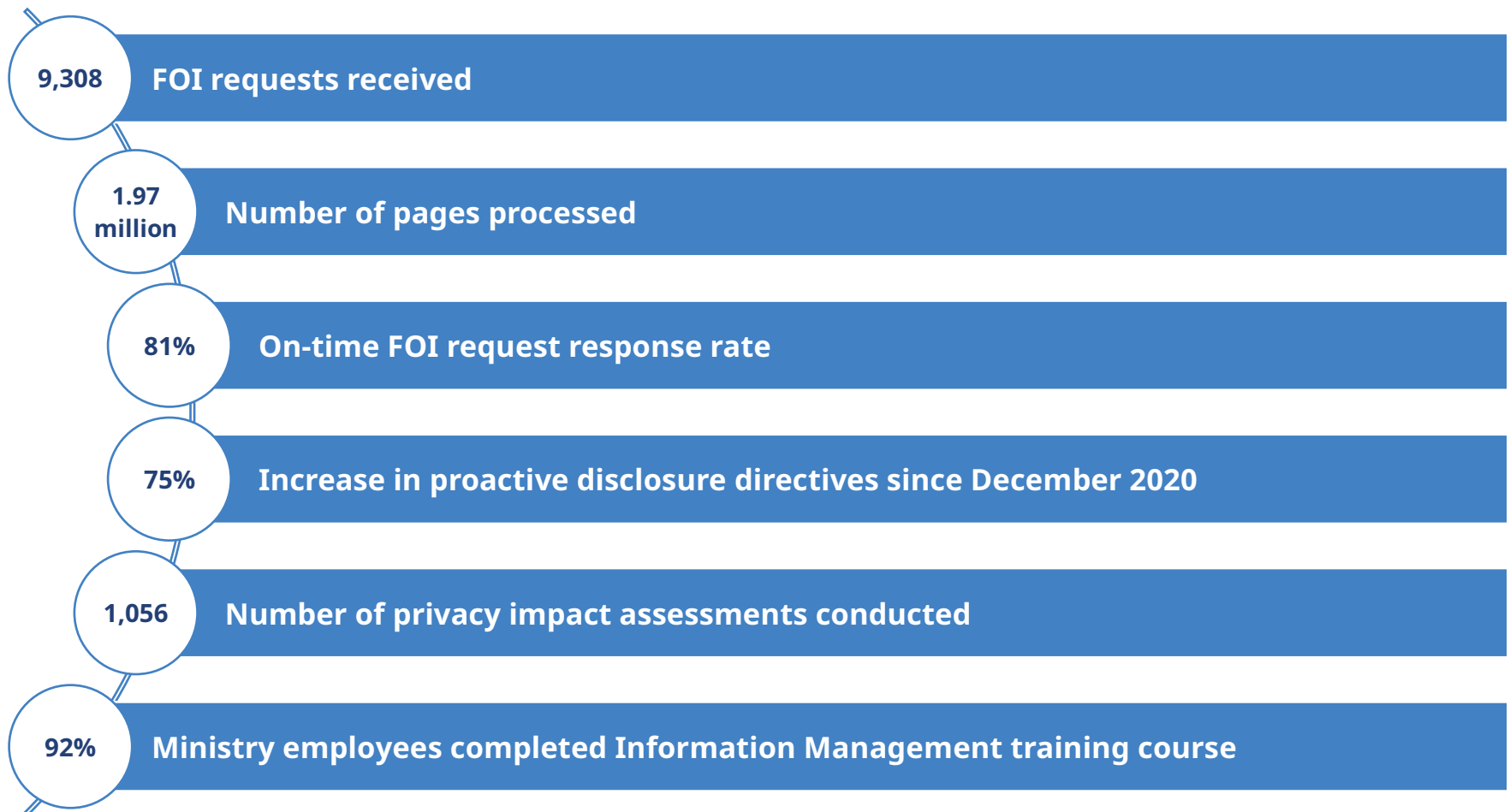
pc: Kate Ryan-Lloyd
Clerk of the Legislative Assembly
Legislative Assembly of British Columbia

Table of Contents

Table of Contents	3
2021/22 FOIPPA Overview.....	4
Modernizing the Freedom of Information and Protection of Privacy Act	5
Information Access	6
2021/22 Highlights.....	6
Key Figures.....	8
Privacy Protection	11
2021/22 Highlights.....	11
Key Figures.....	13
Looking Ahead.....	15
Appendix – FOIPPA by the numbers	16
Freedom of Information	17
Privacy Protection.....	23

2021/22 FOIPPA Overview

Enacted in 1993, B.C.'s [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 privacy.



