

File: 292-30/BCER-2023-017

December 18, 2023

**VIA ELECTRONIC MAIL:**

Dear \_\_\_\_\_ :

**Re: Request for Access to Records – Response**  
***Freedom of Information and Protection of Privacy Act (FOIPPA)***

I am writing further to your request received by the BC Energy Regulator (BCER) for copies of:

1. **Current organizational charts that indicate freedom of information personnel and information management personnel**
2. **Delegation of authority charts for FOIPPA**
3. **Policies or procedures regarding freedom of information (not privacy), including policies and procedures regarding the routine release of information and proactive disclosure.**
4. **Final reports regarding the public body's performance reporting, program evaluations, or project implementation plans or reviews with respect to freedom of information.**

The records located in response to your request will be delivered through the BCER's secure file transfer service site. Your user credentials will be provided in a separate email. Please note, the password provided is temporary and you will be prompted to change it upon first log in. Your account will be active and the record package accessible for 30 days after which your account will expire, and the records will be deleted. It is recommended you download or transfer files to your desired personal location.

A copy of these records will be published on the BCER's website within a minimum of ten business days after release. To find out more about proactive disclosure of requests, please access the BCER website: [BC Energy Regulator \(bc-er.ca\)](http://bc-er.ca). Your file is now closed.

Pursuant to section 52 of the FOIPPA, you may ask the Office of the Information and Privacy Commissioner (OIPC) to review any decision, act, or failure to act with regard to your request under FOIPPA. **Please note that you have 30 business days to file your review with the OIPC by writing to:**

*Information and Privacy Commissioner*  
*PO Box 9038 Stn Prov Govt*  
*4<sup>th</sup> Floor, 947 Fort Street*

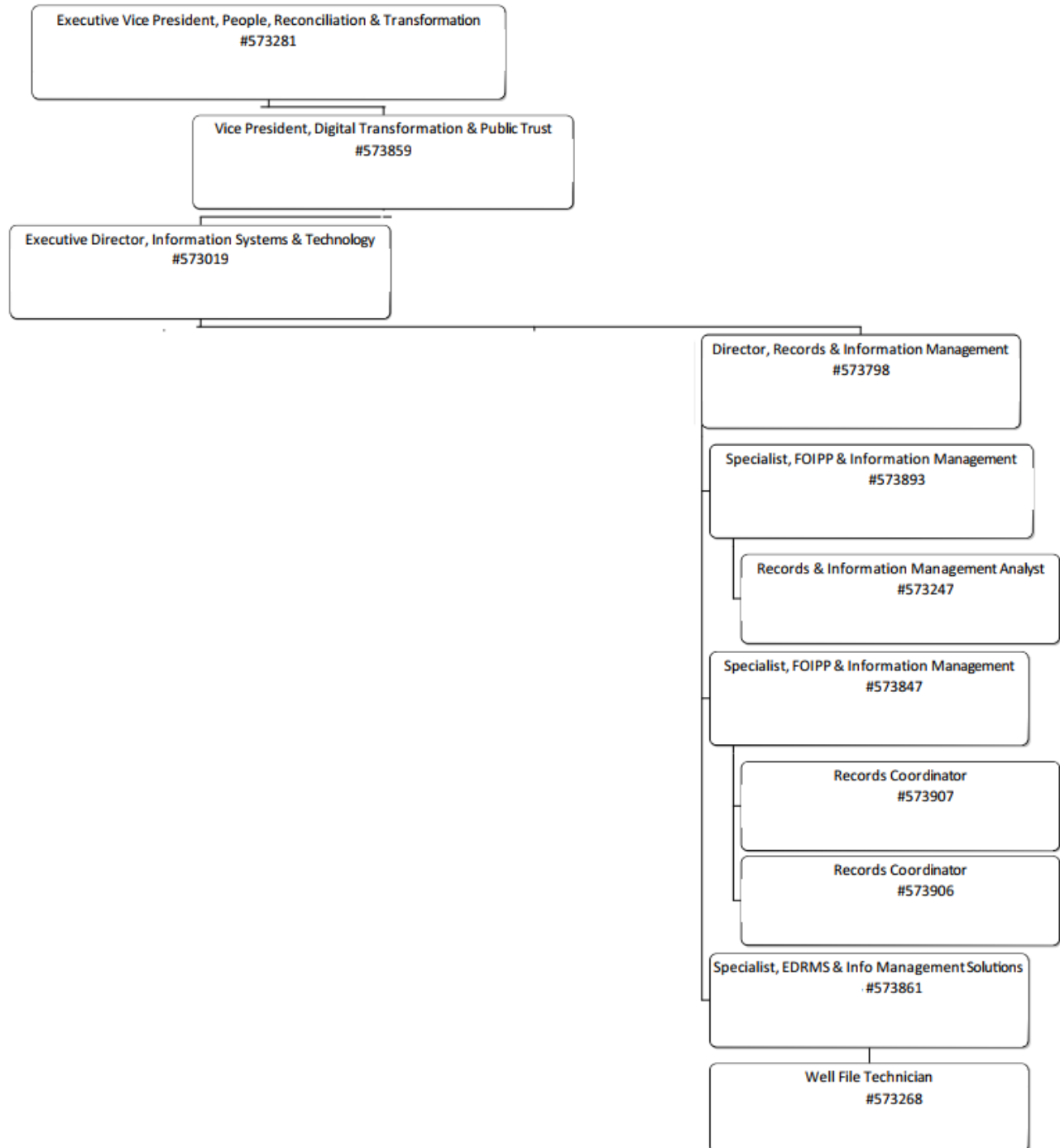
Victoria BC V8W 9A4  
Phone: 250.387.5629 Fax: 250.387.1696  
Email: [info@oipc.bc.ca](mailto:info@oipc.bc.ca)

If you request a review, please provide the OIPC with a copy of your original request, a copy of the BCER's response, and the reasons or grounds upon which you are requesting the review. Further information on the complaint and review process can be found on the OIPC website: <https://www.oipc.bc.ca>. Please write [FOIIntake@bc-er.ca](mailto:FOIIntake@bc-er.ca), if you have any questions regarding your request or require any further clarification.

