

# Audit of The University of British Columbia's duty to assist

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# WHO WE ARE

Established in 1993, the Office of the Information and Privacy Commissioner provides independent oversight and enforcement of BC's access and privacy laws, including:

- The *Freedom of Information and Protection of Privacy Act* (FIPPA), which applies to over 2,900 public bodies, including ministries, local governments, schools, crown corporations, hospitals, municipal police forces, and more; and
- The *Personal Information Protection Act* (PIPA), which applies to any private sector organization (including businesses, charities, non-profits, and political parties) that collects, uses, and discloses the personal information of individuals in BC. PIPA also applies to any organization operating in BC that collects, uses, or discloses personal information of any individual inside or outside of BC.

**Michael Harvey** is BC's Information and Privacy Commissioner.

The Office of the Information and Privacy Commissioner for BC respectfully acknowledges that its offices are located on the traditional territories of the Lekwungen people of the Songhees and Esquimalt Nations.

As an Officer of the Legislature, the work of the Commissioner spans across British Columbia, and the OIPC acknowledges the territories of First Nations around BC and is grateful to carry out our work on these lands.



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# COMMISSIONER'S MESSAGE

Both universities and our freedom of information laws operate on the principle that society benefits when information and ideas are out in the public arena and open to scrutiny and debate. The spirit of open inquiry is what makes institutions of higher education so important to our society, helping us better understand and improve the world we live in. Our public sector FOI law, the *Freedom of Information and Protection of Privacy Act* (FIPPA), likewise, aims to make information available so that we can hold our public institutions to account and better understand the decisions that impact our lives.

If these institutions don't comply with FIPPA, they undermine these fundamental principles of transparency, accountability and empowering people with information for the benefit of society. This is especially challenging at a time when disinformation and misinformation are rampant in the public discourse. Delayed access erodes trust at a time when society needs to be able to rely on the broader public sector more than ever.

This report focuses on the University of British Columbia (UBC)'s freedom of information system, and details multiple weak points in UBC's processes. This investigation found a noncompliance rate of 90% - the highest rate of non-compliance my office has seen in 10 years of reviewing public bodies' duty to assist.

This is concerning not only because of UBC's important role in education and advancing knowledge in this province, but also because of the sheer scope and scale of the university's operations.

UBC is the largest university in this province and operates on the scale of a municipality. Beyond classrooms and research facilities, the university oversees housing, restaurants, health centres,

stores, libraries, movie theaters, sports fields, concert venues and more. Unlike municipalities, where many services are provided by independent businesses, UBC controls these operations – the university's decisions affect the lives and livelihoods of thousands of people.

Moreover, UBC's footprint doesn't end at campus perimeters: the university is also a central fixture in host communities. UBC has a diverse population of students, residents, faculty and staff in addition to the different venues and services offered. All together, the larger university environment can create a foundation for a more complex and varied mix of FOI requests.

Given UBC's scope and prominence in this province as well as the public funding it receives, people living in British Columbia should be able to expect transparency and robust accountability at all levels through a well functioning access to information system.

I recognize that UBC has made some important steps to improve its system for responding to access requests. However, this report should serve as a wakeup call not only for UBC, but for all public bodies in this province about their obligations under FIPPA. Transparent and accountable public bodies build trust with the people they serve. Our democratic society stands on the strength of that trust. We cannot afford to discount it.



**Michael Harvey**  
*Information and Privacy Commissioner  
for British Columbia*





# EXECUTIVE SUMMARY

The Office of the Information and Privacy Commissioner for BC (OIPC) conducted this audit of the University of British Columbia's (UBC) Freedom of Information (FOI) program. UBC is the largest university in BC.

The OIPC proactively selected UBC's FOI program based on a review of OIPC complaint and request for review files over the previous three fiscal years, along with a recent jump in UBC's deemed refusal complaints. To conduct the audit, the OIPC interviewed key UBC personnel within the FOI team and reviewed a sample of 300 UBC FOI requests received between April 1, 2021 and March 31, 2024.

The audit focused on how UBC met its duty to assist obligations at each stage of the standard FOI process: receiving requests, searching for responsive records, and severing and responding to requests.

Key issues in each step included:

## Receiving requests

- UBC did not accurately count the 30-day time limit to respond in cases involving the \$10 application fee, though UBC has since taken action to rectify this.
- Information about UBC's options for paying the application fee appeared limited, as it was not obvious that an applicant could pay via cheque or money order, or with cash in person, in addition to credit or debit card.

## Searching for responsive records

- UBC's FOI team took an average of 18 business days from receipt of a request to direct program areas to conduct searches for records.
- Program areas provided search results to the FOI team, on average, 28 days after receiving direction to search; and the FOI team took 38 business days after the expected response date to follow up with program areas.

