



Ministry of
Citizens' Services

Report on the administration of the Freedom of Information and Protection of Privacy Act **2022/23**

October 5, 2023

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* (FOIPPA) for the 2022/23 fiscal year. Outlined in this report are steps my ministry has taken in support of my 2020 and 2022 mandate letter direction:

- Continue to improve government's public sector data security and privacy practices.
- 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 2022/23 to improve accountability and transparency through increased privacy protections and proactive disclosure of information. This year, the Ministry continued to onboard ministries to its new, modernized FOI system, and invest in best-in-class digital tools. Two new legislated requirements for all public bodies were implemented to improve privacy practices across the public sector. A new directive was published requiring the monthly proactive disclosure of Parliamentary Secretaries' calendars.

I would like to express my appreciation to all 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

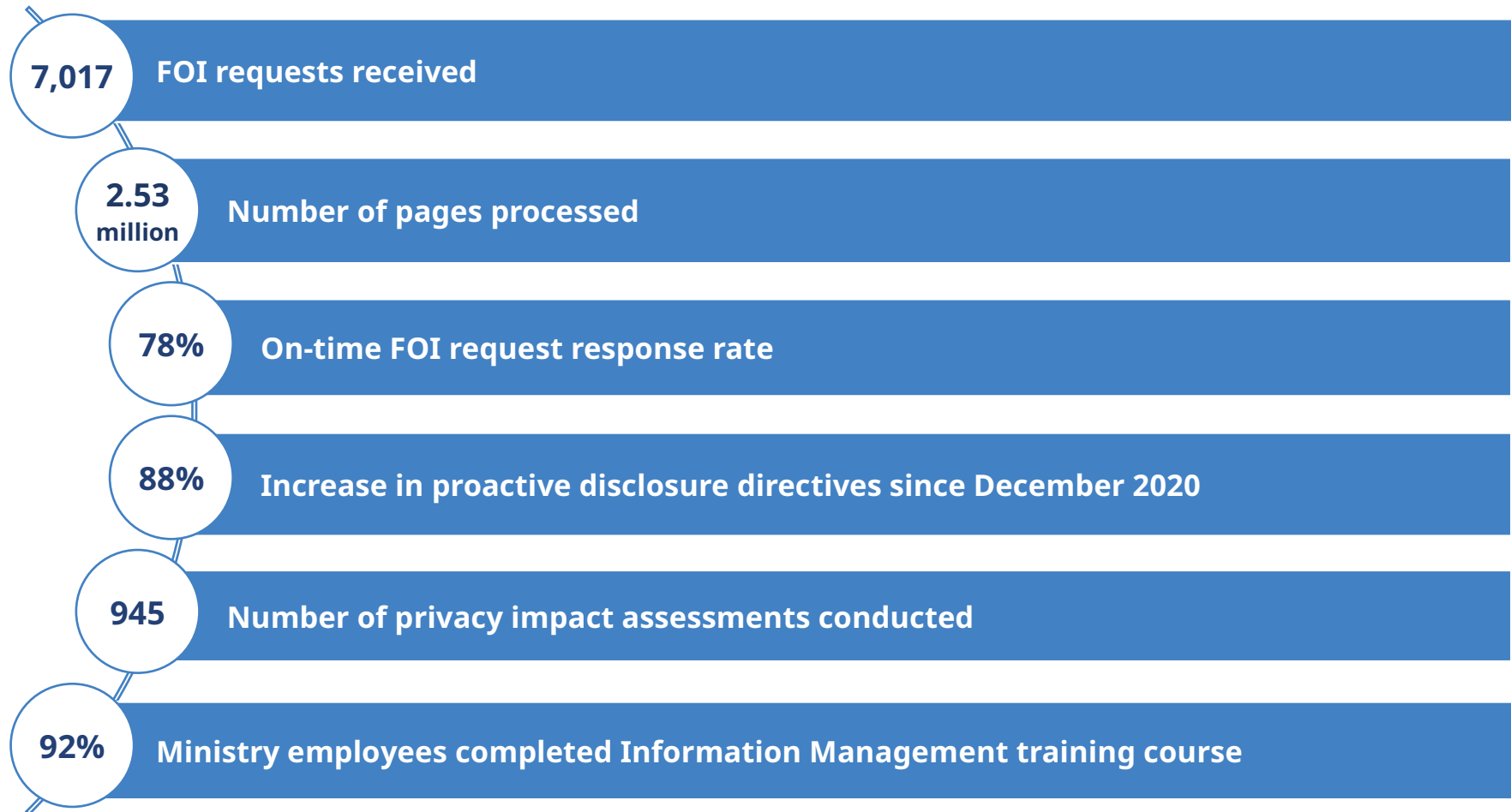
pc: Kate Ryan-Lloyd
Clerk of the Legislative Assembly
Legislative Assembly of British Columbia