Sincerely,

*D. Keough*  
BC Energy Regulator

## Records & Information Services Branch





## Delegation of duties, powers and functions of the head of the public body under the *Freedom of Information and Protection of Privacy Act* – Broader Public Sector

### BEFORE YOU BEGIN

This delegation instrument template is designed to assist public bodies in the broader public sector in British Columbia in delegating duties, powers or functions of the head of the public body under section 66 of the *Freedom of Information and Protection of Privacy Act* (the Act).

A brief description for each transaction is provided. It is important to note that these refer to all duties and powers as set out in each of the sections of the Act. For example, in the case of sections 12-22.1, the head may refuse to disclose certain kinds of information but must not refuse to disclose other types of information. A user should therefore refer to the Act as necessary to complete the attached schedule.

Public bodies should delete any transactions that they do not wish to delegate.

Heads of police boards should be aware that, under s. 49(1.2), they may not delegate the authority to make a request to the Information and Privacy Commissioner under s. 49(1.1)(b).

### Special Note regarding section 16

Under s. 16(2)(a), the Attorney General may give consent for disclosure of law enforcement information that falls under section 16(1). The Executive Council can give consent under s. 16(2)(b) for disclosure of other types of information that fall under section 16(1).

### If you have Questions

Public bodies may call the Privacy and Access Helpline at 250 356-1851 or send an email to [CPIAadmin@gov.bc.ca](mailto:CPIAadmin@gov.bc.ca) if they have any questions about this schedule.





# Delegation of duties, powers and functions of the head of the public body under the *Freedom of Information and Protection of Privacy Act* – Broader Public Sector

## A. DELEGATION BY THE HEAD OF THE PUBLIC BODY

Full name of public body

BC Oil and Gas Commission

Pursuant to section 66 of the *Freedom of Information and Protection of Privacy Act* (the Act), I hereby delegate my powers, duties and functions as head of the public body to the persons who hold the positions, and to the extent, set out in the attached Schedule, subject to the following conditions:

- (a) that the persons to whom my powers, duties or functions are delegated are bound in the exercise of those powers, duties or functions by the jurisdictional, legislative and administrative limitations to which I am subject;
- (b) that the powers, duties or functions delegated to any person may also be exercised by another person who holds the person's position in an acting capacity to which he or she has been duly appointed;
- (c) that, notwithstanding the delegation of my powers, duties or functions, I may exercise at any time any of the powers, duties or functions delegated.

This delegation is effective on and from the date shown below and shall remain in effect until revoked.

This delegation may be revoked or amended from time to time.

Commissioner, CEO

June 15, 2022

Name and position title of the head of the public body

Signature

Date



# Delegation of duties, powers and functions of the head of the public body under the *Freedom of Information and Protection of Privacy Act* – Broader Public Sector

## B. SCHEDULE

This Schedule sets out the lowest level positions of individuals to whom powers, duties and functions of the head of a public body which is not a ministry are delegated.

This does not in any way limit the authority of individuals in positions directly above the listed positions from exercising any of the delegated powers, duties or functions in their areas of responsibility.

TRANSACTION	SECTION	NAME OF POSITION & IF APPLICABLE, NAME OF PUBLIC BODY
<b>INFORMATION RIGHTS</b>		
<b>Duty to assist applicants</b> Duty to assist applicants and create a record from a machine readable record	6	Specialist, FOIPP
<b>Time limits for responding</b> Must respond no later than 30 business days, with limited exceptions	7	Specialist, FOIPP
<b>Contents of response</b> Must tell applicant of entitlement to access to records. If access refused, tell applicant the reasons, subject to s. 8(2), and of the right to request a review	8	Specialist, FOIPP
<b>How access will be given</b> Must provide copies or allow examination of original records	9	Specialist, FOIPP
<b>Extending the time limit for responding</b> Must tell applicant of reason for extension, when a response can be expected and right to complain	10	Specialist, FOIPP
<b>Transferring a request</b> May transfer a request and, if necessary, a record within 20 days	11	Specialist, FOIPP
<b>EXCEPTIONS</b>		
<b>Cabinet confidences</b> Must refuse to disclose information revealing the substance of deliberations of the Executive Council or any of its committees	12(1)	Specialist, FOIPP

TRANSACTION	SECTION	NAME OF POSITION & IF APPLICABLE, NAME OF PUBLIC BODY
<b>Local public body confidences</b> May refuse to disclose draft resolutions, bylaws or other legal instruments or substance of deliberations of meetings of elected officials, governing body or a committee of governing body	12(3)	Specialist, FOIPP
<b>Policy advice or recommendations</b> May refuse to disclose advice or recommendations developed by or for a public body or a minister	13	Specialist, FOIPP
<b>Solicitor client privilege</b> May refuse to disclose information subject to solicitor client privilege	14	Specialist, FOIPP
<b>Disclosure harmful to law enforcement</b> May refuse to disclose information which could reasonably be expected to harm law enforcement	15	Specialist, FOIPP
<b>Disclosure harmful to intergovernmental relations or negotiations</b> May refuse to disclose information that could harm relations between the government of B.C. and other governments, including aboriginal governments	16	Specialist, FOIPP
<b>Disclosure harmful to financial or economic interests of a public body</b> May refuse to disclose information harmful to financial or economic interests of a public body or the government of B.C.	17	Specialist, FOIPP
<b>Disclosure harmful to the conservation of heritage sites, etc.</b> May refuse to disclose information that could damage or interfere with the conservation of fossil sites, heritage sites or endangered species	18	Specialist, FOIPP
<b>Disclosure harmful to individual or public safety</b> May refuse to disclose information which could threaten anyone else's safety or mental or physical health or interfere with public safety, or could cause applicant immediate and grave harm	19	Specialist, FOIPP

