



1. Do you accept the April 2017 report of the Ombudsperson into the firings at the Ministry of Health, and will you bring in whistleblower protection legislation by March 2018 as recommended?

These events over four years ago were deeply unfortunate, and clearly not acceptable. That's why the government asked the Ombudsperson, an independent officer of the Legislature, to look into what happened and help make sure that it never occurs again.

The Ombudsperson's report is very clear that there was no political involvement or interference in the firings. Hiring and firing decisions in the public service are made by civil servants, not by politicians – and that's the way it should be. The Ombudsperson made a number of recommendations to help the public service move forward, and the head of the public service has accepted all of those recommendations.

2. Both FIPA and the Information and Privacy Commissioner have recommended the creation of a 'duty to document' in the *Freedom of Information and Protection of Privacy Act*. The Special Legislative Committee reviewing *FIPPA* agreed with this recommendation.

FIPA has called for the creation of penalties under *FIPPA* to discourage interference with information rights, as have the Commissioner and the Special Committee.

A. Will your government act on the Commissioner's recommendations to put a "duty to document" in the *Freedom of Information and Protection of Privacy Act*?

B. Will your government support the creation of penalties against those who interfere with information rights?

Our BC Liberal government became the first Canadian province to legislate a duty to document with the introduction of Bill 6, the Information Management (Documenting Government Decisions) Amendment Act, which received Royal Assent on March 16, 2017.

The Act will help improve the way the Province manages valuable information on behalf of British Columbia, reinforces our government's commitment to open governance and enhances compliance with best practices in information management.

It means that public servants and specified government bodies will have to create records that document the key business decisions of government.

If re-elected, Today's BC Liberals will continue to review the recommendations made by both the Special Legislative Committee Reviewing the Freedom of Information and Privacy Act and the Privacy Commissioner.

3. Certain sections of *FIPPA* that exempt records from release, specifically cabinet confidences (s.12) and policy advice (s.13) have long been criticized as overly broad and in need of change. What specific changes, if any, would you make to those sections?

This issue was canvassed by the Special Legislative Committee Reviewing the Freedom of Information and Privacy Act and your organization made several representations that are noted in the Committee's Final Report. After considering all of the submissions and its own research on this matter, the Committee recommended the following:

Amend s. 12 of *FIPPA* to permit the Cabinet Secretary to disclose to an applicant information that would reveal the substance of deliberations of the Executive Council or any of its committees where the Cabinet Secretary is satisfied that the public interest in the disclosure of the information outweighs the reason for the exception.

If Today's BC Liberals are re-elected, we will consult with the Cabinet Secretary on how best to implement that recommendation.

4. In 2017, the Special Legislative Committee reviewing *FIPPA* repeated the recommendation from the 2010 Committee that subsidiaries created by educational public bodies like colleges and universities should be made subject to the Act. Will your government make this change and if not, why?

Yes, Today's BC Liberals will make this change after appropriate consultations are concluded.

5. Section 25 of *FIPPA* states that if government records are deemed to be in the public interest, they must be disclosed, even if no request has been made. *FIPA*, the Commissioner [and the Special Committee] have called for legislative change to this section to bring it into line with how the Commissioner interprets this requirement.

A. Do you agree that Section 25 needs to be rewritten to reflect this?

B. What other steps would you take to bring public bodies into line with their statutory duty to disclose under this section?

Today's BC Liberals have an ongoing pledge to make British Columbia the most open and transparent jurisdiction in Canada. In May, 2016, we started proactively releasing information on directly awarded contracts, ministers', deputy ministers' and associate deputy ministers' calendars, regular summaries of gaming grants, and the status of all active FOI requests received after April 1, 2016. We also began releasing receipts for minister's travel expenses on a quarterly basis.

This was the first time ministerial directives have ever issued under the Freedom of Information and Protection of Privacy Act to establish categories of records that must be proactively released. And we launched an updated, Open Information website, giving the public easier access to proactively released records and other documents obtained through Freedom of Information requests.

These new, proactive disclosures added to the information and data already released on a routine basis, such as purchase and travel card expenses, regulatory requirements count, class size data, provincial surgical wait times, post-secondary operating grants, motor vehicle collisions and contributing factors,

hourly air pollutant monitoring, community safety and crime prevention grants and annual disclosure of executive compensation.

6. As the number of data breaches continues to grow, there have been repeated calls for joining other provinces and federal government in bringing in mandatory data breach notification. Special Legislative committees examining both the public and private sector privacy laws have recommended including mandatory data breach notification in both the *Freedom of Information and Protection of Privacy Act* (public sector) and the *Personal Information Protection Act* (private sector).