Modernizing the Freedom of Information and Protection of Privacy Act

In November 2021, government modernized FOIPPA to help B.C. keep pace with technology, ensure timely access to information, and strengthen privacy protections.

Highlights include:

- » New provisions that enable public bodies to use modern tools while continuing to protect the personal information people trust government with.
- » New requirements for public bodies to conduct assessments of any sensitive personal information, such as personal health or financial information, being disclosed for storage outside of Canada.
- » Strengthened privacy protections and increased accountability through the introduction of mandatory privacy breach reporting and increased penalties for offences.
- » New protections for Indigenous peoples sensitive cultural information in support of government's commitment to reconciliation.
- » Removal of non-inclusive and outdated language in support of diversity and inclusion.

Government also began work, in collaboration with the Office of the Information and Privacy Commissioner, to develop: 1) regulations on how to notify individuals of privacy breaches that could cause significant harm; and 2) a ministerial directive on the essential components of a privacy management program. These requirements are expected to be brought into force in early 2023.

Information Access

FOIPPA makes government open and transparent by providing a mechanism for the public to request information about themselves (personal requests) and government business (general requests) from the more than 2,900 public bodies in B.C. FOIPPA also sets a requirement for public bodies to make information available to the public through proactive disclosure.

2021/22 Highlights

FOI Modernization Project

Following establishment of the project team in April 2021, work began on the over \$5.3M FOI Modernization Project to improve government FOI processes. This three-year project will introduce new technology and business processes to support the large volume of requests received each year while also improving the citizen experience by making processes more transparent and easier to use.

In July 2021, the project team delivered a software tool to facilitate the identification and removal of duplicate records in a FOI request. This new tool is estimated to save over 500 hours annually for government teams as well as provide more streamlined packages for people who submit FOI requests (applicants). Additionally, in November 2021, the project team improved the FOI request form to make it easier for applicants to submit their requests to relevant ministry public bodies.

In the spring of 2022, a pilot of the new government FOI system was launched to enable five government ministries to manage FOI requests within a unified electronic service in partnership with government's FOI office (Information Access Operations - IAO). This new unified electronic service decreased the average hours to process an FOI request, primarily by streamlining communications between IAO and pilot ministries. The pilot is considered a success and additional ministries are planned to be onboarded over the next two years.

MCFD FOI Service Delivery Project

FOI requests to the Ministry of Children and Family Development (MCFD) are often for an individual's own personal records, such as for information about former youth in care, and represent over 20 percent of all FOI requests.

In the spring of 2021, IAO partnered with MCFD to improve service delivery for personal FOI requests; ensuring applicants receive the information they require in a timely, accessible, and efficient manner. MCFD and IAO are working collaboratively to improve user experience, streamline communications, and modernize the FOI application form.

Increasing Transparency

2021/22 improvements to government accountability and transparency include:

- » Increased ministerial power to add subsidiary corporations or entities as new public bodies under the Act.
- » Increased authority for public bodies to disclose information to Indigenous governing entities.
- » New requirements for public bodies to seek consent from Indigenous governing entities before disclosing potentially culturally sensitive information in response to an FOI request.
- » New offences for wilfully evading FOI requests.