TRANSACTION	SECTION	NAME OF POSITION & IF APPLICABLE, NAME OF PUBLIC BODY
<b>Information that will be published or released within 60 days</b> May refuse to disclose information that will be published or released to the public within 60 days of receipt of the applicant's request, or that must be published or released to the public under an enactment	20	Specialist, FOIPP
<b>Disclosure harmful to business interests of a third party</b> Must refuse to disclose trade secrets, commercial, financial, labour relations or scientific information of or about a third party, that was supplied in confidence, <b>and</b> disclosure of which could cause harm to the third party	21	Specialist, FOIPP
<b>Disclosure harmful to personal privacy</b> Must refuse to disclose information that would be an unreasonable invasion of a third party's personal privacy	22	Specialist, FOIPP
<b>Disclosure of information relating to abortion services</b> Must refuse to disclose information that relates to the provision of abortion services	22.1(2)	Specialist, FOIPP
<b>NOTICE TO THIRD PARTIES</b>		
<b>Notice to third party and applicant</b> Public body <b>must</b> give third party a written notice when it intends to give access to a record containing information that it has reason to believe might be excepted from disclosure under s. 21 or 22 and <b>may</b> give third party notice when it intends to refuse access to information pursuant to s. 21 or s. 22	23	Specialist, FOIPP
<b>Time limit and notice of decision</b> Must decide within 30 days after notice is given under s. 23 to give access to all or part of record, provide applicant and third party with written notice of decision and tell third party of right to request a review	24	Specialist, FOIPP

TRANSACTION	SECTION	NAME OF POSITION & IF APPLICABLE, NAME OF PUBLIC BODY
<b>PUBLIC INTEREST PARAMOUNT</b>		
<b>Information must be disclosed if in the public interest</b>  Must disclose information about a risk of significant harm to environment or to health or safety of public or group of people or disclosure of which is clearly in public interest	25	Commissioner, CEO
<b>PROTECTION OF PRIVACY</b>		
<b>Right to request correction of personal information</b>  Must correct or annotate applicant's personal information on request	29	Specialist, FOIPP
<b>Obligation to report foreign demand for disclosure</b>  Must notify the minister responsible for this Act if a foreign request for disclosure is received or unauthorized disclosure of personal information has occurred in response to a foreign demand for disclosure	30.2(2)	Commissioner, CEO
<b>Notification of unauthorized disclosure</b>  Receive notification of unauthorized disclosure of personal information	30.5(2)	Specialist, FOIPP
<b>Disclosure inside or outside Canada in compelling circumstances</b>  Determine that compelling circumstances exist affecting anyone's personal health or safety	33.1(1)(m)	Specialist, FOIPP
<b>Disclosure inside or outside Canada for research or statistical purposes</b>  May approve conditions related to security and confidentiality, removal or destruction of individual identifiers and prohibition of subsequent use or disclosure of personal information	35(1)(c)	Specialist, FOIPP

TRANSACTION	SECTION	NAME OF POSITION & IF APPLICABLE, NAME OF PUBLIC BODY
<b>Power to authorize a public body to disregard requests</b> May ask commissioner for authorization to disregard requests that are frivolous or vexatious or would unreasonably interfere with operations of the public body due to their repetitious or systemic nature	43	Executive Vice President
<b>Powers of commissioner in conducting investigations, audits or inquiries</b> May require commissioner to examine original record at its site	44(4)	Executive Vice President
<b>REVIEWS &amp; COMPLAINTS</b>		
<b>Burden of Proof</b> Must prove that an applicant has no right of access to a record in full or in part	57(1)	Specialist, FOIPP
<b>Duty to comply with orders</b> Must comply with order of commissioner under s. 54.1 or s. 58	59(1) & 59(1.1)	Specialist, FOIPP
<b>GENERAL PROVISIONS</b>		
<b>Respecting use of Personal Information</b> Must conduct a privacy impact assessment in accordance with directions of Minister responsible for this Act	69(5.3)	Specialist, FOIPP
Must submit a privacy impact assessment for any proposed enactment, system, project, program or activity to Minister responsible for this Act	69(5.4)	Specialist, FOIPP
Must notify commissioner of data-linking initiative or common or integrated program or activity	69(5.5)	Specialist, FOIPP
Must make available to public a directory listing its personal information banks	69(6)	Specialist, FOIPP
<b>Policy manuals available without request</b> Must make available policy manuals, instructions, guidelines, or substantive rules or policy statements adopted by public body	70	Specialist, FOIPP



TRANSACTION	SECTION	NAME OF POSITION & IF APPLICABLE, NAME OF PUBLIC BODY
<b>Records available without request</b> Must establish categories of records available to public without request for access under the Act	71	Specialist, FOIPP
<b>Recovery of personal information</b> May issue written notice demanding that a person or entity return information, securely destroy information or respond in writing to declare they are authorized by law to possess this information	73.1	Executive Vice President
<b>Court order for return of personal information</b> May ask Attorney General to petition superior court for order requiring return of personal information	73.2	Executive Vice President
<b>Fees</b> May require payment of fee	75(1)	Specialist, FOIPP
Must provide written fee estimate and may set amount of deposit required	75(4)	Specialist, FOIPP
May excuse all or part of fee	75(5)	Executive Vice President
Must respond in writing to the applicant's fee waiver request within 20 days	75(5.1)	Specialist, FOIPP

# Summary of Responsibilities as FOIPPA Delegated Head

May 2023

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## Delegation under FOIPPA – Key Points

Source: [Section 66 - Delegation by the Head of a Public Body - Province of British Columbia \(gov.bc.ca\)](#)

### Summary

The [head](#) of a provincial [public body](#) has full power to [delegate](#) any of the head's duties, powers or functions conferred under the Act (except the power to delegate) to another person. Normally, the head delegates to officers or employees of the public body (in the case of provincial government ministries, to the Deputy Minister). The delegation must be in writing and contain any conditions or restrictions the head of the public body considers appropriate.

The head of a [local public body](#) does not have authority to delegate any of the powers or function of the head. However, a local public body may accomplish the same administrative purpose by authorizing (through bylaw or other policy instrument) a person other than the head to perform any duties or functions of the head (see manual [section 77\(b\)](#)).

### Policy

1. Only the head of a provincial public body has the power to delegate under the Act. An officer, employee or member to whom authority has been delegated does not have the power to re-delegate this authority.
2. The head of a provincial public body must make delegations in writing with any conditions or restrictions set out in the written delegation instrument.

### Procedure

1. Provincial government ministries must create, file and maintain a valid delegation matrix clearly indicating the lowest level officer or employee of the ministry authorized to approve and accept transactions and sign formal documents.