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2022/23 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.



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.

2022/23 Highlights

FOI Modernization Project Update

Since fiscal year 2020/21, the Ministry has committed over \$5.5M to modernize and improve FOI services to ministries. This project has resulted in the introduction of new technology and business processes to support the large volume of requests received each year while also improving the applicant experience by making processes more transparent and easier to use.

In the 2022/23 fiscal year, the Ministry continued to onboard ministries to the new, modernized system. By fiscal year end, twelve ministries had been onboarded, with plans to onboard all remaining ministries by Winter 2023.

An evaluation of the systems' effectiveness, conducted at the end of a pilot involving five ministries, showed the following benefits:

- » The average staff time to process an FOI request decreased by almost two hours.
- » The average days to respond to an FOI request decreased by almost seven days.
- » The average on-time rate increased by 16%.

MCFD FOI Service Delivery Project

In the 2021/22 annual report, the Ministry reported on a partnership established with the Ministry of Children and Family Development to improve service delivery for personal FOI requests in that ministry. This collaboration has resulted in a 90% increase in pages processed in fiscal year 2022/23 for MCFD personal requests in comparison to fiscal year 2020/21.

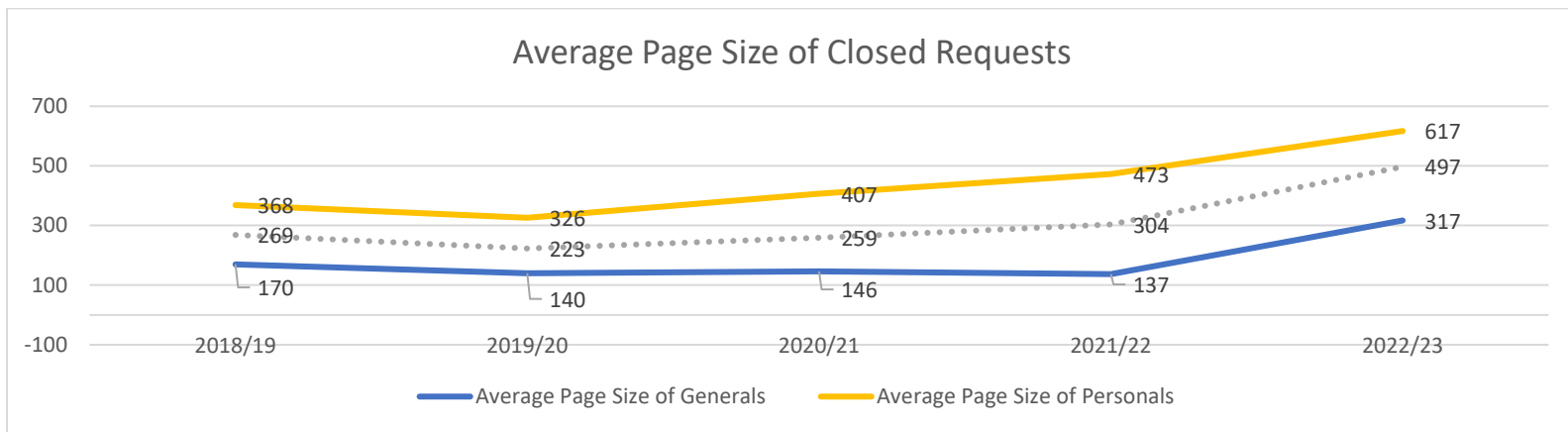
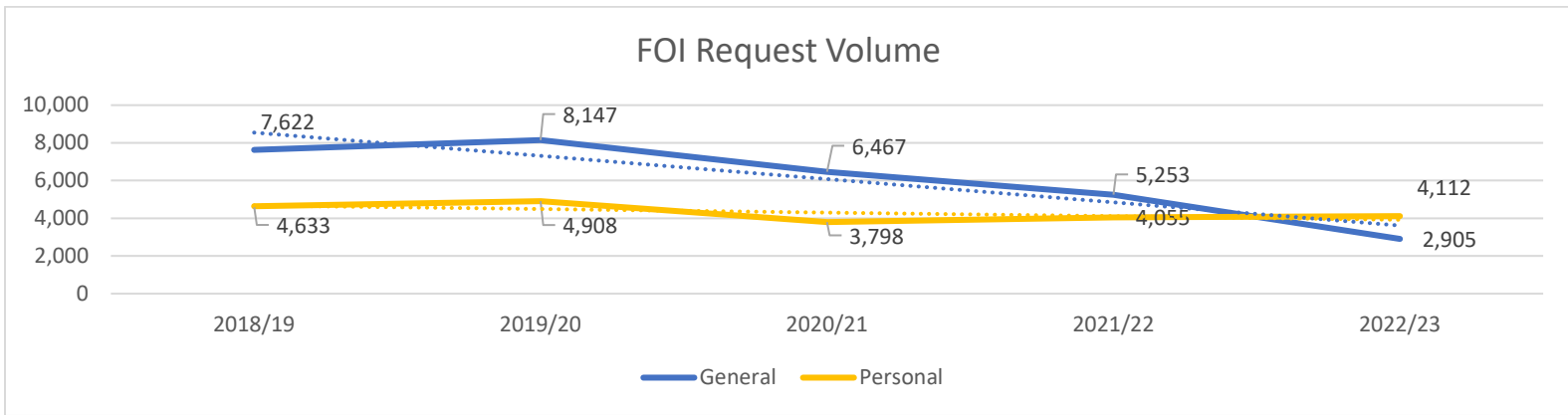
Based on a successful first year, the two ministries have agreed to a further two years of continued collaboration and dedicated financial support for the purpose of processing these complex overdue requests.

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, or B.C. government staff employment records. General requests are requests for all other government information such as briefing notes or reports.