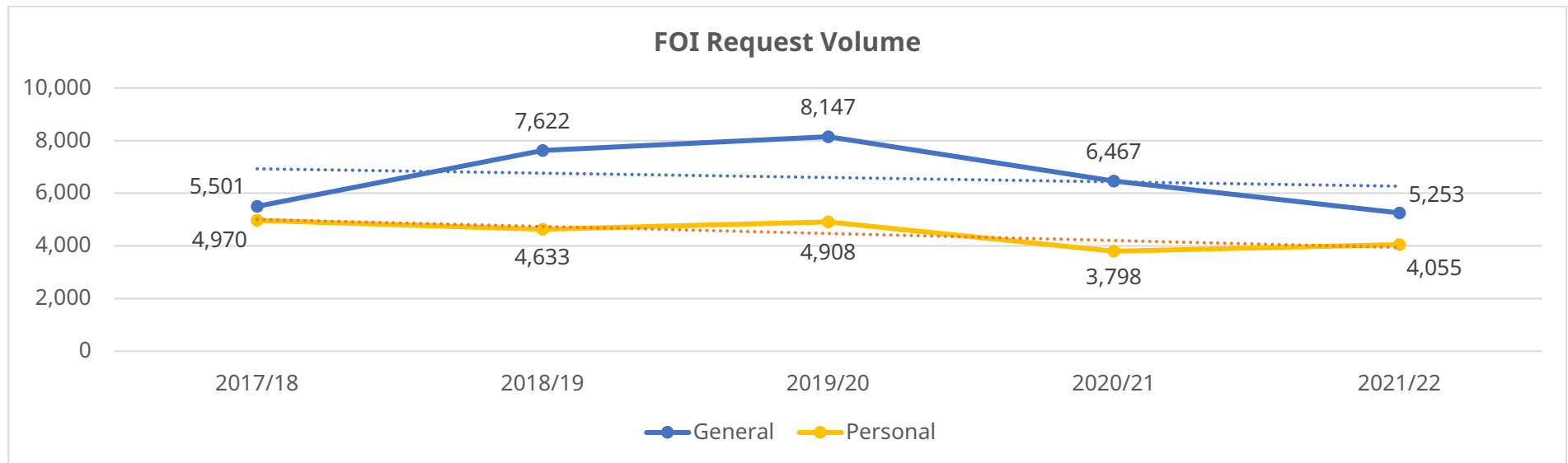


Key Figures

FOI Requests by Year

An FOI request is a formal process to request records from a public body. Personal requests are when an individual requests their own information held by government such as child in care records, income assistance records, B.C. government staff employment records, etc. General requests are requests for all other government information such as briefing notes, reports, etc.

Since 2017/18, the average volume of personal requests has remained relatively steady with a slight decline in recent years. Where we see some year over year variance is in the general requests with a peak in 2019/20 of 8,147 requests.



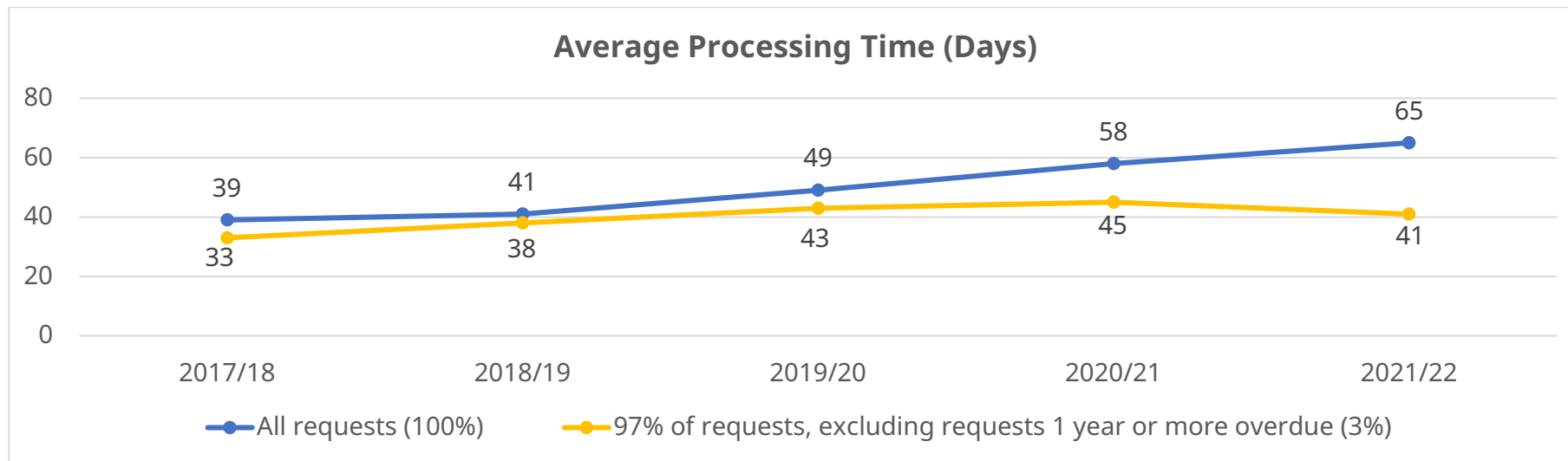
Processing Time

FOIPPA states that a public body must respond to an applicant who makes a formal FOI request within 30 business days. The Act provides for the ability to extend this time period if certain conditions apply, or with the permission of the Information and Privacy Commissioner.

Part of IAO's commitment to improve service delivery was to prioritize British Columbians who were waiting for access to their personal information. For example, IAO has undertaken a collaborative project to improve service delivery for MCFD clients which prioritizes overdue personal FOI requests and has resulted in almost 600,000 additional pages of personal information processed for 2021/22.

The average processing time for responding to an FOI request in 2021/22 was significantly impacted by government's ongoing commitment to respond to overdue requests. Because the processing time for responding to a request is not calculated into the average processing time measure until the request is closed, a focus on closing overdue requests will negatively affect the average processing time for all requests closed in that fiscal year.

