



Order F26-70

PROVINCIAL HEALTH SERVICES AUTHORITY

Erika Syrotuck
Adjudicator

August 10, 2026

CanLII Cite: 2026 BCIPC 89
Quicklaw Cite: [2026] B.C.I.P.C.D. No. 89

Summary: An individual (complainant) complained to the Office of the Information and Privacy Commissioner about the Provincial Health Services Authority's decision to deny his request to reduce or excuse a fee to process his request for records under the *Freedom of Information and Protection of Privacy Act* (FIPPA). The adjudicator excused the fee on the grounds that the records related to a matter of public interest under s. 75(5)(b) of FIPPA.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, [RSBC 1996] c. 165, s. 75(5)(b).

INTRODUCTION

[1] An individual (complainant) made a request for records to the Provincial Health Services Authority (Health Authority) under the *Freedom of Information and Protection of Privacy Act* (FIPPA). The request was for a variety of records relating to the role of consultants in creating the BC Cancer Patient & Family Advisory Panel (the Panel).

[2] The Health Authority issued a fee estimate of \$450. Following this, the complainant narrowed the scope of the access request and requested a fee waiver on the basis that the records related to a matter of public interest under s. 75(5)(b) of FIPPA.

[3] The Health Authority revised the fee estimate to \$240 based on the narrowed request but declined to waive it because, in its view, the records did not relate to a matter of public interest.

[4] The complainant complained to the Office of the Information and Privacy Commissioner (OIPC) about the Health Authority's decision to deny his request to reduce or excuse the fee.

[5] During the inquiry, I wrote to the Health Authority requesting a further description of the records that it has identified as responsive to the complainant's request. It provided a supplemental submission describing the responsive records. It also provided, *in camera*, the records that it identified as responsive records.

[6] The complainant responded to the Health Authority's supplemental submissions, and I have considered his response.

ISSUE

[7] The only issue that I must decide in this inquiry is whether the fee should be excused, in whole or in part, under s. 75(5)(b) of FIPPA.¹

[8] Under s. 58(3)(c), I have the power to confirm, reduce or excuse the fee. FIPPA does not identify who has the burden of proof in a fee dispute, but previous OIPC orders have found that the burden is on the complainant, and I find that the same approach is appropriate in this case.²

DISCUSSION

Background

[9] The Panel is a newly created initiative of the BC Cancer Agency. Its purpose is to ensure that cancer care in British Columbia is informed by the lived experience of patients and their family members who have direct and personal experience with cancer care.

[10] The complainant is a patient of BC Cancer. He was, for a time, on the Panel. The complainant says that a serious surgical complication in 2023 motivated his research into health authority governance and the structures intended to give patients a meaningful voice in how health care is delivered.

[11] In January 2026, the complainant made the following access request:

I am requesting general records related to the consulting engagement that informed, recommended, or supported the creation of the BC Cancer Patient & Family Advisory Panel (in Vancouver BC). I was advised by BC

¹ To be clear, whether the fee is reasonable is outside the scope of this inquiry.

² Order F21-48, 2021 BCIPC 56 (CanLII) at paras 6-10.

Cancer staff that this advisory panel was created as a result of a strategic analysis conducted by EY (Ernst & Young) or another external consultant.

I am requesting the following records:

1. Consulting Deliverables (Draft and Final): All consulting reports; slide decks and presentations; findings, recommendations, frameworks, or strategic analysis; appendices, data summaries, or engagement reports; any documents delivered by the consultant that guided or supported the creation of the Advisory Panel.
2. Procurement and Contractual Documents: RFP, RFQ, or procurement request documents; proposals submitted by EY or other consultants; evaluation or scoring documents; signed contract(s), Statements of Work, and amendments; invoices and records of total fees paid
3. Internal Use and Implementation of Consultant Recommendations: Briefing notes or summaries prepared for BC Cancer or PHSA executives; documents describing how the consultant's recommendations were implemented; internal communications discussing or evaluating the consultant's recommendations; any implementation plans or roadmaps connected to the consultant's work.