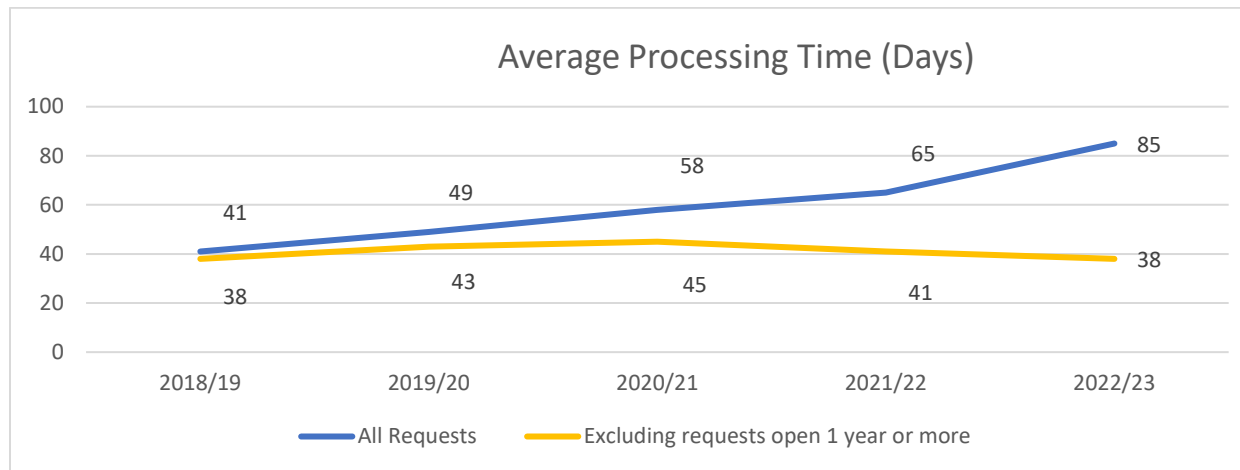
Since fiscal year 2018/19, the average volume of personal requests has remained relatively steady with a slight increase in this past year. However, over the same period, the average number of pages under review in a personal FOI request has grown to now represent on average 617 pages for one request. 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 an FOI request within 30 business days. The Act provides for the ability to extend this time if certain conditions apply, or with the permission of the Information and Privacy Commissioner. The percentage of on-time responses to FOI requests is an essential way for government to measure the effectiveness of its access to information program. This measure provides an indication of government's annual performance in responding to FOI requests within the timelines defined in the *Freedom of Information and Protection of Privacy Act*.

The processing time for responding to an FOI request in 2022/23 was significantly impacted by government's ongoing commitment to respond to and close overdue requests, in particular those most overdue. This approach resulted in a lower overall timeliness rate of 78%. The backlog has now been reduced by 38% and expectations are that the on-time response rate in 2023/24 will improve as a result. Because the processing time for responding to a request is not calculated until a request is closed, a focus on closing overdue requests will negatively affect the on-time and average processing days response rate for that fiscal year. When complex requests that were overdue by a year or more (approximately 8% of files closed in 2022/2023) are excluded from the total number of requests closed, government responded on time to 84% of FOI requests. When requests that were open for a year or more are excluded from the total number of requests closed, the average time to process a request was 38 days.