When complex requests that were overdue by a year (approximately 3% on average of all requests) are excluded from the total number of requests closed, the average processing time to respond to 97% of FOI requests was 41 days for 2021/22. Continuing to modernize the FOI process as well as processing the backlog remain key priorities to ensure people receive their personal information on time.



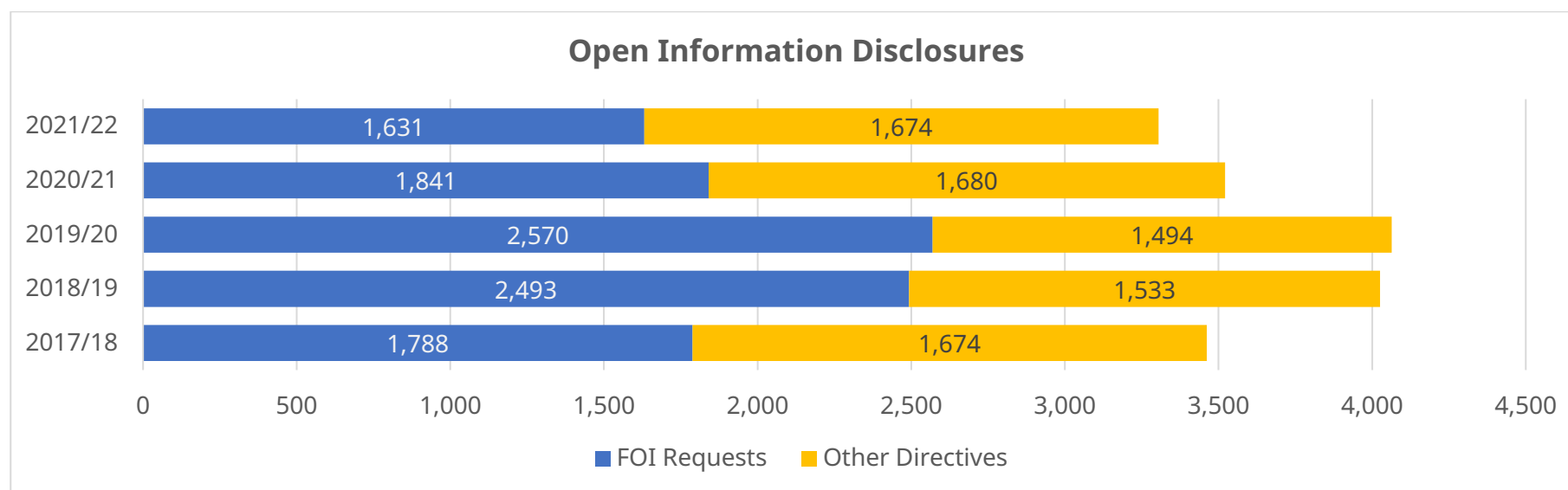
Proactive Disclosure

Proactive disclosure is the release of government information to the public without a formal FOI request. The practice of disclosing information on a proactive basis is the best way for government to improve access to information, transparency, and accountability.

There have been 75% more proactive disclosure directives¹ since December 2020. As well, government continues to review opportunities to make high-value records available to the public through [Open Information](#).

Ministries disclose a great deal of information through online repositories and interactive tools such as [BC Data Catalogue](#), [DriveBC](#), and the [BC Economic Atlas](#). The more than 3,000 data sets on the BC Data Catalogue increases transparency on government services.

Section 71.1 FOIPPA allows the minister responsible for the Act to establish categories of records that ministries must proactively disclose and to issue directions that detail those disclosures. One new ministerial directive came into effect March 1, 2022: Disclosure of Summaries of Ministerial Briefing Notes, which brings the total to 14 categories of records that are proactively released to the public. Examples of other categories include Ministers' and Corporate Transition Binders as well as Estimates Notes.



¹ There are two categories of proactive disclosure directives: FOI Requests and Other Directives.

Privacy Protection

The government of B.C. is responsible for protecting privacy and personal information whenever citizens interact with us. The Privacy Management and Accountability Policy (PMAP) supports ministry compliance with FOIPPA and strengthens government's ability to protect the privacy of individuals' personal information. It includes direction on the Province's privacy management program, including privacy management accountabilities, as well as privacy tools, agreements, and processes that support privacy protection in ministries.

There are 13 Ministry Privacy Officers (MPOs) who are accountable for privacy management programs within each ministry or sector. MPOs have the necessary knowledge and experience with ministry portfolios and privacy expertise to support robust, tailored programs for their ministries, which focus on supporting employee education and awareness, delivering sound privacy advice, and designing privacy into new ministry initiatives.

