

## CHECK AGAINST DELIVERY

# Speech to the Select Standing Committee on Finance & Government Services April 26, 2024

## Michael McEvoy Information and Privacy Commissioner/Registrar of Lobbyists

Good morning, Chair, Deputy Chair, and Members of the Committee.

I would first like to acknowledge and respect that we are meeting today on the traditional territories of the Ləkʷəŋən-speaking people of the Songhees and Esquimalt Nations. As an Officer of this Legislature, I also acknowledge that I am privileged to work with people across many traditional indigenous territories, covering all regions of our Province.

Ablly assisting me this morning are Deputy Commissioners oline Twiss and Jeannette Van Den Bulk, along with Dave Van Swieten, Deputy of Shared Services for the four Officers of the Legislature headquartered at 947 Fort Street.

When last we met, I speculated, but to be clear did not guarantee, that it was my last Committee appearance. I can now provide certainty that today and next Monday will be final appearances with my best before date as Commissioner having been set at May 5.

And as you have requested, I will focus today's remarks on the progress we have made to date on the office's priority areas, their associated performance metrics as well as our workplace culture. I will also briefly preview our supplemental request for 2024/25 budget which will be discussed in greater detail on Monday evening - though I should say that if time allows, and you prefer me to do so, I am prepared to go into those details this morning.

I begin with updates on priority areas that have been the subject of previous requests. Our fall 2021 budget request focused on strengthening the office's adjudication division to address the increasing demands on that team and the growing backlog of cases.

A case requires adjudication when it is unresolved through our investigation and mediation services. Most cases are resolved in this way— about 90 percent to be precise. But when this is not possible, they go to a formal written inquiry for decision by legally trained adjudicators. At the time of our 2021 appearance, the backlog of cases was just over 200 and growing rapidly.

Given the rate of incoming cases and the number of adjudicators on staff to write orders it was clear to our team that, without additional staffing, the backlog would reach 335 by the end of the 2023/2024 fiscal year. Those wait times would be unacceptable and for that reason our office sought your support for additional staffing.

We proposed, and you supported in 2021, adding seven adjudicators; five permanent FTE's and two adjudicators for a period of three years. Based on this additional resourcing we projected by the end of the 2023/24 fiscal, the escalating backlog could not only be slowed but would begin a reversal to 167 cases.

The numbers are now in for the the end of fiscal and we closed the year at 177 cases - within a mere ten of our target. And with the adjudicators hired gaining important experience this number should continue to fall in line with expectations to approximately 133 by the end of this fiscal.

I want for the public record to acknowledge the work of our Director of Adjudication Elizabeth Barker who undertook a careful and rigorous hiring and training process of adjudicators, which has kept us on plan. Her work has not gone unnoticed by her peers who most recently bestowed on her the BC Council of Administrative Tribunals Recognition award acknowledging her outstanding contribution to the public and administrative justice community in BC.

The next matter of update concerns the additional staff recommended by the Committee in 2023 to address and administer new requirements for public bodies - both to report privacy breaches likely to cause significant harm and to establish privacy management programs.

Each reported breach to our office needs to be triaged by our staff who work with the public body or organization to stop the breach, assess its severity and, amongst other things, determine whether individuals affected by it should be notified.

In addition to these responsibilities, it was also evident to us that a concerted campaign was needed on our part to educate public bodies about breach reporting and the need to develop a privacy management program. All of this was clearly labour-intensive, requiring more staff resources.

We looked at the experience of other jurisdictions where mandatory reporting was enacted. Colleagues across the country had warned of a marked increase in breach notifications in the first year and, as public bodies learned how the new legislation applied to them, further increases following in subsequent years before settling into the new normal after three years or so.

Based on these experiences we estimated a 300% increase in reports over the next few years. We asked, and the Committee recommended, in 2023, the addition of 7.5 FTEs to support this.

We are now one full year in and the number of reports in the public sector in the comparative period jumped from 65 to 213, a 228% increase and well on the way to and perhaps exceeding the predicted 300% increase over the next two years.

I should note these stats only reflect the public sector. We are also experiencing an increase in voluntary notifications from the private sector and if the increases continue it will almost certainly result in my successor discussing with you whether further resources will be warranted.

I mentioned the necessary education of the public sector running parallel to these new responsibilities. Last fall, we hosted six in-person training sessions around BC to educate public bodies about their obligations to report breaches that may result in significant harm, and developing and documenting privacy management programs.