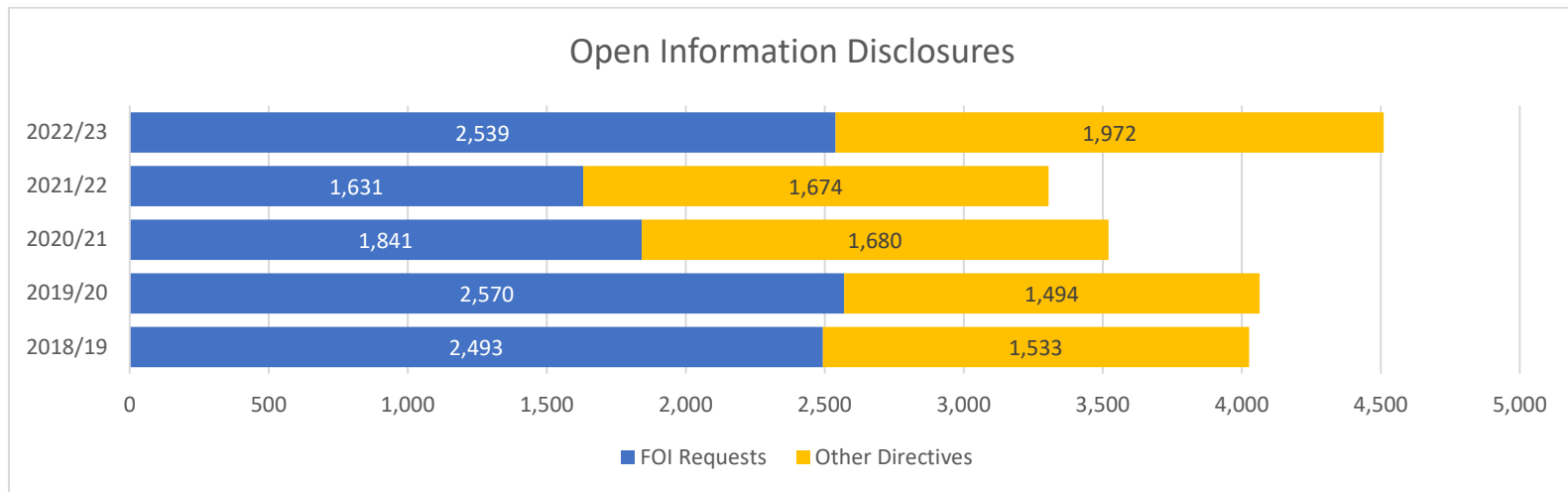


Proactive Disclosure

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 an important way for government to improve access to information, transparency, and accountability. There have been 88% 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.

Section 71.1 of 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. To date, over nineteen thousand disclosures have been made under these directives. One new ministerial directive came into effect March 27th, 2023: Disclosure of Parliamentary Secretaries' Calendars, which brings the total to 15 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.

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 over 3,500 data sets on the BC Data Catalogue increase transparency of government services.



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 15 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.

2022/23 Highlights

Mandatory Breach Reporting and Privacy Management Programs

On February 1st, 2023, government introduced regulations and directions for all public bodies, relating to:

- » Mandatory breach reporting requirements; and
- » Developing a privacy management program.

Where a privacy breach could result in significant harm to affected individuals, the mandatory breach regulation requires that affected individuals and the Information and Privacy Commissioner receive timely notification. Privacy breach notifications must provide sufficient detail to:

- » Inform the affected individuals and the Information and Privacy Commissioner of the steps that the public body has taken to reduce any risk of harm;
- » Allow the affected individual to take action to mitigate any possible harm;
- » Enable the Information and Privacy Commissioner to determine if the appropriate course of action has been taken by the public body to mitigate harm to individuals.

The new requirement related to developing a privacy management program, ensures that public bodies will develop these programs.

The regulations and directions were developed in consultation with the Office of the Information and Privacy Commissioner.

Digital Privacy Impact Assessment

Conducting Privacy Impact Assessments (PIAs) is a requirement for all public bodies when developing or changing an existing enactment, system, project, program or activity. The PIA process ensures personal information is collected, used, and disclosed in accordance with the privacy protections outlined in FOIPPA.