2021/22 Highlights

Increasing Indigenous peoples information protection

In support of government's commitment to reconciliation, new protections were added to Indigenous peoples sensitive cultural information. Previously, FOIPPA did not sufficiently describe all aspects of information related to Indigenous knowledge or cultural heritage – for example, information related to intangible aspects of Indigenous culture such as language, resource cultivation practices, and traditional visual and performing arts.

In addition, the 15-year limitation for disclosing information related to Indigenous government relations or negotiations has been removed to ensure the information is protected and the risk of harm is reduced for as long as necessary.

FOIPPA Foundations

Launched in April 2022, [FOIPPA Foundations](#) is a new, free online course that supports learners to understand their privacy and access obligations in B.C.

This engaging and interactive course provides learners with an overview of:

- » The fundamentals of FOIPPA
- » Their responsibilities under FOIPPA
- » How FOIPPA applies to their work
- » Their privacy and access obligations

Target audiences for the course include public body employees in the broader public sector, contracted service providers, and B.C. government employees.

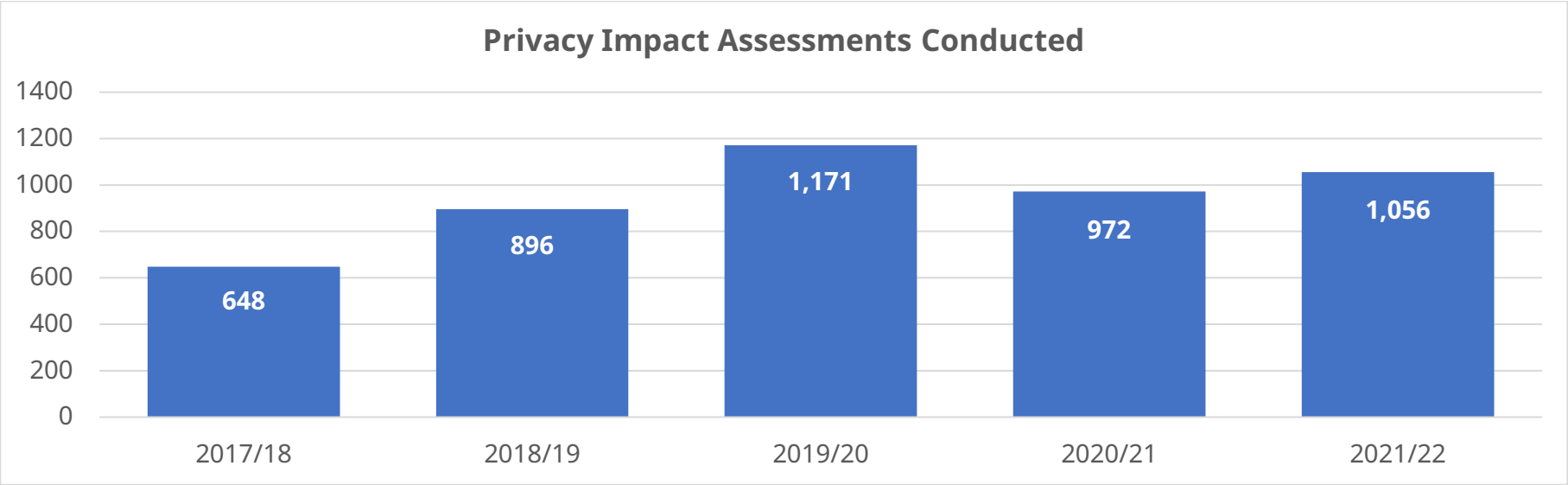


Key Figures

Privacy Impact Assessments

Privacy Impact Assessments (PIAs) are used by public bodies to review the level of privacy risk to a system, project, program, or activity. This step-by-step review process ensures government protects the personal information collected or used in accordance with the privacy requirements outlined in FOIPPA.

Conducting a PIA helps protect privacy and builds public trust by being clear about what information government is collecting, who has access to it, and how it is stored.

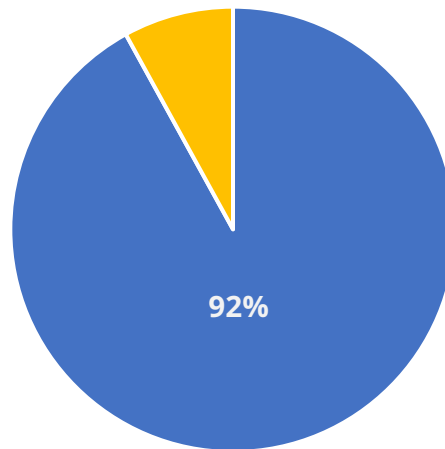


Privacy Protection Training

Ensuring government employees are trained in information management is critical to managing and protecting the personal information entrusted to government. This is done, in part, by requiring every government employee to take a comprehensive information management course which focuses on privacy, information security, access, and records management (Information Management 117 – IM117).