## Responding to applicants

- UBC failed to comply with FIPPA time limits 90% of the time.
- UBC responded to only 8% of sampled requests within the 30-business day benchmark FIPPA establishes as the timely expectation for response.
- Overall, UBC took an average of 100 business days to respond to requests.
- Where UBC failed to respond within legislated time limits, UBC took an average of 74 additional business days to respond.
- The average time UBC's FOI team spent between receiving records and finalizing its response fluctuated between 57 days and 61 days over the three-year period.
- UBC shared certain applicants' names and their requests with UBC personnel who review responses prior to release, which raised concern about applicant anonymity.



The report makes nine recommendations to address the issues.

Periods of stagnation or considerable delay in processing files was a common theme.

Throughout the course of the audit, UBC also took some steps to improve its FOI responsiveness. These include a new file tracking system and email conversion tools, restructuring review and severing workflows, and beginning to approach the backlog of longstanding overdue requests. In addition, UBC's FOI team is committed to implementing the report recommendations, improving its FOI program, and enhancing UBC's timeliness in responding to requests.

The OIPC welcomes these changes and will follow-up on UBC's progress in implementing the report recommendations.

*A full Summary of Recommendations can be found on **page 45** of the report.*

# BACKGROUND

The Office of the Information and Privacy Commissioner for BC (OIPC) assesses the extent to which public bodies and private sector organizations protect personal information and comply with access provisions under the *Freedom of Information and Protection of Privacy Act* (FIPPA) and the *Personal Information Protection Act* (PIPA).

OIPC audit reports identify areas where an entity may excel in addition to areas where it requires improvement to comply with legislation and guidelines. These reports also set out the OIPC's general expectations for access to information and privacy protection practices.

The OIPC conducted this audit of the University of British Columbia's (UBC) Freedom of Information (FOI) program under s. 42(1) of FIPPA. Like past OIPC audits of other public bodies' access to information processes, this audit focused on whether UBC met its duty to assist.

The OIPC proactively selected UBC's FOI program based on a review of OIPC FOI complaint and request for review<sup>1</sup> files involving public bodies over the previous three fiscal years, along with a recent jump in deemed refusal complaints.<sup>2</sup>

From April 1, 2021, to March 31, 2024, the OIPC received:

- 42 deemed refusal complaints;
- 35 access-related complaints (most related to adequate search, duties required by the Act, and fees); and
- 29 requests for review of UBC's decisions pertaining to requests for records.

Further analysis showed that deemed refusal complaints nearly doubled in 2023/24 compared to the previous two years (increasing from 11 per year to 20).

During the period reviewed, UBC had the highest number of access complaints and deemed refusal complaints referred to the OIPC among post-secondary education institutions in BC. UBC's deemed refusal complaints also ranked third highest among all public bodies during this time frame.<sup>3</sup>

During the 2024/25 fiscal year, the OIPC received another 25 deemed refusal complaints, four access-related complaints and 12 requests for review. While UBC had already been selected for audit, the number of additional files is concerning to the OIPC.

UBC is the largest post-secondary education institution in BC and receives between 300 and 400 requests annually, which UBC states is a volume substantially higher than the norm for other BC post-secondary institutions.<sup>4</sup> UBC increased its FOI staff from one full-time equivalent (FTE) in 2014 to the current 4.5 FTEs in place since 2019.<sup>5</sup>

1 A person who makes an FOI request to a public body may ask the Commissioner to review a public body's decision, act, or failure to act, related to the FOI request (other than to require an application fee). A person may also ask the Commissioner to review a matter that could be the subject of a complaint under s. 42(2) of FIPPA.

2 If a public body does not respond to the request within the time permitted by FIPPA, FIPPA considers this as a decision by the public body to refuse access to the record (i.e. a "deemed refusal").

3 The BC Government Ministries of Health and Children and Family Development have a higher number of deemed refusal complaints.

4 UBC letter to OIPC, dated August 9, 2024.

5 UBC letter to OIPC, dated August 9, 2024.



# METHODOLOGY

Like previous access-related audits conducted by the OIPC,<sup>6</sup> this audit focuses on duty to assist provisions found in s. 6(1) of FIPPA. Generally, this included examining:

- documentation of FOI requests, searches for and review of relevant records, and responses to applicants;
- compliance with legislated timelines; and frequency of deemed refusals;
- content of responses and the adequacy of searches for records;
- occasions of no responsive records and denial of access to records; and
- application or processing fees charged.

Basic methodology for this audit included:

- interviews with UBC FOI staff;
- review of UBC FOI datasets;
- collection and analysis of a representative sample (n=300) of UBC FOI files received between April 1, 2021 and March 31, 2024;
- examination of written materials pertaining to UBC's FOI program; and
- review of any related OIPC files or Orders.