*Note: Provincial government is still in the process of updating templates to reflect the latest amendments to FOIPPA. An updated online version of the Delegation Instrument template for public bodies that includes new section 18.1 (Disclosure harmful to the interest of an Indigenous people), is still pending. Once available online, the BCER should complete and sign-off a new matrix.*



## Summary of Executive VP Responsibilities

TRANSACTION	DESCRIPTION	SECTION	RESPONSIBLE POSITION	ACTION
Freedom of Information (FOI) Requests				
<b>Power to authorize a public body to disregard requests</b>	Public body may ask OIPC commissioner for authorization to disregard requests that are frivolous or vexatious or would unreasonably interfere with operations of the public body due to their repetitious or systemic nature.	S. 43	Executive VP	The FOI team, with assistance from Legal, would draft a <b>letter of request for the EVP's signature</b> that provides: (1) evidence that the BCER has exercised considerable restraint and made every effort to assist the applicant; and (2) an explanation/evidence of how the request meets the specific criteria for s. 43.
<b>Power to excuse FOI processing Fees</b>	Public body may excuse all or part of a fee related to an FOI request.	S. 75(5)	Executive VP	<p>The BCER's FOI team rarely issues fee estimates for requests – rather, we work with an applicant to narrow their request, or identify the records they're really interested in. Current process related to fee issuance is to <b>advise the ED, IST and EVP of a request where a fee estimate is recommended – fee estimate is not issued without approval.</b></p> <p>If a fee has been issued and the applicant requests a fee waiver, only the EVP can grant one on behalf of the BCER.</p>
OIPC Investigation of Complaint (FOI)				
<b>Powers of commissioner in conducting investigations, audits or inquiries</b>	Public body may require commissioner to examine original record at its site.	S. 44(4)	Executive VP	This would only occur if the BCER was asked to produce a record for review (in response to an OIPC complaint) and it was not practicable to make a copy of the record. We would only come to this conclusion after careful analysis and consideration. The request for onsite

				examination would likely consist of a <b>letter drafted by the FOI team and Legal</b> (FOI team would confirm criteria, preferred method of communication, information required by the OIPC, etc. to support this).
Protection of Privacy				
<b>Recovery of personal information</b>	Public body may issue written notice demanding that a person or entity return information, securely destroy information or respond in writing to declare they are authorized by law to possess this information	S. 73.1	Executive VP	Relates to a personal information incident, breach and/or theft (e.g., detected by BCER employees, contracted service provider, IT/security monitoring, etc.). The FOI team, with assistance from Legal, would draft a <b>letter of request for the EVP's signature</b> .
<b>Court order for return of personal information</b>	Public body may ask Attorney General to petition superior court for order requiring return of personal information	S. 73.2	Executive VP	<b>Actioned if written notice approach is not effective. Any activities related to a court order would be managed through Legal with input from relevant staff</b> , as required. Executive representation may include both EVP Delegated head and Chief Legal Counsel.

### Summary of Commissioner & CEO Responsibilities

Note: This summary includes an anticipated action/response of the BCER. The information has not been reviewed by BCER's Legal Services.

TRANSACTION	DESCRIPTION	SECTION	RESPONSIBLE POSITION	ACTION
Public Interest Paramount				
<b>Information must be disclosed if in the public interest</b>	Public body <u>must</u> disclose information about a risk of significant harm to environment or to health or safety of public or group of people or disclosure of which is clearly in public interest.	S. 25	Commissioner & CEO	<i>Anticipated that Legal (under direction of Chief Legal Counsel) in collaboration with Leadership/Executive would lead an assessment of applicability based on legislation/ government's public interest disclosure policy to determine whether a</i>

				<i>mandatory section 25 disclosure was necessary, and the steps involved.</i>
Protection of Privacy				
<b>Obligation to report foreign demand for disclosure</b>	Public body <u>must</u> notify the minister responsible for this Act if a foreign request for disclosure is received or unauthorized disclosure of personal information has occurred in response to a foreign demand for disclosure.	S. 30.2(2)	Commissioner & CEO	<p>Government's FOIPPA Manual states that s.30.2(2) applies to public bodies and their employees, and contracted service providers. Notice to the minister about a foreign demand for disclosure, as known or suspected, includes the following information:</p> <ul style="list-style-type: none"> <li>- the nature of the foreign demand for disclosure,</li> <li>- who made the foreign demand for disclosure,</li> <li>- when the foreign demand for disclosure was received, and</li> <li>- what information was sought by or disclosed in response to the foreign demand for disclosure.</li> </ul> <p>In addition, the notice should inform the minister of how the public body, service provider or employee plans to respond to the request.</p> <p><i>Anticipated that this requirement would be lead/overseen by Legal, under the direction of Chief Legal Counsel.</i></p>



## WHAT IS FOI?

The Freedom of Information and Protection of Privacy Act (FOIPPA) enables the public to request and obtain copies of records held by government public bodies, when those records are not routinely available. These requests are known as “FOI Requests”.



### Who does FOIPPA apply to?

FOIPPA applies to **public bodies**, including all BC provincial government ministries, agencies, boards, commissions, and provincial Crown corporations. It also applies to local public bodies such as municipalities, regional districts, universities, hospitals, school boards and self-governing professional bodies (such as the College of Physicians and Surgeons). FOIPPA does not apply to private sector organizations in BC.

### What are a public body’s main obligations under FOI?

Under FOIPPA, public bodies:

- Have a legislated 30-business day time limit to respond to FOI requests, with specific exceptions which allow the ability to grant extensions of time in appropriate circumstances.
- Must consider all responsive records available to an applicant, and make every reasonable effort to assist.
- Should complete a line-by-line review of records identified as “responsive” to a request to determine whether any information contained within them requires protection from disclosure.

### What oversight body ensures that FOI is done appropriately throughout government?

The Office of the Information and Privacy Commissioner (OIPC) provides independent oversight and enforcement of BC’s access and privacy laws. The OIPC is responsible for monitoring how FOIPPA is administered, and is authorized to conduct investigations and audits to ensure compliance with any provision of FOIPPA. Applicants have the right to request formal review of a decision, act or failure to act with respect to a public body’s administration of a FOI request under FOIPPA.