The IM117 course was refreshed in April 2021 to include a wider range of teaching methods to support adult learning through quizzes, scenario-based learning, and other interactive components.

92% of ministry employees completed IM 117 in 2021



Looking Ahead

Digital Privacy Impact Assessment

A project will be launched in the fall of 2022 to create a new digital tool which will improve the PIA process and change from the current linear, one-size-fits-all process to one where the privacy review is commensurate to the potential privacy impacts of the initiative.

Goals of the project include:

- » Designing an approach for the development and review of PIAs that is flexible and proportionate to the potential privacy impacts of the initiative.
- » Rebuilding the Personal Information Directory to provide better service and transparency for the public while also allowing for a better understanding of PIA patterns.
- » Creating a system to better track performance measures and PIA trends, while supporting a responsive and timely PIA drafting and review process.
- » Improving the user's experience by streamlining the PIA drafting processes.

FOI Modernization Project

In the coming year, the FOI Modernization project team will continue to enhance the new enterprise FOI system used by ministries and IAO to manage government FOI requests. The project will also onboard more ministries to the new system over the next two years.

Additional enhancements underway include the development of:

- » Improvements to the upload, deduplication, and storage of records responsive to requests.
- » Improvements that speed up the review and redaction of records by IAO analysts, including making it easier for analysts to find and consistently redact content within records packages.

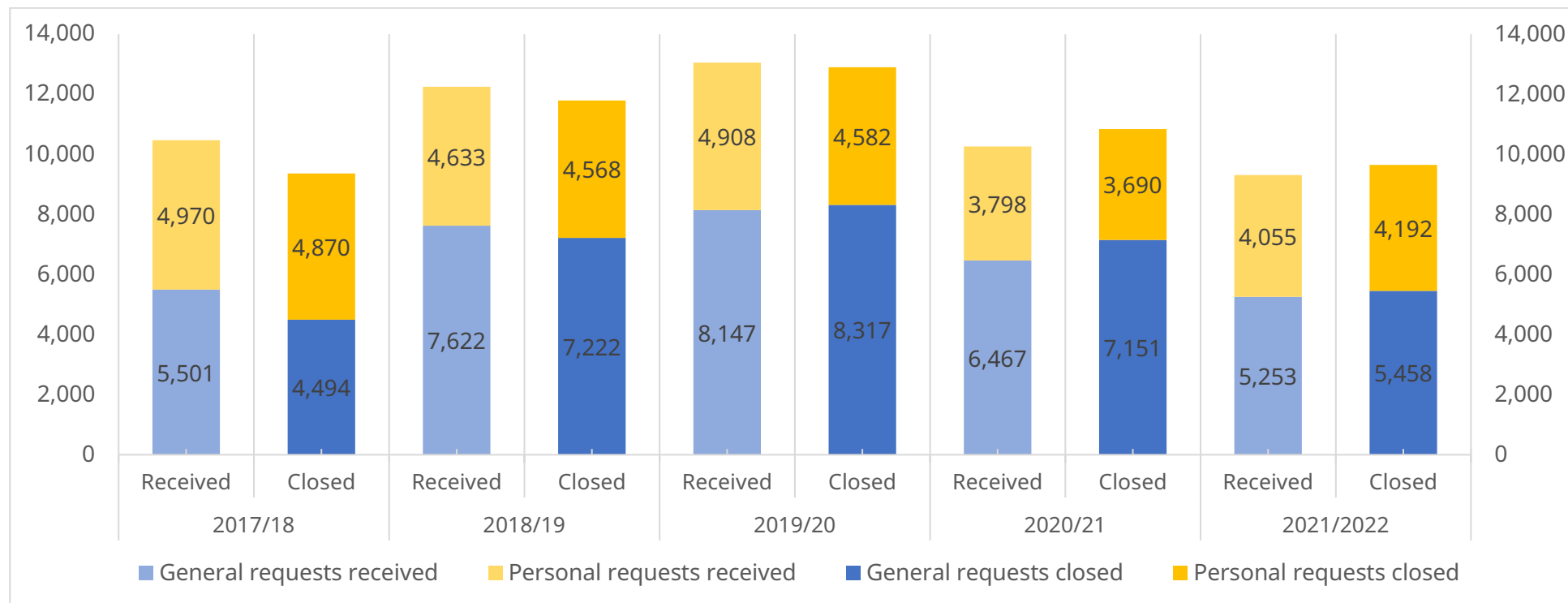


Appendix – FOIPPA by the numbers

Freedom of Information

FOI Requests

Personal requests are when an individual requests their own information held by government such as child in care records, income assistance records, B.C. government staff employment records, etc. General requests are requests for all other government information such as briefing notes, reports, etc.