## Application of FIPPA

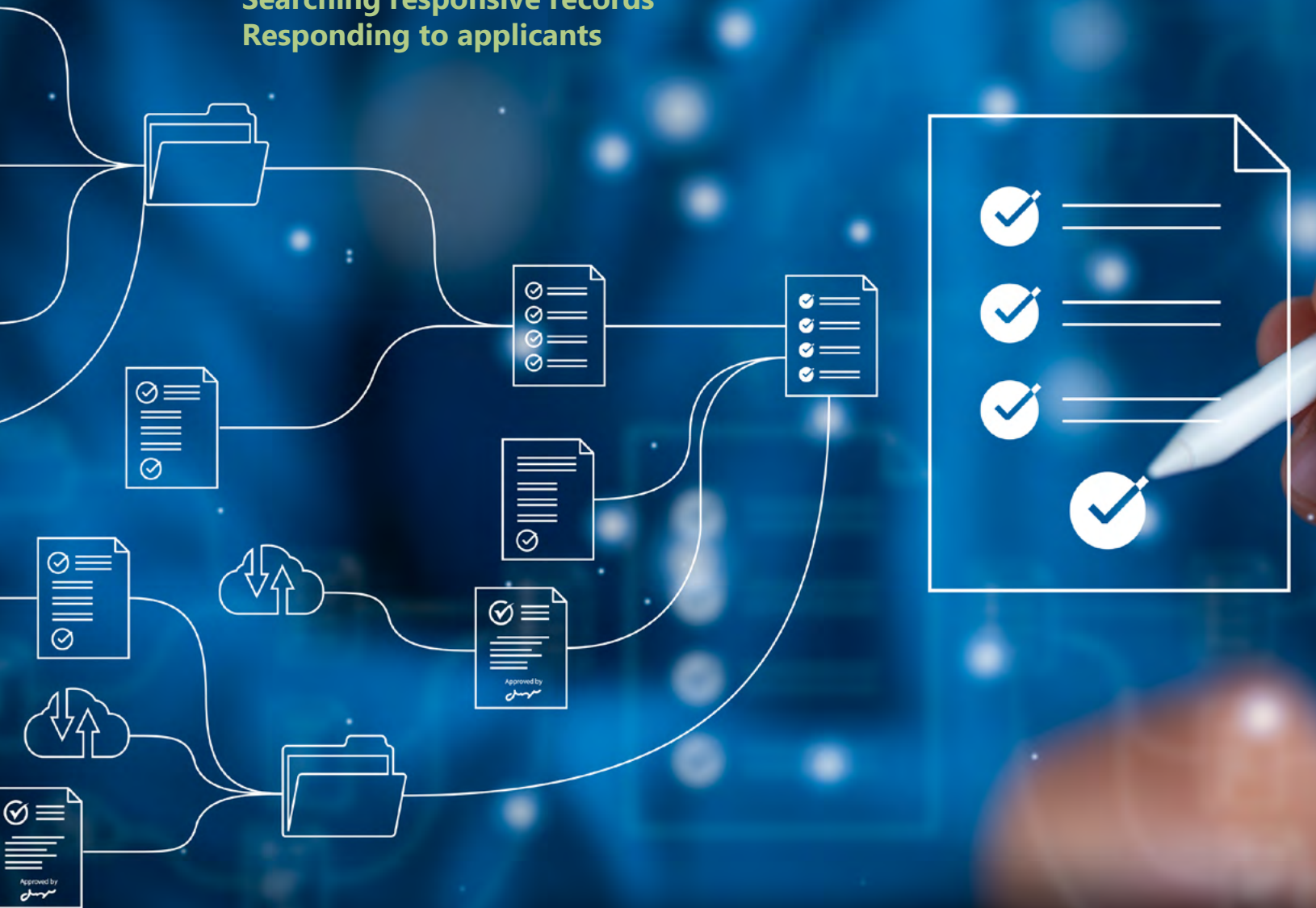
Please refer to *Guidance on FIPPA's FOI Process*<sup>7</sup> for general information for public bodies about FIPPA's requirements when receiving FOI requests, searching for records, and responding to applicants.

<sup>6</sup> See [F18-02 City of White Rock Duty to Assist](#), [F18-01 WorkSafe BC Management of access and privacy requests and complaints](#), [F16-01 City of Vancouver Duty to Assist](#), [F24-02 Vancouver Coastal Health Authority's Duty to Assist](#).