[12] Following communications with the Health Authority, the complainant narrowed the request to final records only and excluded any drafts, internal working documents, internal emails, informal notes, duplicate records or version histories. It is the \$240 fee estimate for this narrowed version of the request that is at issue in this inquiry.

Section 75(5)(b) – public interest fee waiver

[13] Section 75 of FIPPA sets out the circumstances when a public body can charge a fee for an access request. This provision also allows a public body to excuse payment of the fees in some situations. The relevant provisions are:

75(1) The head of a public body may require an applicant who makes a request under section 5 to pay to the public body the following:

- (a) a prescribed application fee;
- (b) prescribed fees for the following services:
 - (i) locating and retrieving the record;
 - (ii) producing the record;
 - (iii) preparing the record for disclosure, except for time spent severing information from the record;

(iv) shipping and handling the record;

(v) providing a copy of the record.

(2) Subsection (1) (b) (i) does not apply to the first 3 hours spent on a request.

[....]

(5) If the head of a public body receives an applicant's written request to excuse payment of all or part of the fees required under subsection (1) (b), the head of the public body may excuse payment, if, in the head of the public body's opinion,

(a) the applicant cannot afford the payment or for any other reason it is fair to excuse payment, or

(b) the record relates to a matter of public interest, including the environment or public health or safety.

[14] Section 75(5)(b) is the sole issue in this inquiry. The analysis for this issue is two-step. The first question is whether the records relate to a matter of public interest. If they do, the second step is to decide whether the complainant should be excused from paying all or part of the fee.

[15] However, in this particular case, I must first address the nature of the responsive records. Understanding the nature and content of the responsive records is critical to the inquiry because the question that must be answered is whether the records relate to a matter of public interest.

What are the Responsive Records?

[16] During the inquiry, the Health Authority asserted that the complainant fundamentally misunderstood the role of EY or any other external consultants in relation to recommending, designing and supporting the introduction and launch of the Panel.³ It said that EY was not specifically contracted to support the development of the Panel. It provided evidence that the Panel was developed in house and that Health Authority employees did the vast majority of the work related to the design, development and launch of the Panel.

[17] As such, the Health Authority said:

while the Requested Records may broadly include contracts, procurement records, and invoices, few of those records are likely to have any direct connection to [the Panel]. They may also include slide decks, other

³ The parties sometimes use EY and sometimes Ernst & Young. I have used EY throughout this order for consistency.

administrative work performed at the instruction of [named Senior Director] and her team, and line items that appear on invoices submitted to [the Health Authority] that specifically refer to the [Panel].⁴

[18] The respondent raised concerns that, although the affiant states that the evidence is based on personal knowledge, the substantive evidence is based on consultations with other individuals. In other words, the evidence is hearsay. The complainant says that the records themselves are the best evidence of what EY did and what funds were actually spent.

[19] After reviewing the submissions and evidence, I decided that it was necessary to ask for a further description of the records to decide whether the records that the Health Authority has identified as responsive relate to a matter of public interest.

[20] In response to my request, the Health Authority said that it had not located any responsive records related to procurement, contracting or any statements of work with EY or any other provider in connection with the Panel. It said that the records it has identified as responsive to the request are:

- One 27-page slide deck from a presentation made by the Health Authority's Patient Experience Team to senior leadership describing ongoing patient experience initiatives, including the Panel.⁵
- One email thread which describes how the supportive work EY provided to the Patient Experience Team would be billed.
- Five EY invoices which contain line items with billings related to "Patient Experience."
- Four other invoices which list "Patient Experience" as an item but reflect \$0 billing.

[21] It also provided me with a copy of the above records *in camera* and offered to provide further evidence.

[22] After reviewing the Health Authority's description and the *in camera* records, I am satisfied that the records that the Health Authority has identified as responsive are as described above. Given that I have been provided with the records, I have decided that I do not need further evidence. I will proceed with the analysis based on these records.⁶

⁴ Authority's response submission at para 17.

⁵ The Health Authority says that there are additional slide decks marked as "draft" and it would need to confirm whether these are, in fact, drafts.