Cross-government Requests

A request is considered “cross-government” when it is made to four or more ministries. Cross-government requests can have significant impacts on timeliness as searches must be conducted across multiple ministries.

	2017/18	2018/19	2019/20	2020/21	2021/22
Total	2,117	3,129	2,933	2,323	1,371

Requests Received by Ministry

	2020/21		2021/22	
	General	Personal	General	Personal
Advanced Education & Skills Training	144	8	137	2
Agriculture & Food*	190	0	187	0
Attorney General	251	80	220	80
Children & Family Development	189	1,852	160	2,058
Citizens' Services	254	3	191	0
Education & Child Care*	195	8	164	15
Energy, Mines & Low Carbon Innovation	202	0	145	1
Environment & Climate Change Strategy	334	10	243	6
Finance	1,061	286	610	307
Forests*	471	7	499	13
Health	632	56	919	39
Indigenous Relations & Reconciliation	168	0	94	1
Jobs, Economic Recovery & Innovation	231	9	139	0
Labour	150	11	116	12
Land, Water & Resource Stewardship*	--	--	13	0
Mental Health & Addictions	149	0	67	0
Municipal Affairs	195	13	96	15
Office of the Premier	643	2	289	5
Public Safety & Solicitor General	408	655	462	662
Social Development & Poverty Reduction	163	800	95	832
Tourism, Arts, Culture & Sport	141	0	103	3
Transportation & Infrastructure	296	0	304	4
TOTAL	6,467	3,800	5,253	4,055

* Ministry changes in February 2022.

General Information Requests by Applicant Type

	Individual	Political Party	Law Firm	Researcher	Media	Interest Group	Business	Other Public Body	Other Gov't	Indigenous Governing Entity*
2017/18	838	1,652	274	1,143	971	272	325	21	5	--
2018/19	819	4,922	300	107	795	278	311	18	72	--
2019/20	946	5,836	213	68	536	195	302	17	34	--
2020/21	896	4,033	214	87	760	210	238	12	17	--
2021/22	1429	2,091**	243	91	908	163	286	15	19	8

* Indigenous governing entity applicant type was introduced in November 2021. Total reported reflects 4 months of reporting.

Personal Information Requests by Applicant Type

	Individual	Political Party	Law Firm	Researcher	Media	Interest Group	Business	Other Public Body	Other Gov't	Indigenous Governing Entity*
2017/18	3,666	1	1,185	2	2	77	8	14	15	--
2018/19	3,607	0	913	0	5	81	7	11	9	--
2019/20	3,873	1	916	0	4	60	10	19	25	--
2020/21	2,854	0	864	0	0	52	7	19	2	--
2021/22	3,089	0	873	0	1	52	9	20	5	6

* Indigenous governing entity applicant type was introduced in November 2021. Total reported reflects 4 months of reporting.

Open Information Disclosures

	FOI Requests	Other Directives	Total
2017/18	1,788	1,674	3,462
2018/19	2,493	1,533	4,026
2019/20	2,570	1,494	4,064
2020/21	1,841	1,680	3,521
2021/22	1,631	1,674	3,305

Disposition Refusals

Applicants can be denied access to all or part of a record in accordance with mandatory or discretionary exceptions as outlined in FOIPPA. In some circumstances, the mere knowledge that a record exists will cause harm to law enforcement or will unreasonably invade the personal privacy of a third party. Therefore, the head of a public body may refuse to confirm or deny the existence of such a record, as outlined in [section 8\(2\)\(a\) and \(b\)](#).

	Access Denied	Refuse to Confirm or Deny
2017/18	255	20
2018/19	327	79
2019/20	271	59
2020/21	234	77
2021/22	182	62

Disposition Other

	Abandoned	Withdrawn	Correction	Cancelled	Outside the Scope of the Act	No Responsive Records Exist / Located
2017/18	637	516	1	38	9	1,224
2018/19	898	1,375	0	35	8	1,802
2019/20	1,199	480	3	64	25	3,108
2020/21	1,437	336	0	34	44	2,198
2021/22	739	330	0	31	12	1,311

Disposition Releases

Releases identify the extent to which information formally requested under FOI laws is released to an applicant. This includes FOI responses where ministries respond by providing full disclosure; providing partial disclosure; indicating records may be routinely releasable; indicating records are in another ministry or organization; transferring the request; or deferring access as the information is to be publicly released within 60 days.