<sup>7</sup> <https://www.oipc.bc.ca/documents/guidance-documents/3009>

# UBC FOI PROCESSES

Receiving requests  
Searching responsive records  
Responding to applicants



UBC is one of 25 Public Post-Secondary Institutions in British Columbia that are authorized under provincial legislation to deliver post-secondary education and training<sup>8</sup> and is the largest university in the province. UBC has two major campuses (one in Vancouver and one in Kelowna) and satellite offices. UBC employs over 20,000 people and supports the learning of over 70,000 domestic and international students.<sup>9</sup> Beyond delivering education and training, UBC undertakes research and innovation projects collaboratively with other universities, industries, and entities.<sup>10</sup>

Like other Public Post-Secondary Institutions, UBC's scope of operations can be compared in many ways to a moderately sized municipality. With a combined annual budget of approximately \$3.8 billion,<sup>11</sup> UBC's services and responsibilities extend beyond education and research and include on-campus residential housing, health services, security, employee and student resources, recreational programs, facility management, and contracting/procurement.

This is important, as the types of FOI requests applicants make to UBC can also vary from student or employee records to the inner-workings and decisions of the university.

UBC's University Counsel, within the Office of the University Counsel (OUC), is delegated as Head for the purposes of FIPPA and a designated Legal Counsel in the OUC is responsible for supporting UBC's compliance with FIPPA.<sup>12</sup>

UBC has five FOI staff within the OUC (the FOI team), dedicated to responding to FOI requests. This consists of an FOI Manager, two FOI Specialists, and one part-time FOI Specialist, and one FOI Assistant. Additionally, a designated Legal Counsel oversees the FOI team.<sup>13</sup>

Figure 1 depicts a standard FOI process public bodies typically follow. UBC follows this general process with some slight modifications and additional processes described below.

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8 <https://www2.gov.bc.ca/gov/content/education-training/post-secondary-education/find-a-program-or-institution/find-an-institution>