⁶ This finding is only for the purpose of deciding whether to reduce, excuse or confirm the fee.

Step 1: do the records relate to a matter of public interest?

[23] The question to be answered under the first step of the s. 75(5)(b) analysis is simply whether the requested records relate to a matter of public interest; the degree of interest does not matter.⁷

[24] Previous orders have set out the following non-exhaustive list of factors to consider when deciding whether the records relate to a matter of public interest:

- 1) Has the subject of the records been a matter of recent public debate?
- 2) Does the subject of the records relate directly to the environment, public health or safety?
- 3) Could dissemination or use of the information in the records reasonably be expected to yield a public benefit by:
 - a) disclosing an environmental concern or a public health or safety concern? or
 - b) contributing to the development or public understanding of, or debate on, an important environmental or public health or safety issue? or
 - c) contributing to public understanding or debate about an important policy, law, program or service?
- 4) Do the records disclose how the public body is allocating financial or other resources?⁸

[25] I turn to the parties' submissions on these factors.

Parties' submissions

[26] The complainant submits that the records relate to a matter of public interest.

[27] First, the complainant submits that disclosure of the invoices would disclose how the Health Authority is allocating financial or other resources. Relying on Order F09-11,⁹ the complainant says that these records have an inherent relationship to resource allocation by their very nature.

⁷ Order 03-19, 2003 CanLII 49192 (BCIPC), at para 37.

⁸ Order No. 332-1999, 1999 CanLII 4202 BCIPC at 3.3 Applicable Principles.

⁹ Order F09-11, 2009 CanLII 42410 (BCIPC) at para 20.

[28] The complainant also says that the Panel is an important program or service and therefore factor 3(c) should weigh in favour of excusing or reducing the fee. The complainant says that the Panel is a senior advisory body reporting to the executive leadership team of a provincial health authority.

[29] The Health Authority submits that its efforts to engage with patients and to ensure their perspectives and lived experience inform health care delivery is an important issue. However, it says the requested records will not reveal any information about this work; rather, the records will only reveal information about minor administrative costs undertaken to temporarily backfill an employment vacancy. As such, it says that the responsive records will not contribute to public understanding of an important policy, law, program or service.

[30] The Health Authority also says that there is no evidence that the topic of money spent on external consultants in relation to the Panel has been a matter of public debate. It also says that the requested records do not relate directly to the environment or to public health and safety.

[31] In reply, the complainant says that the Health Authority's submissions are really about the degree of public interest, which is not a factor in the s. 75(5)(b) analysis. More specifically, the complainant says that the records concern how the Health Authority allocated public funds to external consultants in connection with a publicly funded patient governance initiative.

[32] The complainant says that the Health Authority's further description of the records confirms that the records include external consultant invoices, executive level presentations and records relating to the establishment and operation of the Panel. The complainant says that those characteristics are directly relevant to the public interest analysis under s. 75(5)(b). The complainant says that the records relate to how the Health Authority allocated public funds on external consulting services in connection with a publicly funded patient advisory initiative. The complainant submits that the Health Authority's own description of the records is consistent with and supports his position throughout these proceedings.

Analysis

[33] I accept that the Panel is an important program. It is a public health initiative aimed at ensuring patient's perspectives inform cancer care in BC. After reviewing the slide presentation, I find that the information in it would contribute to public understanding about patient experience initiatives, including the Panel.

[34] I am satisfied that the invoices and email show how the Health Authority is allocating resources because they are about the amount of money spent on external contractors, including on resources related to patient experience. Again, this is about money spent in the context of the Panel which I have found is an important program related to public health.

[35] Taken together, I am persuaded that the information in the responsive records relates to a matter of public interest for the purpose of s. 75(5)(b).

Step 2: Should the complainant be excused from paying the fee?