### What is considered a “record” under FOIPPA?

A record is any information recorded or stored by any means, whether in physical (hardcopy) or electronic format. This includes emails, notebooks, correspondence, photographs, phone records and even information on post-it notes. If it was created in the course of your daily work, it is considered a record.

### Are all requested records released under FOI?

**No.** Records are not automatically released to the public. There are exceptions to the public's information rights under FOIPPA. For example, an applicant will not get access to Cabinet confidences, someone else's personal information, or information that could harm another individual's business interests. An applicant will also not get access to records that could harm law enforcement, or the economic or financial interests of a public body, other individuals or the public. *See "FOIPPA Exceptions to Disclosure" for details.*

### Are all requests for information handled formally?

**No.** Some requests for information can be satisfied informally through routine channels. Through our corporate website, the Commission makes select records information available to the public. Over time, additional information will be proactively released as the Commission works to identify information suitable for disclosure as part of its *Transparency Strategy*.

A **formal** FOI request is necessary when there may be sensitive or confidential information contained within a record. For example, information that:

- Was created by or relates to another government public body or its employees
- Was provided by or is about a third party (e.g. a company's financial or proprietary business information)
- Relates to government negotiation or consultative processes
- Includes personal information about an individual (e.g. landowner information, information relating to employees, etc.)

***The Commission's FOI staff, in collaboration with program subject matter experts and management, identifies whether information is unsuitable for release.***

### What should I do if I receive a written request for information?

If a program area receives a request for a record(s) that is identified as routinely releasable (no harmful or sensitive/confidential information exists within the record), staff may provide the record to the applicant.

If the requested record(s) contains or may contain sensitive/confidential information, is not a record that's made available to the public or you are unsure, please contact the Commission's FOI Specialist, Dana Keough or send an enquiry to the FOI team inbox at [FOIntake@bcogc.ca](mailto:FOIntake@bcogc.ca)



## FOI IN THE COMMISSION

The Commission receives requests for information from multiple applicants (e.g., media, interest groups) for a wide variety of subjects. During 2015-2017, 170 requests were received and processed formally under the *Freedom of Information and Protection of Privacy Act* (FOIPPA).



Where records are not available through routine venues, the Commission processes requests for information internally through a formal FOI process. Over time, the Commission is looking to make more information routinely available to the public which may help to reduce the number of formal requests received.

### Commission FOI “At-A-Glance”

1. Our external website features our corporate FOI inbox ([FOIintake@bcogc.ca](mailto:FOIintake@bcogc.ca)) and information for the general public on [how to submit an FOI Request](#)
2. We have staff dedicated to administering FOI requests and ensuring compliance:
  - Dana Keough (FOIPP Specialist) and Kathryn Smerechinskiy (Director)
  - It requires a “small village” to do FOI effectively. We regularly consult with the Commission’s communications and legal teams, plus many of you as the subject matter experts.
3. We are establishing a new internal FOI process that includes:
  - A [single point of contact](#) model within each program area, where one individual receives notification of new FOI requests, coordinates records searches within their team, and ensures responsive records are supplied to the Commission’s internal FOI team in a timely manner.
  - An [internal FOI review group](#) comprised of VPs/Executive Directors and Program Leads to review and approve FOI packages prior to release.
  - Formal [sign-off](#) of FOI releases by the Delegated head (CFO & Executive VP, Corporate Services).

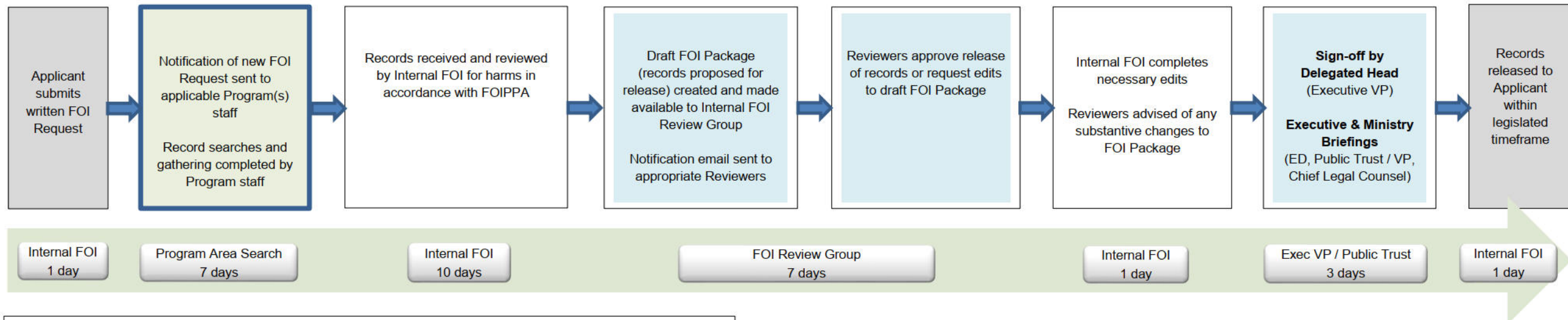
### Our “Top 3” FOI Objectives

1. To build staff awareness about FOIPPA and their accountabilities under the Act.
2. To ensure adequate and thorough searches for records are conducted.
3. To promote openness and transparency while balancing the need to protect sensitive information.

### What should I do if I receive a written request for information?

If a program area receives a request for a record that’s identified as routinely releasable (no harmful or sensitive/confidential information exists within the record), staff may release the record to the applicant. If the requested record appears to contain sensitive/confidential information, is not a record that’s typically made available to the public or you are just unsure, please contact the Commission’s FOIPP Specialist or send an enquiry to the FOI team inbox at [FOIintake@bcogc.ca](mailto:FOIintake@bcogc.ca)

## INTERNAL FOI PROCESS FLOWCHART



Flowchart reflects a typical 30 business day processing timeline:

### Searches for Records

- 5-7 business days are typically allocated for records searches and gathering by Commission program areas.
- If record volumes are significant, a time extension may be taken or Fee Estimate issued to the Applicant.