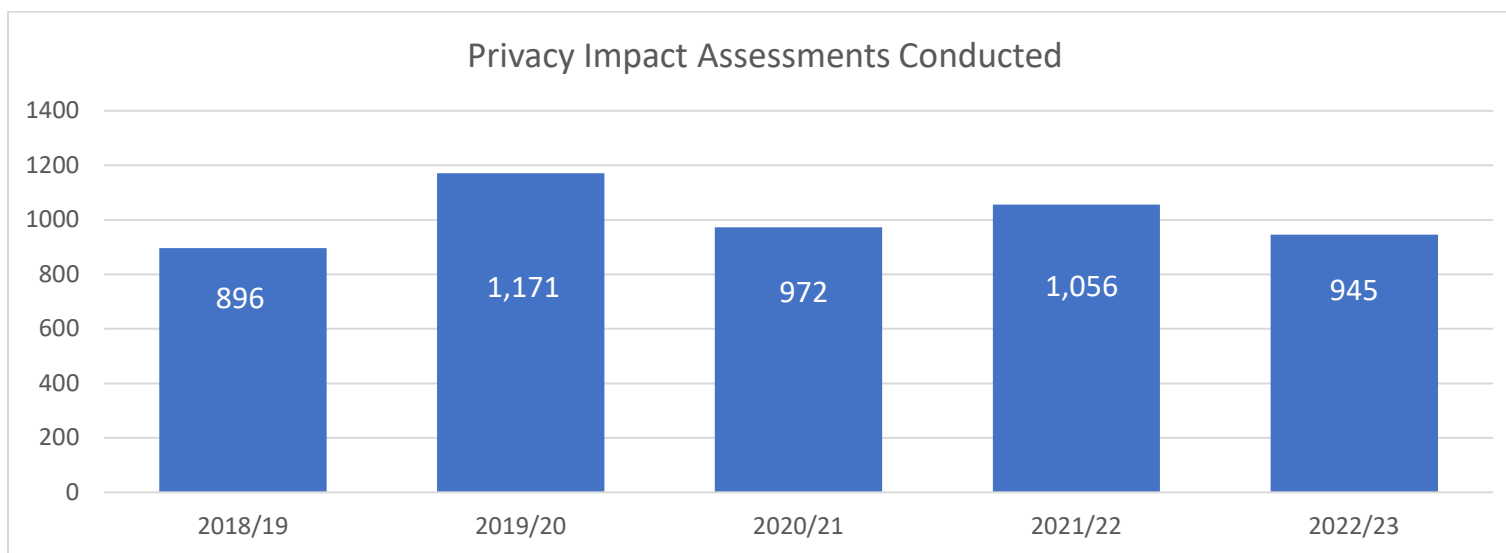
In September 2022, the Ministry established the Digital Privacy Impact Assessment (DPIA) project team to improve the PIA process through the development of a modern digital application, which will replace the current paper-based PIA. The DPIA will make the PIA process more efficient and streamlined for ministries, and enhance privacy protections for British Columbians' personal information.

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

Completing a PIA helps protect privacy and builds public trust by being clear about what information a ministry is handling; who has access to it; and how it is stored.

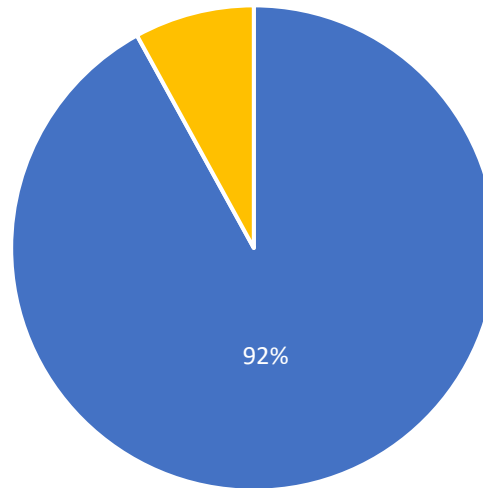


Privacy Protection Training

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).

Employees are required to complete IM117 every two years. Ninety two percent of B.C. government employees completed IM117.

92% of ministry employees completed IM 117



Looking Ahead

FOI Modernization Project

In the coming year, the Ministry's FOI Modernization project team will continue to enhance the new cross-government FOI system used by ministries to manage government FOI requests. By the Winter of 2023, all ministries are expected to be onboarded to the new system.

Additional enhancements underway include:

- » Improvements that speed up the review and redaction of records by the Ministry's FOI analysts, with streamlined processes and faster application performance to save time and cost.
- » Migration of historical requests into the new platform.

Addition of Two New Public Bodies to FOIPPA

In June of 2023, the BC Association of Chiefs of Police and BC Association of Municipal Chiefs of Police were brought under the coverage of the Act. This addressed a longstanding recommendation of the Information and Privacy Commissioner. Going forward, both bodies will be required to respond to freedom of information requests and follow the same robust privacy rules as other public bodies, including conducting privacy impact assessments and establishing privacy management programs.