9 <https://www.ubc.ca/about/facts.html>

10 <https://www.ubc.ca/research/>

11 <https://www.ubc.ca/about/facts.html>

12 August 21, 2024, Interview with UBC FOI staff.

13 August 21, 2024, Interview with UBC FOI staff.



# FOI Process

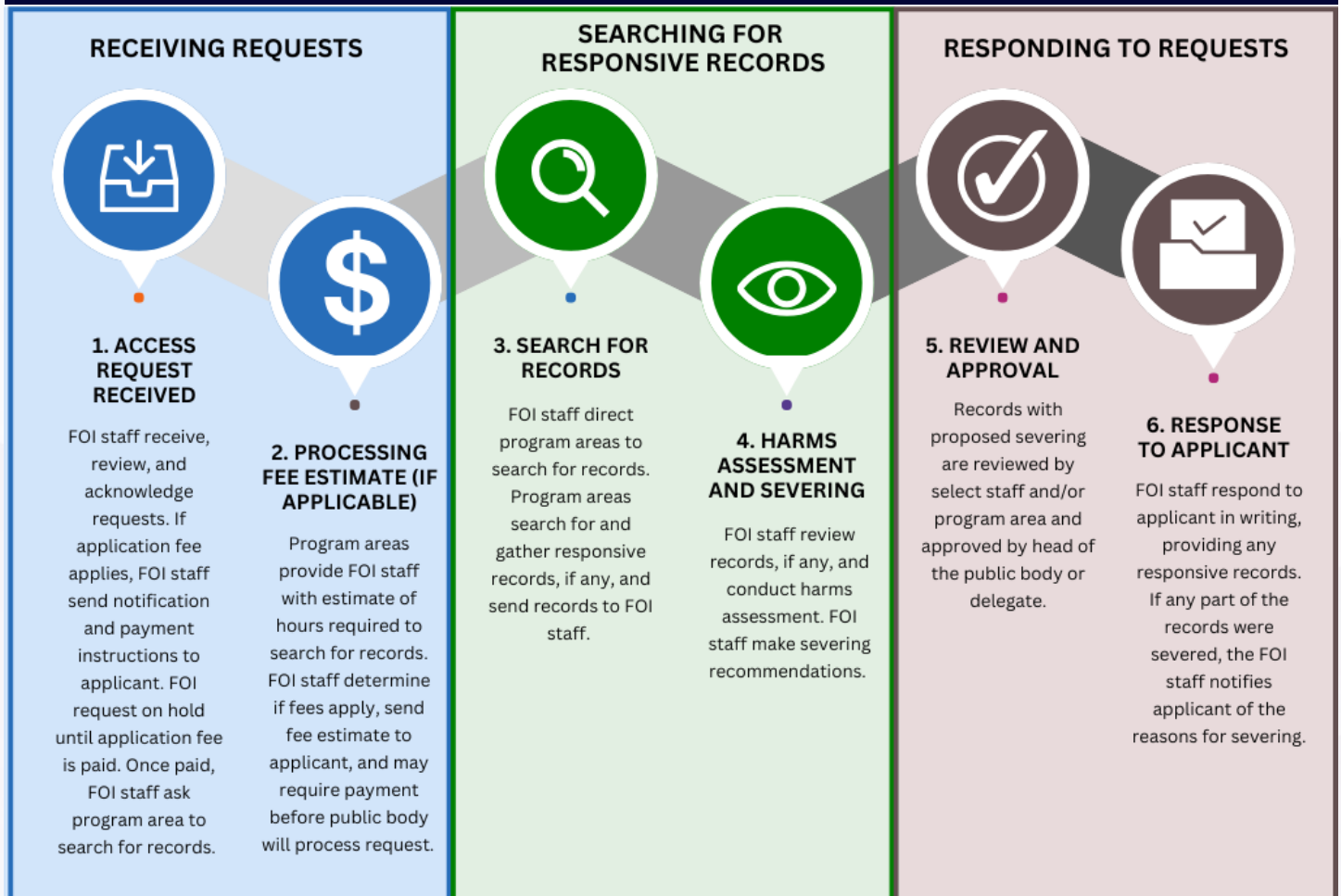


Figure 1

# RECEIVING REQUESTS

UBC provides information on its website to assist people in understanding whether the information they seek may be routinely released or accessed through an FOI request submitted to the OUC. UBC considers requests for information that are not confidential or sensitive to be routine requests. In these cases, UBC faculty and staff should make every reasonable effort to respond without requiring an individual to use the FOI process.

Conversely, requests for records that may contain confidential or sensitive information are considered FOI requests and must be processed as such by the FOI team.<sup>14</sup>

The OUC has developed several internal protocols in consultation with UBC program areas to serve as a guide to disclosing records (whether by routine release or through an FOI request).<sup>15</sup>

UBC does not require applicants to submit FOI requests in a specific format; however, requests must be in writing. UBC provides template application forms (for both personal<sup>16</sup> and general<sup>17</sup> FOI requests) to assist applicants prepare their written FOI requests. Applicants can submit an FOI request to UBC by mail, fax, or email.<sup>18</sup>

## ***Proactive Disclosure/Routine Release***

Proactive disclosure is a type of routine release where records are publicly disclosed outside of a formal FOI request, with the records

typically made available for the public to access (for example, records available on a public body's website).

UBC proactively discloses 14 categories of records that include, but are not limited to, UBC research, financial reports, policies, summaries of student discipline cases, Board of Governors' minutes and agenda packages, and salary information.

UBC has recently expanded its categories of routine release. In considering its records for routine release, the OUC has collaborated with other UBC departments<sup>19</sup> to ensure that requests for academic and employment records, when sought by lawyers for litigation purposes with consent, are now processed as streamlined disclosures under s. 33(2)(c) of FIPPA directly by those program areas, rather than as FOI requests. Should an applicant send a request for academic or employment records to the OUC, its FOI team will forward the request to UBC's HR or Enrolment Services, as appropriate, and will inform the applicant of such. The OUC stated that it expects UBC to respond to these types of requests within two weeks.

Requests for academic and employment records made up nearly half of requests in the sampled files. This is a significant addition to UBC's categories for routine release, in terms of the volume of requests that could be redirected from the FOI process and treated as routine release.

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14 Office of the University Counsel, UBC. [Making a Freedom of Information Request. Making a Freedom of Information Request | Office of the University Counsel](#)

15 Protocols between OUC & program areas for the disclosure of information.

16 <https://universitycounsel.ubc.ca/files/2021/01/Form-to-request-your-own-personal-records.pdf>

17 <https://universitycounsel.ubc.ca/files/2023/02/Request-for-General-Information-2023.pdf>

18 Office of the University Counsel, UBC. [Making a Freedom of Information Request. Making a Freedom of Information Request | Office of the University Counsel](#)

19 For example, HR, Enrollment Services, Centre for Accessibility, and Return-to-Work program.

# SEARCHING FOR RESPONSIVE RECORDS

UBC works with applicants to narrow their requests as much as possible to reduce or eliminate processing fees, such as limiting the type of records requested, specifying program areas to search, or reducing the date range of the records sought.<sup>20</sup>

Should processing fees not apply, or if they have been paid, the FOI team directs the appropriate program area or staff to search for records and provide all unredacted responsive records to the FOI team. Where possible, staff provide the records to the FOI team in electronic format.<sup>21</sup>

Once the program areas have completed their search, all records are forwarded to the FOI team. Upon receiving the records, an FOI Specialist reviews the records and determines if any records must not or may not be disclosed. Based on that determination, the FOI Specialist severs the records in accordance with FIPPA.<sup>22</sup> Once all records have been reviewed, the FOI team prepares a response letter and the applicable records for release to the applicant.