### FOIPPA Review by Internal FOI

- 2-10 days is typically allocated for a line-by-line review of responsive records by Internal FOI staff.
- Exceptions under FOIPPA are applied to information deemed harmful to release.
- Draft FOI Package is created for review by the internal FOI Review Group.

### Review & Approval by Leadership Group Members

- 5-7 business days are typically allocated for review and approval of a FOI Package by FOI Review Group.
- This time period may be increased for large and complex files if additional time is available.
- Time may be reduced if the package is small or the legislated date for response is approaching.

### Sign-Off by Delegated Head (Executive VP)

- Executive sign-off occurs when: (1) any required changes to a FOI Package have been completed; and (2) all required Review Group approvals have been received.

### Release to Applicant

- Requested records are released to the Applicant after required briefings have been completed.



## SECTIONS OF THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FOIPPA) / EXCEPTIONS TO DISCLOSURE

FOIPPA establishes an applicant's right to access records held by a public body. There are certain exceptions to accessing records. "Severing" or redactions are applied to records in accordance with these sections of FOIPPA. Four out of the 12 exceptions are **mandatory** (sections are identified in **red** below), with s.18.1 being the most recent exemption addressing Indigenous cultural protections. The other exceptions to disclosure can be applied at a public body's discretion. *An organization's approach to proactive release of records should align with FOIPPA's exceptions to disclosure, as well as any other applicable legislation related to the confidentiality of information.*



Section #	FOIPPA Section Title	High-Level Description of FOIPPA Disclosure Exemption
<b>12</b>	Cabinet Confidences	A provincial government public body must withhold information that would reveal Cabinet confidences (e.g. advice, recommendations, policy considerations or draft legislation/regulations submitted or prepared for submission).
13	Policy Advice, Recommendations or Draft Regulations	Covers information that would reveal advice or recommendations. This section is intended to allow for full and frank discussion of policy issues during deliberative processes.
14	Disclosure Harmful to Legal Advice	Covers communications between a public body and its legal counsel (protects solicitor client privilege).
15	Disclosure Harmful to Law Enforcement	Covers information that would harm a law enforcement matter.
16	Disclosure Harmful to Intergovernmental Relations or Negotiations	Covers matters which could harm the relations between BC's levels of government and governments from other provinces and jurisdictions (e.g. Government of Canada/Province of Canada, council of municipality, regional district board, aboriginal government, government of a foreign state, international organization of states).
17	Disclosure Harmful to Financial or Economic Harm	Covers information which, if released, would cause financial or economic harm to the public body or to the government.
18	Disclosure Harmful to Conservation of Heritage Sites	Covers information about heritage sites which would result in the exploitation or destruction of those sites.
<b>18.1 (New)</b>	Disclosure Harmful to Interests of an Indigenous People	Covers information that could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop their cultural heritage, traditional knowledge, traditional cultural expressions, or manifestations of sciences, technologies or cultures.
19	Disclosure Harmful to Individual or Public Safety	Covers information that could result in harm to any person's mental, physical or emotional health or to public safety.
20	Information That Will Be Published or Released Within 60 Days	A public body may withhold information from an applicant if it is already for sale to the public, or if the public body plans to release or publish the information <u>within 60 days</u> .
<b>21</b>	Disclosure Harmful to Third Party Business Interests	Public bodies are often in possession of commercial or financial information of outside businesses and must withhold that information from an applicant if releasing it would cause harm to the business. A specific <u>three-part test</u> must be met in order to appropriately apply the section.
<b>22</b>	Disclosure Harmful to Personal Privacy	Personal information belongs to that individual. Except in very limited circumstances, public bodies must not release an individual's information to anyone else without their consent.



## HARMS ASSESSMENT CHECKLIST

**A guideline for identifying potentially harmful information in FOI release materials.**



Use the following “checklist” as an aid for identifying information that could potentially be harmful if released:

### 1. Harm to other governments

- ☐ Do the records contain confidential negotiations with other governments?
- ☐ Do the records contain information that could harm our relationship with the Canadian government, another province, a municipality or regional district, an aboriginal government or international state or states?

### 2. Harm to the Commission

- ☐ Could release of information be harmful to our financial interests (e.g. information has monetary value)?
- ☐ Could release of information be harmful to our economic interests (e.g. could damage the economic policies/activities for which the Commission is responsible)?
- ☐ Do the records relate to administrative or personnel management plans that are not yet public?

### 3. Harm to 3rd party business interests

- ☐ Do the records contain information about a business’s confidential negotiations with the Commission?
- ☐ Could release of information reveal the business’s trade secrets?
- ☐ Was the information supplied in confidence?
- ☐ Could release of information harm the business’s competitive position, result in the Commission no longer receiving the information, or result in undue financial losses or gains?

### 4. Legal advice

- ☐ Do the records contain legal advice?
- ☐ Was the information intended to be confidential?
- ☐ Was the record created for the purpose of seeking or giving legal advice?
- ☐ Do the records relate to a legal matter? If yes, is the matter still ongoing?
- ☐ Are the records being used in litigation?

### 5. Cabinet confidences

- ☐ Were the records submitted, or prepared for submission to Cabinet/Treasury Board?
- ☐ If yes, are they draft or a final submission?
- ☐ If yes, have the records gone to Cabinet, or are they pending?
- ☐ If they’ve gone to Cabinet, has the information been made public? Implemented?

### 6. Policy advice and recommendations

- ☐ Do the records contain information that is policy advice prepared for a public body or minister?
- ☐ Do the records consist of ‘draft’ materials / advice / recommended courses of action?

ISSUANCE: Public and Corporate Relations Department  
Records Management Branch

APPROVED: December 10, 2019

## 1.0 GENERAL

### 1.1 Purpose

This Policy details the proactive disclosure of responses to General access to information requests (FOI Requests) in accordance with the *Freedom of Information and Protection of Privacy Act* (FOIPPA) and the BC Oil and Gas Commission's (Commission) Proactive Disclosure Exemption Criteria.

### 1.2 Background

Transparency is one of the Commission's values and helps ensure openness and accessibility to information is incorporated in every aspect of the Commission's business. Supporting public access to information is the Commission's primary objective subject to applicable legislation and regulations.