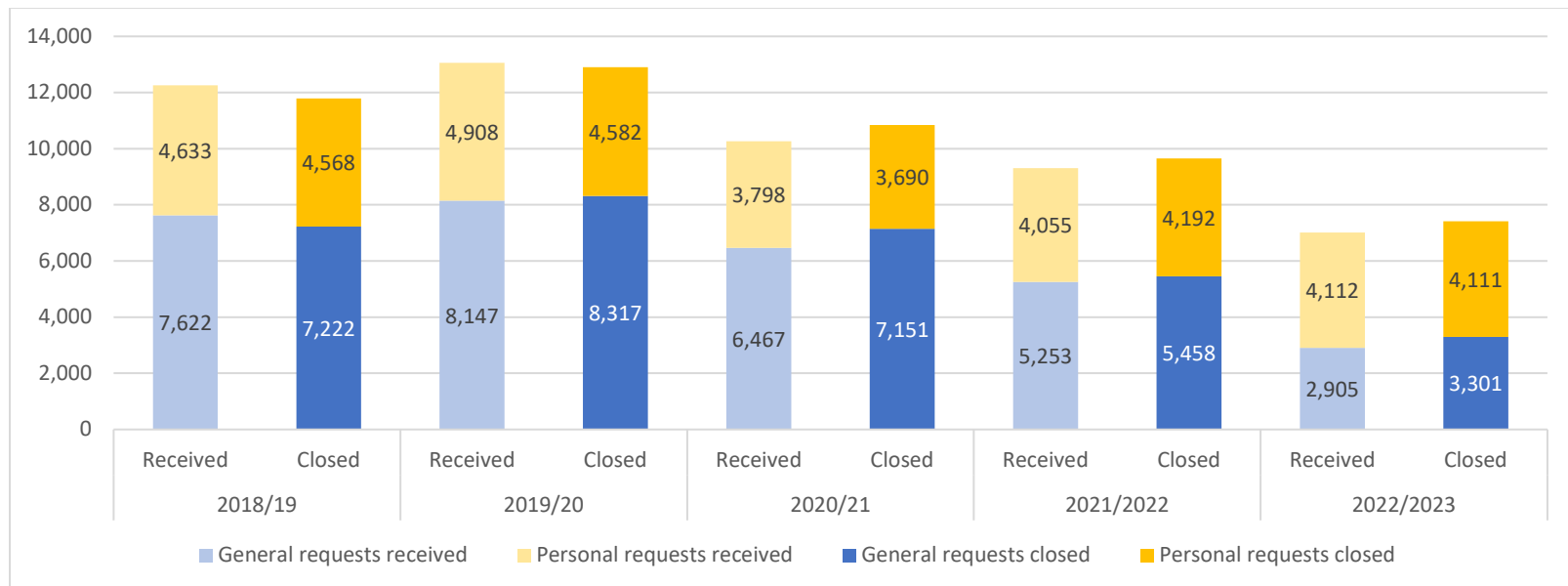


Appendix – FOIPPA by the numbers

Freedom of Information

FOI Requests

Personal requests are when an individual requests access to 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, and reports.



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.

	2018/19	2019/20	2020/21	2021/22	2022/23
Total	3,129	2,933	2,323	1,371	470*

* Recent FOI trends have seen applicants directing more targeted requests to specific ministries, rather than submitting broad requests to many ministries.

Requests Received by Ministry	2021/22		2022/23	
	General	Personal	General	Personal
Agriculture & Food*	187	0	70	8
Attorney General	220	80	160	99
Children & Family Development	160	2,058	82	2,020
Citizens' Services	191	0	81	4
Education & Child Care*	164	15	110	25
Emergency Management and Climate Readiness*	-	-	62	1
Energy, Mines & Low Carbon Innovation	145	1	109	-
Environment & Climate Change Strategy	243	6	268	10
Finance	610	307	272	416
Forests*	499	13	292	8
Health	919	39	254	41
Housing*	-	-	28	1
Indigenous Relations & Reconciliation	94	1	36	1
Jobs, Economic Recovery, Development & Innovation	139	0	58	-
Labour	116	12	56	8
Mental Health & Addictions	67	0	49	-
Municipal Affairs	96	15	46	7
Office of the Premier	289	5	133	1
Post-Secondary Education and Future Skills*	137	2	50	2
Public Safety & Solicitor General	462	662	226	616
Social Development & Poverty Reduction	95	832	53	830
Tourism, Arts, Culture & Sport	103	3	64	3
Transportation & Infrastructure	304	4	201	6
Water, Land and Resource Stewardship*	13	0	145	5
TOTAL	5,253	4,055	2,905	4,112