	Full disclosure	Partial Disclosure	Routinely Releasable	Information to be published within 60 days	Records in another Min/Org	Transferred
2017/18	1,273	5,011	51	10	104	213
2018/19	1,291	5,567	46	7	213	141
2019/20	1,313	6,096	70	10	53	148
2020/21	1,056	5,114	85	28	60	138
2021/22	1,035	5,465	96	3	161	222

Fees for Access to Information

Section 75 of FOIPPA enables a public body to charge a [fee](#) for some aspects of an FOI request.

Processing fees may include:

- locating and retrieving the record;
- producing the record;
- preparing the record for disclosure, except for time spent severing information from the record;
- shipping and handling the record;
- providing a copy of the record.

Starting in November 2021, a \$10 application fee was applied to all general FOI requests. The fee must be paid before the request will be processed and applies to every ministry public body included in a request. Indigenous governing entities are exempt from paying application fees.

	2017/18	2018/19	2019/20	2020/21	2021/22
Total FOI Requests	10,471	12,255	13,055	10,265	9,308
General Requests	5,501	7,622	8,147	6,467	5,253
Number of Requests Where Processing Fees Paid	157	151	145	144	143
Sum of Processing Fees Paid (nearest thousand)	\$60,000	\$63,000	\$44,000	\$51,000	\$50,000
Percent of General Requests Where Fees Paid	3.49%	2.08%	1.74%	2.01%	2.70%
Average Processing Fee for all FOI Requests	\$6	\$5	\$3	\$5	\$5
\$10 application fees paid for General Requests	--	--	--	--	\$11,950*

* A \$10 application fee for general requests was introduced in November 2021. The value reported reflects 4 months of reporting.

Privacy Protection

Privacy Impact Assessments Conducted

Operational PIAs are conducted on any new or updated system, project, program, or activity. Legislative or Regulatory PIAs (LPIA/RPIA) are conducted on new or amended legislation or regulations.

	2017/18	2018/19	2019/20	2020/21	2021/22
Operational PIA	503	695	946	740	823
LPIA/RPIA	145	201	225	232	233
Total PIA	648	896	1,171	972	1,056

Privacy Breaches

The Information Incident Management Policy requires that any employee who becomes aware of an actual or suspected information incident report the incident to the Ministry of Citizens' Services. Investigators assess each report and determine whether an investigation is warranted. An investigation may not be conducted if it can be quickly determined that no violation of FOIPPA has occurred or if the incident is outside of the Ministry's investigative mandate or jurisdiction. Where an investigation is conducted, investigators seek to determine whether a violation of FOIPPA has occurred and, if so, what factors may have contributed to the incident or privacy breach.

	2017/18	2018/19	2019/20	2020/21	2021/22
Reported (Privacy Breaches & Complaints)	1,803	2,013	2,234	1,978	2,487
Investigations Conducted	1,638	1,736	1,889	1,621	2,043
Violations Occurred	1,528	1,615	1,405	1,455	1,897
Instances Where Breach Notification Required (% of violations)	113 (7.4%)	87 (5.4%)	115 (8.2%)	124 (8.5%)	100 (5.3%)

Privacy Breach Volume by Tier

Investigators assess and categorize each incident using a five-tier system, in which the assigned tier reflects the potential risk of harm, the sensitivity of the information involved, and the type of investigative and/or other activities needed to respond.

- » Tier 1 and 2: Minor to moderate incidents involving personal or confidential information with negligible risk of harm to individuals or government.
- » Tier 3: Moderate/major incidents (including complaints) involving sensitive personal or confidential information, inappropriate or wilful conduct and potential jeopardy for the individuals involved. Usually require more in-depth investigations.
- » Tier 4: Major, complex and/or high-profile incidents involving highly sensitive personal or confidential information, may impact public confidence in a ministry or government, notification likely due to high potential for a significant risk of harm.
- » Tier 5: Major incidents requiring the involvement of an external investigator due to an actual or perceived conflict of interest for IAO, the Investigations Unit, or its executive.

	2017/18	2018/19	2019/20	2020/21	2021/22
Tier 1	1,138	1,384	1,519	1,369	1,825
Tier 2	386	255	241	247	254
Tier 3	107	97	129	113	84
Tier 4	7	0	0	0	0
Tier 5	0	0	0	0	0

Volume of Complaints Received

An individual can make a complaint about the handling of their personal information by government and is entitled to receive a response. Government investigates privacy complaints to determine whether they can be substantiated and, where they are substantiated, issues recommendations to program areas as to how to strengthen their information management practices and prevent similar privacy breaches from occurring in the future.

	2017/18	2018/19	2019/20	2020/21	2021/22
Complaints Reported	69	62	74	71	57
Complaints Substantiated	44	43	24	29	27