### 1.3 Applicability

This Policy applies to all records, regardless of format, as they relate to general requests for information administered under FOIPPA. It does not replace, limit or extend an individual's right of access to information, or the Commission's obligations under FOIPPA. Rather, this Policy seeks to supplement the goals of FOIPPA and the values of the Commission, by encouraging the release of information and promoting transparency, while at the same time ensuring the protection of personal and other confidential information.

### 1.4 Authority

- *Freedom of Information and Protection of Privacy Act*
- *Copyright Act*

### 1.5 Definitions

- **Applicant** is the party making a request for access to records under FOIPPA. Examples of Applicant types include media, political party, researcher, industry and individual.
- **Contact information** means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual.
- **Confidential records** contain information requiring protection against unauthorized access or disclosure. Records are classified as confidential based on a variety of requirements, including but not limited to policy or legislation. For example, FOIPPA identifies exceptions to the disclosure of requested information. Examples of Commission confidential records include well data, where confidentiality periods apply as defined in the drilling and production regulations, and First Nation consultations and draft agreements.
- **Copyright** is the right to reproduce a work or any substantial part of a work. Records may be protected by copyright under the federal [Copyright Act](#), pursuant to which unauthorized reproduction of works is forbidden. Permission of the copyright owner must be obtained prior to reproduction, dissemination or sale of the records.



- **FOIPPA** means the B.C. [\*Freedom of Information and Protection of Privacy Act\*](#).
- **FOI Request** means an access request made under Part 2 of FOIPPA for records held by the Commission.
- **General FOI Request** means a request for records of a non-personal nature that potentially could be released, in whole or in part, to anyone.
- **Personal FOI Request** means a request for records containing personal information about an individual. The request may be made by the individual themselves, or an authorized representative acting on their behalf.
- **Personal Information** means recorded information about an identifiable individual other than contact Information.
- **Proactive Disclosure** means the public release of the Commission's responses to General FOI Requests.
- **Records** include books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise.
- **Routine Release** means the public release of Commission information that is not in response to an FOI Request.
- **Transparency** means the Commission encourages openness in access to clear information and the Commission's decision-making processes, operations or actions.

## 2.0 POLICY

The following policy requirements apply to the proactive disclosure of responses to General FOI Requests:

- 2.1 Responses to General FOI Requests must be posted to the Commission's website, unless an exemption is approved.
- 2.2 Responses to General FOI Requests will include the response letter, response records and Applicant type (e.g. Media, Researcher, Business, etc.).
- 2.3 Responses to General FOI Requests will be available on the Commission's website for up to one year following the date of posting. Any Responses that result in a formal review by the Office of the Information and Privacy Commissioner (OIPC) may be removed from the website sooner than one year.
- 2.4 An exemption to posting a response to a General FOI Request may be approved where specific exemption criteria apply. Exemption criteria are set out in Section 3.0.
- 2.5 Responses to Personal FOI Requests must not be posted to the Commission's website.
- 2.6 Any personal information must be removed from General FOI Request response records in accordance with the FOIPPA before posting to the Commission's website. Applicant contact information within response letters is also removed.
- 2.7 A response to a General FOI Request must be posted to the Commission's website a minimum of:
  - 72 hours after its release, if the response is sent or provided electronically to the Applicant; or
  - Five business days after its release, if a hard copy is mailed to the Applicant.

### **3.0 PROACTIVE DISCLOSURE EXEMPTION CRITERIA**

- 3.1** Responses to General FOI Requests will be considered for exemption from proactive disclosure and posting on the Commission's external website if they contain:
- Personal information or information that could lead to the identification of the Applicant or other persons.
  - Information that may harm relations with a First Nation.
  - Information that may harm relations with another government.
  - Information that may harm a third party's business interests.
  - Information that is not suitable for proactive disclosure based on a formal risk assessment that disclosure to the public may threaten the safety of a person or harm the security of any property or system.
- 3.2** Commission FOIPPA staff will recommend an exemption from proactive disclosure where one or more of the above criteria are met.
- 3.3** Commission Public and Corporate Relations staff (Executive Director or Director) must approve any recommended exemption.

### **4.0 RESPONSIBILITIES**

- 4.1 Executive and management are responsible for:**
- Leading the Commission in enhancing transparency and accountability through the increased release of Commission information.
- 4.2 Commission FOIPPA staff are responsible for:**
- Preparing responses to General FOI Requests for posting in accordance with established processes and timelines.
  - Recommending exemptions to the proactive disclosure of General FOI Requests in circumstances where established criteria is met.
  - Ensuring responses to Personal FOI Requests are not published.
  - Ensuring personal information is removed from General FOI Request responses before they are proactively disclosed.
  - Updating the Commission's FOI Proactive Disclosure Policy as required.
- 4.3 Commission Public and Corporate Relations staff are responsible for:**
- Approving exemptions to the proactive disclosure of General FOI Requests in circumstances where established criteria is met.
  - Providing information to Commission FOIPPA staff on relevant Copyright matters.
  - Advising the public of the Commission's FOI Proactive Disclosure Policy.

## 5.0 APPROVAL:

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Commissioner,  
Chief Executive Officer

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Executive Vice President,  
Chief Financial Officer

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Executive Vice President,  
Chief Operating Officer

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Executive Vice President,  
Chief Engineer

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Executive Vice President,  
Legal and Regulatory Affairs

### Version Control:

Document Created	Dec-19	Executive Approval



ISSUANCE: Corporate Services Division  
Finance & Administration Department

APPROVED: August 10, 2018

## 1.0 GENERAL

### 1.1 Purpose

The BC Oil and Gas Commission (Commission) views information as an important and strategic asset that must be appropriately managed throughout its lifecycle according to legislated requirements. This policy details the roles, responsibilities and principles for the effective and compliant management of Commission records.

### 1.2 Background

The Commission is subject to the statutory requirements of the *Information Management Act* (IMA) which requires the digitization of non-digital records (subject to specific exemptions) and the use of appropriate information management systems.

### 1.3 Applicability

This policy applies to all records, regardless of format, that are created or received by the Commission and its employees in the course of their duties. It also applies to contractors, consultants and agents of the Commission who have access, custody or control of Commission records.