* Ministry change in December 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*
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
2022/23	809	909	243	92	286	239	291	9	11	16

* Indigenous governing entity applicant type was introduced in November 2021. Total reported for 2021/2022 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*
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
2022/23	2,956	0	1,046	0	0	88	7	10	2	3

* Indigenous governing entity applicant type was introduced in November 2021. Total reported for 2021/2022 reflects 4 months of reporting.

Proactive Disclosures*

	FOI Requests	Other Directives*	Total
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
2022/23	2,539	1,972	4,511
TOTAL	11,074	8,353	19,427

*Previously titled Open Information Disclosures.

** In total, fifteen [directives](#) have been issued.

Disposition Releases

This category identifies 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
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
2022/23	727	3,978	62	4	199	163

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
2018/19	327	79
2019/20	271	59
2020/21	234	77
2021/22	182	62
2022/23	150	57

Disposition Other

This category includes requests that have been abandoned by the applicant, requests withdrawn by the applicant, requests to correct information, requests that have been cancelled, requests that are out of scope of the Act, and requests that result in no responsive records.

	Abandoned	Withdrawn	Correction	Cancelled	Outside the Scope of the Act	No Responsive Records Exist / Located
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
2022/23	894	308	0	29	7	834

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.

	2018/19	2019/20	2020/21	2021/22	2022/23
Total FOI Requests	12,255	13,055	10,265	9,308	7,017
General Requests	7,622	8,147	6,467	5,253	2,905
Number of Requests Where Processing Fees Paid	151	145	144	143	171
Sum of Processing Fees Paid (nearest thousand)	\$63,000	\$44,000	\$51,000	\$50,000	\$53,000
Percent of General Requests Where Processing Fees Paid	2.08%	1.74%	2.01%	2.70%	5.88%
Average Processing Fee for all FOI Requests	\$5	\$3	\$5	\$5	\$7.50
\$10 application fees paid for General Requests	--	--	--	\$11,950*	\$26,930

* A \$10 application fee for general requests was introduced in November 2021. The value reported for 2021/22 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.

	2018/19	2019/20	2020/21	2021/22	2022/23
Operational PIA	695	946	740	823	707
LPIA/RPIA	201	225	232	233	238
Total PIA	896	1,171	972	1,056	945

Privacy Breaches

The Information Incident Management Policy requires that any BC Public Service employee who becomes aware of an actual or suspected information incident must 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.

	2018/19	2019/20	2020/21	2021/22	2022/23
Reported (Privacy Breaches & Complaints)	2,013	2,234	1,978	2,487	3,114
Investigations Conducted	1,736	1,889	1,621	2,043	2,556
Violations Occurred	1,615	1,405	1,455	1,897	2,439
Instances Where Breach Notification Required (% of violations)	87 (5.4%)	115 (8.2%)	124 (8.5%)	100 (5.3%)	116 (4.8%)

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 the Investigations Unit, or its executive.

	2018/19	2019/20	2020/21	2021/22	2022/23
Tier 1	1,384	1,519	1,369	1,825	2,128
Tier 2	255	241	247	254	349
Tier 3	97	129	113	84	109
Tier 4	0	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.

	2018/19	2019/20	2020/21	2021/22	2022/23
Complaints Reported	62	74	71	57	52
Complaints Substantiated	43	24	29	27	28