A. Will your government bring in mandatory data breach notification for the public sector?

B. Will your government bring in mandatory data breach notification for the private sector?

Today's BC Liberals will bring in mandatory data breach notification for the public sector and will consult the private sector stakeholders to understand the implications of mandatory data breach notification.

7. The B.C. *Election Act* has no lower limit for third party election advertising unlike most jurisdictions in this country. This means people or groups spending little or no money can face jail or fines for failing to register with the government during an election. This has resulted in absurdities like Elections BC requiring homemade pamphlets to be handed out rather than put in mail boxes, and limiting the number of such pamphlets to 25 per person handing them out.

A. Will your government end this ridiculous situation by bringing in a minimum spending amount of \$500 like most other jurisdictions in Canada?

B. If not, why not?

The purpose of the third party election advertising rules to ensure that the public is aware who is behind advertising during elections, to promote informed voting and who influence provincial elections.

These rules that you term a "ridiculous situation" were unanimously upheld by the Supreme Court of Canada in a challenge brought by the Freedom of Information and Privacy Association. Delivering the judgment on behalf of the court, Chief Justice Beverley McLachlin noted that the law is directed only at those who undertaking organized advertising campaigns, that is "sponsors" who pay for advertising services or receive those services without charge as a contribution.

Elections BC has independently interpreted the Supreme Court of Canada legislation, without influence from our government. We understand your organization has made written arguments to Elections BC, protesting the guidelines, and that you believe that they have misinterpreted the Court's decision. Today's BC Liberals believe that it is not government's role to become involved in your dispute.

8. BC has been without a full time Information and Privacy Commissioner since July 2016, with no replacement until later this year at the earliest. Clearly there is a problem with the appointment process. What will your government do to ensure this situation never happens again?

The Province is being ably served by Acting Information and Privacy Commissioner, Drew McArthur, since Elizabeth Denham left the position when her term expired in July 2016.

The selection process for a new, permanent Information and Privacy Commissioner is the same as the other seven independent officers of the Legislature - the Legislature establishes an all-party committee to unanimously recommend the appointment of a statutory officer to the Legislature. Upon receiving such a recommendation, the proposed candidate must be approved by two-thirds of the Members present in the Legislature.

An all-party committee to select a new Information and Privacy Commissioner was struck in March 2016 and began recruiting the next month. In December 2016, the search was extended as the committee was unable to reach a unanimous recommendation. Applications closed for the second recruitment in January 2017.

That the all-party committee has not yet selected a candidate to fill the position does not indicate a problem with the appointment process. Given the serious and independent nature of the work of independent officers of the Legislature, all Members must have confidence in the person selected. Consensus is not easy but produces a more equitable result.

In the meantime, as noted above, the Acting Commissioner is fulfilling the statutory duties of the Office.

9. The BC government now posts the texts of Freedom of Information requests it receives even before releasing any information to the requester. This practice has been criticized by FIPA and many others as a measure that can intimidate requesters while providing no additional transparency on government operations.

A. Do you agree with this policy, and if so, why?

B. If not, will your government end this practice?

In June 2016, the BC Liberal government began releasing the status of all active FOI requests received after April 1, 2016. These were part of the first directives ever issued under the Freedom of Information and Protection of Privacy Act that establish categories of records that must be proactively disclosed.

Summaries of active Freedom of Information requests are published on the Open Information website each week, 30 days after the end of the week they cover, showing the broad category type of applicant, a description of the records requested, the request status and due date. The identity of the requestor is not published and information that could identify individuals is removed from the request descriptions.

This approach reflects broad consultations with the Information and Privacy Commissioner, and is intended to balance the interests of individual applicants with government's desire to increase transparency about the processing and timeliness of Freedom of Information requests.

10. The United States has again identified BC's domestic data storage requirements in the *Freedom of Information and Protection of Privacy Act* as a trade barrier. With renegotiation of NAFTA set to begin in the near future, what will your government do to ensure our privacy law is protected?

As noted by the Special Legislative Committee Reviewing the Freedom of Information and Protection of Privacy Act, "Section 30.1 of FIPPA requires public bodies to ensure that personal information in their custody or control is stored and accessed only in Canada unless certain exceptions apply.

Those exceptions are (a) where the individual the information is about has consented to it being stored in or accessed from another jurisdiction, (b) if the personal information is stored in or accessed from another jurisdiction for the purpose of a disclosure authorized under FIPPA, or (c) if the personal information was disclosed for the purposes of a payment made to or by government or a public body.

This data sovereignty, or data residency, requirement ensures that all personal information is protected in accordance with Canadian law, and therefore not at risk of being subject to a lesser degree of privacy protection because of lower standards that may exist in other jurisdictions."

Today's BC Liberals have no plans to change the legislation and will ensure that the federal government fights to protect the personal information of British Columbians as they negotiate relevant international trade agreements.