



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
for British Columbia

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News Release

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Improvements recommended in City of Vancouver's freedom of information program

VICTORIA—Information and Privacy Commissioner Elizabeth Denham is recommending the City of Vancouver correct policy and process weaknesses in the handling of freedom of information requests following the release of today's report, *Audit & Compliance Report F16-01: City of Vancouver Duty to Assist*.

The "duty to assist" applicants is an essential component of the *Freedom of Information and Protection of Privacy Act* (FIPPA) and requires public bodies to make every reasonable effort to assist each applicant openly, accurately and completely without delay.

"Every member of the public has a right to request certain information from a public body. There is an expectation and inherent trust that citizens will be treated fairly and openly when they exercise this legal and fundamental right," said Commissioner Denham.

The Commissioner initiated this audit to assess how a municipality fulfils the duty to assist citizens filing access requests. The City of Vancouver was chosen for the audit because it is the largest municipality in British Columbia and processes the highest number of freedom of information requests on an annual basis. An additional factor was the fact that the Office of the Information and Privacy Commissioner has received a large number of complaints and requests for review involving the City over the past few years.

"It is clear to me there is a need for change to the approach City staff use in processing access requests. We observed shortcomings in almost every step of the freedom of information process – from receipt of the request, to searching for records, to the timeliness of response to the applicant and the content of the response itself. This highlights the need for a move to a culture of transparency and service quality," said Denham.

The audit found multiple challenges for the City to address. Based on the audit's review of a sampling of files, it found the City contravened legislated response timelines for requests for records more than 16% of the time and was four times more likely to fail to meet timelines with media applicants compared to other applicants.

“Building and maintaining open and constructive relationships that span the length of the request process is a critical component in any access to information program. I am concerned that we found examples where the tone in communications with applicants was unhelpful, curt or perfunctory, as well as instances in which the City did not respond to an applicant’s query at all.

“I have made 12 recommendations to assist the City of Vancouver to improve”, said Denham.

Key recommendations in the report highlight a need for the City of Vancouver to:

- Improve response times for all applicants, especially media applicants;
- Fully document every step of the access to information process;
- Review each record line by line when applying exceptions;
- Provide mandatory and routine training to staff on access to information processes and the duty to assist applicants; and
- Communicate openly with each applicant and provide assistance throughout the entire request process.

“The failure to meet timelines and breakdowns in communication may discourage citizens from attempting to access information to which they have a legal right. Public bodies should be a conduit of open access to records. It is important to remember that public bodies should not treat applicants in the freedom of information process as ‘us versus them.’ FOI is a public service like any other.

“I am encouraged that the City has written to me and accepted all 12 of the recommendations. The City has informed me that they will endeavour to address each of them in a timely manner and report back to this office by the end of the calendar year with a status update” said Denham.

Audit & Compliance Report F16-01: City of Vancouver Duty to Assist is available for download at <https://www.oipc.bc.ca/report/audit-compliance>

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BACKGROUND

Why is this report important?

To participate fully in democracy, the public must have power to hold elected officials and public servants to account for their actions. To do that, it is essential to see and understand what they have done. And the key to transparency is effective access to information.

What is this report about?

Audit & Compliance Report F16-01: City of Vancouver Duty to Assist is the third project under the Office of the Information and Privacy Commissioner's (OIPC) Audit and Compliance Program.

This report addresses the City of Vancouver's duty to assist applicants and the timelines and contents of response.

Unlike routine investigation reports, projects under the audit and compliance program are proactive in nature and broad in scope.

Who did the OIPC examine?

The OIPC selected a municipality for the third review. The City of Vancouver's access to information (ATI) program was selected for examination.

Why did the OIPC choose to review the duty to assist within a municipality?

The OIPC selected a municipality for the subject of the third audit since they have very direct interactions with citizens.

The City of Vancouver processes the highest number of ATI files on an annual basis out of any other municipality in the province. Additionally, the City was selected based on a review of OIPC complaint and request for review files, interviews with privacy and access specialists and input received from OIPC investigators.

When did this audit take place, and what did it involve?

The audit was announced on November 10, 2015, and data and information were collected between November 2015 and May 2016. The OIPC examiners reviewed the City's written policies, collected statistical information relating to FOI requests, examined the City's FOI request files and files processed by the OIPC between 2013 and 2015, and interviewed key City staff.

What are your recommendations?

We observed shortcomings in almost every step of the freedom of information process.

The City failed to meet legislated timelines more than 16% of the time and was four times more likely to fail to meet timelines with media applicants. We also found examples of negative or absent communication between City staff and applicants.

Documentation was missing in 14% of the files examined, including detail on how a search for records was conducted. In addition, 15% of responses to applicants were found to be incomplete, for example responses often lacked an explanation of why no records were found.

The report contains 12 recommendations to help the City of Vancouver meet its obligations under FIPPA, including:

- Improve response times for all applicants, especially media applicants;
- Fully document every step of the access to information process;
- Review each record line by line when applying exceptions;
- Provide mandatory and routine training to staff on access to information processes and the duty to assist applicants; and
- Communicate openly with each applicant and provide assistance throughout the entire request process.

What else should the City of Vancouver do to improve its duty to assist applicants?

Public bodies need to take care not to view their role in the access to information process as 'us versus them'. The relationship between public body and applicant should be one of service to the public. There is more to the duty to assist than just responding to an applicant within the legislated timeline.

An important takeaway for all public bodies is the importance of documenting every step of the access to information process. This means that public bodies should document the searches they conduct, why no records are found, decisions around severing, reasons for extensions, etc.

It is also important for public bodies to recognize their obligation to respond to requests within the legislated timelines. These timelines are not guidelines or recommendations, and need to be taken seriously.

Will you be looking at other municipalities to determine if they are meeting their obligations under FIPPA?

The duty to assist is an essential component of BC's access and privacy laws. The decision to conduct future audits on this issue will be up to the next Commissioner.

In the meantime, any public body that has questions about their duty to assist applicants can contact the OIPC for guidance and assistance.

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