### 1.4 Authority

- *Information Management Act*
- *Interpretation Act*
- *Electronic Transactions Act*
- *Oil and Gas Activities Act*

### 1.5 Definitions

- **Active records** are records referred to frequently for daily business operations, or that need to be retained and easily accessible on site (if records exist in physical format).
- **Administrative records** support common organizational functions such as the management of facilities, property, finance, personnel, and information systems. These records are managed (classified and scheduled) in accordance with the government Administrative Records Classification System (ARCS).
- **Confidential records** contain information requiring protection against unauthorized access or disclosure. Records are classified as confidential based on a variety of requirements, including, but not limited to, policy or legislation. For example, the *Freedom of Information and Protection of Privacy Act* (FOIPPA) identifies exceptions to the disclosure of requested information. Examples of Commission confidential records include well data, where confidentiality periods apply as defined in the drilling and production regulations, and First Nations

consultations and draft agreements.

- **Digital (electronic) records** consist of information that is entered, created, manipulated and/or stored on digital media or storage devices, and includes:
  - Records that are born digital;
  - Digitized records (converted from non-digital format);
  - Unstructured data (e.g. documents); and
  - Structured data maintained within electronic systems.
- **Electronic Document and Records Management System (EDRMS)** is an integrated software system capable of managing both electronic and physical records through their life cycle in accordance with ARCS, ORCS and other approved records schedules.
- **Inactive records** are no longer required for ongoing business. These are records that are ready for final disposition or, in other words, records for which the scheduled active and semi-active retention periods have lapsed.
- **Information management** is the systematic control of information from creation to storage and retrieval to dissemination, regardless of media or physical format.
- **Operational records** relate to those mandated functions which are unique to a government public body, for which it is responsible for performing according to statute, regulation or policy. These records are described in an Operational Records Classification System (ORCS).
- **Records** include any recorded information created or received, and retained in the day to day operations of business. This covers “books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise” as defined in the *Interpretation Act*.
- **Recordkeeping system** within a government office refers to a shared ARCS and ORCS based filing system in which official (non-transitory) records are organized, retained and disposed of according to approved record retention schedules. A recordkeeping system may consist of physical files in a file room, electronic folders and records saved on a shared drive, or an Electronic Document and Records Management System (EDRMS).
- **Retention schedule** provides a timetable for maintaining an organization’s records. It governs the life cycle of a file from creation, through active use to inactive storage (when appropriate) to final destruction or their transfer to the custody and control of the Provincial Archives. The approved retention schedules for government records are defined in ARCS and ORCS and are applied throughout a records life cycle.
- **Semi-active records** are used only occasionally and do not need to be maintained in the office space of the Commission. While they still have value, they can be stored in economical, offsite storage facilities.
- **Transitory records** are records of temporary usefulness that are not an integral part of an administrative or operational record series. Transitory records are not required to meet statutory obligations or to sustain administrative or operational



functions. As with all records, they can exist in any format or medium (paper or electronic). These records are not regularly filed with official Commission records within filing systems.

## **2.0 PRINCIPLES OF INFORMATION MANAGEMENT**

The Commission must manage its digital (electronic) and physical (hardcopy) records in accordance with legislated requirements and government-wide policies and standards for recordkeeping.

### **2.1 Access to Records**

Records are a corporate asset and resource, and need to be accessible and shared by staff where appropriate. Access to sensitive or confidential records will be restricted to individuals whose duties require such access, in adherence with applicable information security classifications.

### **2.2 Duty to Document**

Employees must create and maintain complete and accurate records sufficient to document evidence of their business activities, transactions, policy or decisions.

### **2.3 Digital (Electronic) Records**

Records created or received in digital (electronic) format shall be treated as the authoritative records source and remain in digital (electronic) format. As both the Commission and BC government move to a digital recordkeeping environment, printing and filing records in hardcopy should be avoided where feasible. Physical records may be digitized and stored electronically as the authoritative source, provided government's digital conversion standards are met. Destruction of any physical records after their digitization must be approved and documented by the Commission's records management staff.

### **2.4 Recordkeeping**

Program areas are responsible for maintaining a shared office recordkeeping system for official active records. Records form corporate memory and must be incorporated into the shared recordkeeping system upon creation or as soon as practical. Government legislation requires the filing and retention of records in accordance with approved government records classification and retention schedules.

### **2.5 Records Disposition**

When records reach their inactive stage they are ready for final disposition review. Records management staff will carry out the review and determine whether records require further retention or disposal. Commission records are not to be destroyed or disposed of without approval from the designated Corporate Records Officer.

### **2.6 Records Storage**

When records become semi-active they will be moved into the applicable records storage facility (physical records) or managed within a secure records environment (electronic records) as determined by the Corporate Records Officer or prescribed in the Commission's records management procedures.



### 3.0 **RESPONSIBILITIES**

#### **3.1 Executive and management are responsible for:**

- Cultivating an organization-wide culture that values records and information management;
- Enforcing policy and procedures for the proper collection, creation, storage, access, retention and disposal of information; and
- Ensuring proper levels of protection are applied to confidential information under their custody and or control.

#### **3.2 Each employee is responsible for:**

- Managing their records in accordance with appropriate records retention schedules, policies, procedures and best practices;
- Understanding, identifying and routinely disposing of transitory information created or received; and
- Protecting records in their custody or under their control from unauthorized disclosure, inadvertent loss or destruction.

#### **3.3 Commission records management staff are responsible for:**

- Delivering an efficient and effective Records Management Program that offers succinct processes, solutions, and records management strategies;
- Providing Commission-wide records retention schedule(s), data plans, policies, procedures and guidelines related to collection, creation, storage, access, retention and disposal of records;
- Assessing organizational training and resource support needs, and developing appropriate plans and materials to address these;
- Assisting in defining records management business requirements and integrating information management planning into systems, plans and budgets and;
- The approval of and secure disposal of records.

**APPROVAL:**

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Commissioner,  
Chief Executive Officer

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Executive Vice President,  
Chief Financial Officer

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Executive Vice President,  
Chief Operating Officer

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Executive Vice President,  
Chief Engineer

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Executive Vice President,  
Chief Legal and Regulatory Officer

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