

Purpose of this document

This document sets out the steps public bodies should take to develop and maintain a proactive disclosure program. An effective program includes establishing a meaningful list of categories of records available without a freedom of information (FOI) request, publishing the categories of records available and the records within those categories, providing staff training, and regularly reviewing the categories of records being proactively disclosed.

Proactive disclosure is a type of routine release where records are publicly disclosed outside of a formal FOI request. Through proactive disclosure, records are typically made available for the public to access from a public body's website without needing staff intervention to search for or provide records.

Background

Access to information is at the heart of transparency and accountability. When public bodies make information publicly available, they empower people to fully and meaningfully participate in our democracy.

Proactive disclosure should be considered the default when providing records to the public. It supports government openness and transparency. It is less time-consuming and can often be less costly for individuals and for public bodies. Further, current technology enables records to be published online quickly and at minimum expense while reducing barriers to access.

Step 1: Establish and document meaningful categories for routine release

Section 71(1) of FIPPA requires public bodies to publish categories of records available to the public without an FOI request.

To meet the obligations of this section, the head of each public body should:

- review their record holdings and select records that can be made available without an access request;
- determine the categories the records belong to;
- document those categories in a fixed and reliable manner; and
- put in place a process to ensure that records are available without a formal access request.¹

¹ OIPC BC, *Section 71: Categories of records available without a request*.
<https://www.oipc.bc.ca/documents/investigation-reports/2291>.

In exercising discretion, the public body should consider factors such as what the public wants or needs to see, what records are frequently requested through FOI, and the types of records that other public bodies make available.

Public bodies should also consider including the calendars of senior employees at the public body, grant awards, contracts, and summaries of briefing materials as part of a proactive disclosure program. These categories and more are contained in [Ministerial directives for the release of government information](#), but the broader public sector can use these categories as a guide for developing and expanding their own proactive disclosure programs.

Where categories of records designated for routine release contain personal information that if disclosed would be an unreasonable invasion of the personal privacy of the individual the information is about, or if that information may not be disclosed under s. 33 of FIPPA, public bodies must sever that information. Public bodies may also sever any information that could be subject to an exemption under Part 2 of FIPPA.² If information is severed from a record, the record must include a statement of the fact that it has been severed, the nature of the information severed, and the reason for the severing. Using these measures can help public bodies designate and release even more records that would otherwise be requested through FOI. For example, building permit files could be designated to be routinely released, but the head of the public body may be required to sever the permit holder's personal phone number.

If an individual believes a public body has improperly released records containing their own personal information, they can complain to the OIPC.

Step 2: Publish categories of records and records on the public body's website

Public bodies should proactively publish a list of the categories of records they make available to the public without an FOI request so that individuals have access to this information.

The language the public body uses in this list to describe the records should be specific, descriptive and meaningful. The categories should be phrased in plain language to support the public, who may be unfamiliar with the jargon or legal terminology the public body uses.

This information should be in a prominent place on the public body's website. In addition, a public body should hyperlink the category of records to a page containing the records themselves. For example, if the category is "budgets," individuals should be able to click on the word "budgets" and be redirected to a page with all the budget records.

Step 3: Draft policies and procedures on proactive disclosure and train staff on them

The head of each public body should ensure that public body staff are aware of the records available to the public without an FOI request so they can direct individuals, without delay, to

² For a list of possible exceptions, see ss. 12-22.1 of FIPPA:
https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96165_02#part2

those records. The head of each public body should provide training to employees to tell individuals that they can still make an FOI request if the information they are seeking is not available proactively. If an individual wants to ask for or complain about records that are *not* proactively available, employees should know which employee or work unit can provide meaningful assistance and direct the individual to them.

More broadly, public bodies should train their employees about the benefits of proactively disclosing records, especially if the records are already available for download from the public body's website. This will help to establish support and awareness from employees for the public body's proactive disclosure program.

Step 4: Regularly review the categories of records

Public bodies should regularly review and update the categories of records available without a request. The usefulness of the categories is a direct function of how current they are. The more departments that are aware of the proactive disclosure program, the more employees can improve upon it.

Public bodies should also study utilization rates for records it provides through the FOI process. Using this data, public bodies can identify which areas of access they may be able to expand on to better serve the public and reduce the number of FOI requests and associated processing times.

Conclusion

Establishing categories of records that are in the custody or under the control of a public body and are available to the public without a request for access is an obligation under FIPPA. Public bodies should publish the categories of records available and the records within those categories so that the public can access them. Employee knowledge on what records the public body makes available without an FOI request can have a substantial impact on the success of a public body's proactive disclosure program.

These guidelines are for information purposes only and do not constitute a decision or finding by the Office of the Information and Privacy Commissioner for British Columbia. These guidelines do not affect the powers, duties, or functions of the Information and Privacy Commissioner regarding any complaint, investigation, or other matter under FIPPA or PIPA.