## ***Notifying UBC Media Relations and key personnel***

Prior to responding to an FOI request, the FOI team typically notifies UBC Media Relations, applicable program area Managers and Directors, and UBC executives (such as the University Counsel) about FOI requests for general records and, in select cases, FOI requests for personal records.

These notifications commonly include the wording of the request, the number of responsive records, the intended response date, and, in cases where the applicant is a journalist or a member of an organization, the applicant's name. In some cases, the FOI team also provides the records to be released and proposed redactions for relevant UBC personnel to review and comment prior to UBC releasing records to the applicant.

The FOI team typically provides this type of notification five business day before the intended release date. Notification is provided to ensure key UBC staff and relevant program areas are aware of what records are being released, confirm all relevant records were included, and to ensure that any records, which should or may not be disclosed, are not accidentally released. It also serves as an additional measure to ensure UBC is prepared should there be questions from the media.

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20 UBC Access & Privacy Operations Manual (Draft). Page 10 -11.

21 UBC Access & Privacy Operations Manual (Draft). Page 16

22 Office of the University Counsel, UBC. [Making a Freedom of Information Request. Making a Freedom of Information Request | Office of the University Counsel](#)



# RESPONDING TO APPLICANTS

In circumstances where a program area reports there are no records responsive to an FOI request, the FOI team retains the communication with the program area, should it be required. In certain circumstances, the FOI team may inquire further with the program area or may request another program area to search for records if they think records may exist elsewhere. The FOI team requests program areas to provide reasoning for why no records were located to ensure an explanation can be given to applicants, and as evidence of searches conducted.

In its response to applicants, UBC notifies applicants that they have 30 days to request a review of the UBC's decisions by the OIPC. The FOI team is also available to assist applicants should they require clarification or have questions about the response to their FOI request.



# FINDINGS AND RECOMMENDATIONS

Receiving requests  
Searching responsive records  
Responding to applicants





From April 1, 2021 to March 31, 2024, UBC received a total of 1,074 FOI requests. By fiscal year, UBC received:

- 2021/22 – 376 requests
- 2022/23 – 323 requests
- 2023/24 – 375 requests

From these 1,074 requests, the OIPC selected a representative random sample of 300 of UBC's FOI requests for records received from the 2021/22 to 2023/24 fiscal years. Analysis and findings presented in this report provide an accurate illustration of UBC's FOI request files processed during this time, within a 4.81% margin of error, 19 times out of 20.<sup>23</sup>

All audit findings discussed in this report are based on the sample of 300 FOI request files.

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<sup>23</sup> The margin of error may differ for analysis of each data point. For example, on the key question of what percent of requests did UBC respond to within legislated timelines, there is a 95% chance that the real result is within 2.9% (give or take) of the measured result of 10%.



# RECEIVING REQUESTS

The types of records applicants requested from UBC commonly included:

- Personal, academic, or employment records;
- Emails or other correspondence;
- Contracts or other agreements; and
- Admissions records.

Across the sample, 86% of requests to UBC came from individuals (either submitted by themselves or through a lawyer). Table 1 shows the percent of FOI requests by each applicant type:

Table 1 - UBC Requests received by applicant type (2021/22 to 2023/24)		
Applicant Type	Number of Requests	Percent
Individual	Through lawyer	51%
	Directly	35%
Journalist / Media	19	6%
Crown Corporation	15	5%
Law Firm	4	1%
Organization	2	1%
Business	1	<1%
Ministry	1	<1%

UBC received requests from 250 distinct applicants, with 10% of applicants (24) that made two or more requests. This 10% of applicants accounted for 24% of the sampled FOI requests to UBC.

## ***Acknowledgment of requests***

UBC sent acknowledgement letters to applicants on all applicable requests.<sup>24</sup> An acknowledgement letter is important as it serves as written confirmation to an applicant that UBC received their request, the date it was received, and the date by which UBC should respond.

UBC sought clarification from applicants in 33% of requests (98 requests). The OIPC did not observe any issues with the way UBC sought clarification from applicants, and in many cases UBC appeared to work collaboratively with applicants to fully understand and clarify the details

<sup>24</sup> The OIPC noted six FOI request files, where an acknowledgement letter was not provided, however, the circumstances of each file did not require UBC to provide an acknowledgement letter. For example, an applicant informed UBC that they were going to make a request, and UBC assigned a file number, but the applicant did not actually proceed further with making the request.

of applicants' requests promptly.

