



September 30, 2011

Honourable Bill Barisoff
Speaker of the Legislative Assembly
Room 207, Parliament Buildings
Victoria Bc V8V 1X4

Dear Honourable Speaker

Re: MLA Expenses - OIPC File F10-42976

I write further to our meeting earlier this week regarding the public reporting of Member of the Legislative Assembly (MLA) expenses. We discussed the issue of how MLA expenses could be reported in a manner that promoted accountability while protecting the privacy of employees in MLA constituency offices. You explained that the majority of MLAs have fewer than three staff in their offices. In light of this, you are concerned that the strategy I suggested in my letter of September 23, 2011 might not be adequate to protect the personal information of employees.

In the course of our discussion you advised that some expenses such as telecommunication expenses, rental of equipment and computer hardware & software are not covered by the \$119,000 constituency office expenses budget but rather are paid for by the Legislative Assembly Office.

I do not have detailed information regarding the full extent of the payments and benefits received by MLAs nor do I have knowledge of how such payments are tracked or reported. As a result, I offer some reporting suggestions on the understanding that you may need to adjust the expenses listed to better reflect existing reporting categories and you may also want to add expense categories to better reflect other types of benefits received or expenses claimed that are not accounted for in the list below:

MLA Compensation and Expenses

- Basic compensation
- Additional salaries and benefits
- Capital living expenses
- Meals per diem claimed
- In-constituency travel expense

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- Other travel expenses
 - Other expense reimbursements

Constituency Office Expenses

Given that the maximum allowance paid for constituency office expenses is only \$119,000 per year and given that most MLAs have fewer than three staff, I am concerned that any breakdown of this amount may result in the disclosure of salary information of employees¹. Therefore, unless an MLA has three or more staff I suggest you report the total amount of expenses claimed on a quarterly basis. Such reporting should include a description of the types of expenses that can be claimed as constituency office expenses.

Constituency Office Lease Expenses

I understand that benefits are paid for each of the following types of expenses and so it would be convenient and appropriate to report out these expenses in the same categories. If these costs are bundled, it would be appropriate to report an aggregate total with an explanation of what expenses are included in the aggregate.

- Rent
- Parking
- Taxes
- Common area expenses
- Utilities – heat, light & water
- Insurance

Legislative Assembly Office Benefit

If this is a standard amount per MLA it could be reported as a single sum with an explanation of what costs are covered. Otherwise, some breakdown of the amount claimed in each of the relevant categories would be appropriate. I understand the categories to include:

- Telecommunication expenses (phone, cell phone, internet, cable)
- Rental of equipment (e.g. photocopiers, fax machines)
- Computer hardware & software
- Office furniture

¹ Employee personal information is protected under the *Personal Information Act*, as explained in the letter of September 23, 2011, attached for your information.

The proactive disclosure of MLA salaries, benefits and expenses (and an explanation of these categories) on a quarterly basis will contribute significantly to the cause of increasing transparency and openness of elected officials. In promoting this initiative, the Legislative Assembly Management Committee is providing leadership at a time when citizens of British Columbians are keenly interested in Open Government and Open Data initiatives.

Please feel free to contact me if you have any further questions or comments.

Sincerely,



Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

pc: Honourable Rich Coleman
Government House Leader

John Horgan, MLA – Juan de Fuca
Opposition House Leader



September 23, 2011

Honourable Bill Barisoff
Speaker of the Legislative Assembly
Room 207, Parliament Buildings
Victoria Bc V8V 1X4

Dear Honourable Speaker:

Re: MLA Expenses - OIPC File F10-42976

I write further to our telephone conversation last week regarding the publication of Members of the Legislative Assembly (MLA) expenses. As you know from my previous correspondence, it is my view that the Legislative Assembly should regularly post detailed information regarding MLA expenses in the spirit of the government's Open Information Initiative. I acknowledge the progress made so far by the Legislative Assembly Management Committee in promoting transparency in relation to MLA expenses, and set out my advice below assist you in your efforts.