[36] Previous orders have considered the following non-exhaustive list of factors relevant to the question of whether an applicant should be excused from paying the fee:

- 1) Is the complainant's primary purpose for making the request to use or disseminate the information in a way that can reasonably be expected to benefit the public, or is the primary purpose to serve a private interest?
- 2) Is the complainant able to disseminate the information to the public?
- 3) Did the public body meet legislated time limits in responding to the request?
- 4) The manner in which the public body attempted to respond to the request (including in light of the public body's duties under s. 6 of FIPPA).
- 5) Did the complainant, viewed reasonably, co-operate or work constructively with the public body, where the public body so requested during the processing of the access request, including by narrowing or clarifying the access request where it was reasonable to do so?
- 6) Has the complainant unreasonably rejected a proposal by the public body that would reduce the costs of responding to the access request? It will almost certainly be reasonable for a complainant to reject such a proposal if it would materially affect the completeness or quality of the public body's response.
- 7) Would waiving the fee shift an unreasonable cost burden for responding from the complainant to the public body?¹⁰

Analysis

i. Purpose of making the request

[37] This factor is about whether the access applicant has made the request for some kind of private purpose as opposed to one that can reasonably be

¹⁰ Order F21-48, 2021 BCIPC 56 (CanLII) at para 50.

expected to benefit the public. It is not about the extent to which there is public interest in the information in the records; that has already been address in the first step of the s. 75(5)(b) analysis.¹¹

[38] The complainant says he is an independent governance researcher with no commercial interest in the records at issue and no private financial benefit from their disclosure.

[39] The complainant says that his primary purpose is to assess whether the Panel's stated commitments have produced meaningful outcomes. He says that the request is about the governance design of BC Cancer's patient advisory structure. He says that whether the Panel was properly designed and adequately resourced is a matter that the freedom of information system was designed to be used to scrutinize.

[40] The Health Authority says that the Request is not about the results produced by the Panel. Rather, it is about the work product and expense generated by external consultants relating to the Panel's design, development and implementation. The Health Authority says that the complainant does not explain how the requested records will address the stated primary purpose of his request.

[41] In reply, the complainant says that records about external consultants are independently relevant to public accountability regardless of the effectiveness of the Panel.

[42] The parties' submissions seem to be about the value of the information in the records. As I said above, this is not relevant to this factor. However, I do believe that the complainant has made the request with the intention of disseminating the information to the public rather than for some private purpose.

ii. Dissemination capacity

[43] The complainant says that, as a former member of the Panel, he has direct working relationships with parties inside and connected to BC Cancer who have an active interest in whether the Panel is functioning as designed. The complainant says that he has demonstrated a capacity to translate disclosed records into structured governance analysis. The complainant says that he intends to prepare and distribute written analysis of any disclosed records to patient advocacy organizations, health researchers, oversight bodies and media contacts.

[44] The Health Authority did not expressly address this factor.

¹¹ See Order F26-29, 2026 BCIPC 37 (CanLII) at paras 52-54.

[45] Nothing in the materials before me casts any doubt on what the complainant says about his ability to disseminate information.

iii. Parties' conduct

[46] The Health Authority says that the conduct-based factors (two through six, above) should not apply as both parties acted in a timely way and made efforts to narrow the request. The complainant submits that he fully cooperated.

[47] I find that the parties acted cooperatively. The Health Authority provided clear suggestions to narrow the Request to reduce the fee and the complainant acted on those suggestions. The communications between the parties were respectful and timely.

iv. Burden of responding

[48] I find that the fee of \$240 is relatively modest and would not shift an unreasonable cost burden onto the public body.¹²

v. Conclusion

[49] Taking all of the above factors into account, I have decided to excuse the fee. I have taken into account that the responsive records relate to a matter of public interest, the cooperative conduct of the parties, and the relatively modest burden of responding. In addition, the complainant has a plan to disseminate the information, and I am persuaded that he can effectively do so.

CONCLUSION

[50] For the reasons above, under s. 58(3)(c) of FIPPA, I excuse the complainant from paying the Health Authority's fee.

August 10, 2026

ORIGINAL SIGNED BY

Erika Syrotuck, Adjudicator

OIPC File No.: F26-00551

¹² For a similar finding, see Order F19-09, 2019 BCIPC 11 (CanLII) at para 49.