On average, UBC took three days to acknowledge receipt of a request or seek clarification from an applicant. Overall, 73% of the time UBC acknowledged receipt of a request or sought clarification within two days or less, and only in a very limited number of cases (approximately 1%) took longer than 30 days to acknowledge a request or seek clarification. These delays occurred when applicants sent requests to another UBC department and the department not immediately forwarding the request to the FOI team.

Despite the delay in other UBC departments forwarding FOI requests to the FOI team, the OIPC is satisfied with UBC's FOI team's overall approach and general timeliness when acknowledging and clarifying requests and encourages UBC to continue to promptly send acknowledgement of a request in all cases.

## Reminder

***Public bodies should send an acknowledgement to all applicants upon receiving their requests for records and promptly seek clarification when needed.***

### ***Application fees***

UBC began charging the \$10 application fee around April 1, 2023. During the one-year period (April 2023 to March 2024) captured in the sample, UBC charged the application fee on 19 requests for general records.

After receiving a request from an applicant, UBC took on average one business day to notify them that an application fee must be paid before UBC would proceed with the request. In five cases, UBC took four to five business days to notify the applicant that a fee was due.

## Reminder

***Public bodies that administer an application fee for general records should clearly inform applicants without delay when a fee applies.***

UBC did not start counting the 30-day time limit to respond until the applicant paid the application fee, which means that the days between UBC receiving the request and UBC notifying the applicant that a fee was due were not included in the calculation of days to respond.

As discussed in [\*Investigation Report 23-01: Access application fee six-month review\*](#)<sup>25</sup> and [\*Audit Report 24-02: Vancouver Island Health Authority's duty to assist\*](#)<sup>26</sup>, a public body's requirement to directly notify the applicant that the application fee applies affects how the time limit for a public body to respond is calculated. The time limit to respond starts the day after an FOI request is received and is not paused until the day the public body notifies the applicant that a fee is due. It is UBC's responsibility to notify the applicant without delay that a fee is owing and any day of delay in notifying is counted against the public body's 30-day time limit.

## Recommendation 1

UBC should begin counting the time limit to respond on the day after an FOI request is received, and only suspend the time *after* notifying the applicant of the requirement to pay the application fee.

Since reviewing the findings and recommendations of this report, UBC stated that it has requested changes to its file management system to ensure accurate counting of the time limit to respond.

Of the 19 occasions where UBC charged an application fee, applicants paid the fee on 18 requests by credit card and, in one case, the applicant did not pay the fee and withdrew their request. Applicants took an average of six business days to pay an application fee (from the time UBC notified applicants about the fee until the time UBC received payment).

UBC utilizes an online portal for applicants to pay the fee via credit card or debit. This is the primary way that UBC directs applicants to pay the fee.<sup>27</sup> Upon request by an applicant, UBC makes alternative payment options available, such as cash payment in-person or cheque via mail.<sup>28</sup>

<sup>25</sup> <https://www.oipc.bc.ca/documents/investigation-reports/2578>

<sup>26</sup> <https://www.oipc.bc.ca/documents/audit-reports/2859>

<sup>27</sup> Upon receipt of an FOI request for general records, UBC notifies applicants about the fee charged and provides them with a link to online payment portal.

<sup>28</sup> April 30, 2025, Interview with UBC FOI staff.



While UBC states on its website that an applicant may contact UBC to make arrangements to pay by cheque or money order, this information is not on the fee payment portal.<sup>29</sup> Further, the option to pay with cash is not proactively communicated to applicants. Choice only exists if applicants know choice exists.

As such, UBC's payment options can appear limited, which may be a barrier to some applicants. Investigation Report F23-01: Access application fee six-month review discusses how limited payment options can result in delays and barriers for applicants making FOI requests and recommended that "[p]ublic bodies that administer an application fee should have multiple fee payment options available to ensure expediency and accessibility for all applicants. This should include an option that permits an applicant to maintain anonymity."

The OIPC further recommends that public bodies that administer an application fee, including UBC, provide upfront notice that clearly informs applicants of all available payment options.

## Recommendation 2

Public bodies that administer an application fee clearly inform applicants of all available payment options.

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<sup>29</sup> Office of the University Counsel, UBC. Freedom of Information Request Fees. [Freedom of Information Request Fees | Office of the University Counsel](#)

# SEARCHING FOR RESPONSIVE RECORDS

## ***Requesting records from program areas***

Across the three years, the FOI team took an average of 18 business days from receipt of a request to direct program areas to conduct searches for records. In 38% of requests, the FOI team took 10 or fewer days to direct program areas to conduct the search, and in another 51% of requests the FOI team took between 11 and 29 days. In the remaining 11% of requests, the FOI team took 30 days or more to direct program areas to conduct the search, including six requests where the FOI team took 100 days or more.<sup>30</sup>

Over the years, the FOI team reduced the average number of days to direct program areas to conduct searches, from 23 days in 2021/22 to 14 in 2023/24. While the FOI team reduced the average time to direct areas to conduct searches over the period, this time still amounted to a substantial delay in processing requests, considering that, overall, more than half of FIPPA's benchmark 30-day time limit to respond to the applicant already passed without UBC beginning the search for records.