Applicable Privacy Legislation

You advised me that MLAs are uncertain about whether or not the privacy rules contained in the *Personal Information Protection Act (PIPA)* or the *Freedom of Information and Protection of Privacy Act (FIPPA)* apply to them.

MLAs are "organizations" for the purposes of *PIPA* but there is a special section in the law that limits the application of the rules to MLAs. As a result, the privacy rules in *PIPA* apply only to the *administrative* records of MLAs but not to their operational records. Administrative records include records such as personnel, competition and office management files. Operational records relate generally to the MLA's responsibilities to represent the electoral district for which the member was elected and include files relating to advice or advocacy on behalf of constituents.

FIPPA does not apply to MLAs because *FIPPA* applies only to public bodies. The term “public bodies” is defined in *FIPPA* and that definition specifically excludes MLAs. However, *FIPPA* does apply to a Minister’s records because they are the ‘head’ of their public body.

What are the PIPA Rules?

PIPA sets out a series of rules intended to protect personal information and to allow individuals to access their own personal information. Unlike *FIPPA*, *PIPA* does not contain a general right for the public to access records.

Therefore, *PIPA* requires MLAs to protect the personal information they hold in their administrative records, this includes information relating to their employees, particularly employee salaries. By contrast *FIPPA* permits public bodies to disclose the remuneration of employees. So MLAs are faced with a conflict between their desire to make public details of how they are spending public funds and their obligation to keep confidential the personal information of their employees; including employee salaries.

Guidelines for Disclosing MLA Expenses

In my previous correspondence with you I recommended the regular disclosure of detailed breakdowns of MLA expenses including MLA constituency office expenses in a manner similar to other jurisdictions in Canada. Saskatchewan and Nova Scotia both publish detailed breakdowns of MLA expenses.¹

Because of the *PIPA* requirements in relation to employee information, MLAs in British Columbia will need to aggregate salary information so that the amount of individual salaries cannot be discerned from the expense breakdown. For MLAs who have three or more employees, an aggregate salary amount should be sufficient. MLAs with less than three employees should report salaries in a line that includes other expenses of a similar nature.

Building on the existing list of MLA indemnities and allowances and taking into account the amount of detail publicly disclosed in other provinces and territories, we have developed a list of possible expense reporting categories, and have attached this list for your consideration.

¹ Nova Scotia’s reports are available at: <http://nslegislature.ca/index.php/people/offices/house-of-assembly-management-commission/expenses/#>. Saskatchewan’s reports are available at: <http://www.legassembly.sk.ca/members/disclosure.htm>

I encourage MLAs to post quarterly details about their salary, benefits and expenses in each of the categories described in the attached guideline. This would make British Columbia a leader in the cause of increasing transparency and openness of elected officials in Canada. I would be happy to discuss this further with you or to meet with any member should they have any questions.

Please feel free to share this opinion.

Sincerely,

ORINGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

pc: Honourable Rich Coleman
Government House Leader

John Horgan, MLA – Juan de Fuca
Opposition House Leader

Honourable Stephanie Cadieux
Minister of Labour and Citizens' Services
and Open Government

Enclosure

Guidelines to Disclosing MLA Expenses Expense Categories

MLA Compensation and Expenses

- Basic compensation
- Additional salaries
- Capital living expenses
- Meals per diem claimed
- In-constituency travel expense
- Other travel expenses

Constituency Office Expenses

- Telecommunication expenses (phone, cell phone, internet, cable)
- Rental of equipment (e.g. photocopiers, fax machines)
- Postal and courier costs
- Copy costs
- Stationary and office supplies
- Website development
- Computer hardware & software
- Office furniture
- Staffing costs (aggregate all categories below if fewer than three staff, separate subcategories if three staff or more):
 - Salaries & benefits (aggregate for all staff)
 - Staff travel & expenses
 - Staff professional development
- Contract services
 - by supplier, contract totals
- Advertisement/media placement costs
- Hospitality expenses
- Utilities – heat, light & water

Constituency office lease expense

- Rent
- Parking
- Taxes
- Common area expenses

Constituency office insurance