Based on the feedback and success of those sessions, we have added another round of training as part of Privacy Awareness Week, starting next week in Vancouver and continuing through May, for Victoria and Kamloops.

Thanks to the recommendations of this committee our new responsibilities are being addressed. A look into the crystal ball of future budgetary priorities tells me the greatest pressures on the office likely to be the subject of future discussions with the Committee, involve what I would describe as the meat and potatoes of what we do.

I mean by that files called requests for review, those matters where an individual disagrees with how a public body has withheld or severed records, or where the public body did not respond to access to information request within 30 business days.

Those files continue to increase and are putting both added pressure on our investigation team and increasing the public wait time for cases to be dealt with. Credit to our team that has been more efficient than ever closing these files, but their 25% increase over the last fiscal year was difficult to keep pace with when the team is already working at full capacity.

Similar to those strains we experienced at the adjudication level, we are monitoring these requests for review pressures very closely while looking at efficiencies internally to manage them, including reallocating additional resources within our current budget. If these increased numbers are sustained into next fiscal year, I would fully expect that another Michael — Michael Harvey, BC's next Commissioner - will consider the need to request additional resources when he makes his first Committee appearance during the next budget cycle.

Two other areas where budgetary pressures can be anticipated and are in need of addressing will be discussed in more detail on Monday evening.

What I can say briefly this morning is that the first item stems from legislative amendments recently passed in this House that will require updating of the Lobbyists Registry for the ORL in the next six months.

Lobbying, as I have noted many times, is an important facet of our democratic system of government, that can inform policy and law making. Equally important is that citizens understand those influences.

And that is only possible if lobbyists' actions are transparent. The main vehicle for that understanding is the Lobbyists Registry, which offers online access to information about registered lobbyists who are attempting to influence government decisions. It is free for all to access 24 hours a day, seven days a week.

Updating the Registry in light of recent amendments is crucial to ensuring the transparency it is meant to provide is maintained. That in turn, will require additional funds to ensure no disruptions occurs for users.

Another area of anticipated budgetary pressure, and again a priority to be addressed Monday, is a needed support position to see our case tracker system project to its conclusion.

The system's expected go-live date is in June - somewhat later than anticipated but a matter out of our control. We are the last amongst our Corporate Shared Services Offices and this has afforded us the advantage of understanding that we will need an FTE in 2024/25 to support the transition to the new system, and to ensure any post implementation requirements are prioritized and implemented. The FTE is for a Business Analyst position that will work with staff and developers to ensure the system meets our day-to-date operational and reporting requirements.

I'll now speak a bit, as requested, about our workplace culture before I conclude my remarks.

Since the start of the pandemic in early 2020, we have adapted a flexible work policy for staff, that has allowed our team to work from anywhere in BC. This has benefitted the office greatly, as we are able to take advantage of some of the amazing talent that exists in our province without requiring them to live here in greater Victoria.

We have also implemented respectful workplace training and the San'yas: Indigenous Cultural Safety Training Program. The latter, over the course of eight weeks, gave staff an opportunity to learn about, reflect on, and take steps to improve cultural safety for Indigenous people accessing OIPC services.

As part of this work, our office joined the other offices located at 947 Fort in commissioning a totem pole by carver Tom LaFortune from the S̷AUTW (Tsawout First Nation) to support the ongoing provincial reconciliation efforts with local indigenous peoples and to be a welcoming symbol to all people coming to our respective offices.

This path supports the process of establishing and maintaining mutually respectful relationships between Indigenous and non-Indigenous peoples to build trust, affirm historical agreements, address healing and create a more equitable and inclusive society.

We also have scheduled training for staff with the Canadian Mental Health Association, which will take place this spring and summer. The sessions focus on increasing awareness of mental health issues, reducing stigma, and in doing so strengthening office culture.

Finally, we have developed a number of policies to support staff and to ensure a safe workplace for all. Our Harassment, Bullying, and Discrimination Policy applies to all staff, and reinforces that all employees will be treated in a fair and respectful manner. It also provides complaint procedures for employees and supports our Standard of Conduct and BC Government's core policy objectives of "promoting a safe and healthy workplace that supports the well-being of employees."

And, our Behaviour, Threats, and Violence Policy sets out to minimize the risk of harm to employees from work-related exposure to violence, threats or abusive behaviour from members of the public and to limit inference to our operations arising from inappropriate behaviour by members of the public.

With that Chair, I thank you and the Committee, for the work you do on behalf of the people of the province. My team and I would now be pleased to answer any questions you may have.