## **Reminder**

***Public bodies should direct program areas to search for records as soon as possible after receiving an FOI request.***

The FOI team provided program areas with a time limit to conduct searches 94% of the time (249 of 264 files). On average the FOI team gave program areas nine business days to respond with search results.

## ***Receiving records from program areas***

Program areas responded within the time the FOI team allotted for searching less than half of the time (47%). On average, program areas provided the results of searches within 28 business days after receiving direction to search. However, search time improved over the three fiscal year period from an average of 36 days in 2021/22 to 19 days in 2023/24.

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<sup>30</sup> The number of days it took the FOI team to direct program areas to conduct the search ranged from less than a day to 175 days. The FOI team advised that, in one of these cases of lengthy delays, they waited for a law firm to provide client authorization; in another case the request required clarification prior to commencing the search; and in a third case, a different UBC department received the request and delayed forwarding it to the FOI team. There was no explanation for the delay in the remaining three cases.

The FOI team followed up 72% of time (94 of 130 files) when an area did not respond within the specified number of days (either with the requested time estimate or with search results), and generally continued to do so, until a response was received. On average, the FOI team took 38 business days after the expected response date to follow up with program areas.

It is evident that the length of time it took program areas to respond to the FOI team contributed to considerable delay (discussed further below). It is necessary for UBC executive to commit to and promote a culture of transparency across all program areas.

Transparency is a necessary function for accountable public service. All UBC program areas have a role to play in FOI and need to improve responsiveness. UBC should hold program areas accountable for timely and fulsome search and retrieval of records and should proactively monitor program area responsiveness, and the FOI team should follow up promptly if searches for records become overdue.

### **Recommendation 3**

UBC executive should promote a culture of transparency throughout all program areas to improve FOI responsiveness. This includes monitoring program area accountability.

### **Recommendation 4**

UBC staff should follow up promptly if searches for records become overdue.

Since reviewing the findings and recommendations of this report, UBC stated it has recently hired a new FOI Assistant, who will follow-up on overdue searches. Additionally, UBC is researching use of the reminder tools available within its FOI file tracking system.



## ***Processing fees***

Over the period reviewed, UBC charged processing fees on three FOI requests, totaling \$29,460. The three fee estimates were \$510, \$540 and \$28,410. UBC provided applicants with a Partial Cost Recovery Fee Estimate Form (detailing the fee estimate), a Fee Estimate Letter (an explanation of how the estimate was arrived at), and details on how to request a fee waiver or a review by the OIPC.

On one occasion, an applicant requested UBC waive the processing fees and UBC denied the request. In all three instances where UBC charged processing fees, applicants did not pay the fee, and the FOI team considered the requests abandoned.

In each of these requests, UBC provided the fee estimate after the authorized time limit to respond had already passed. This meant that UBC's responses were already unlawfully delayed when UBC charged the processing fee and placed the files on hold.

In these circumstances, the OIPC advises that UBC provide applicants with processing fee estimates *before* the authorized time limit has passed.

## **Reminder**

***Public bodies should provide fee estimates to applicants before the time limit to respond has passed.***

## ***Quality of searches***

Overall, UBC conducted adequate searches for records, with some exceptions. UBC did not appear to conduct a fulsome search for responsive records in 3% (9 of 300) of requests, though it eliminated this issue over the years reviewed.

In some cases, not all applicable program areas were initially identified or directed to search for records. In those cases, the FOI team spent additional time identifying the correct areas or otherwise had to go back to the missed program areas to search for records. However, given the breadth and depth of records at UBC, the FOI team may not always identify in the first instance all applicable areas or staff required to search for records responsive to a specific request.

In another instance, an applicant challenged UBC's initial response which stated there were no responsive records. The applicant contacted the program area(s) directly to request records

and UBC corrected its initial response and provided the requested records to the applicant.

The OIPC identified two other examples where the FOI team struggled to get full cooperation from program areas to search for records. In one of those instances, the FOI team repeatedly requested applicable staff search for records and in the other request, the FOI team sought the assistance of UBC's IT services to obtain records from the email accounts of certain individuals that did not follow the FOI team's directions to search and provide records.



# RESPONDING TO APPLICANTS

## ***Without Delay***

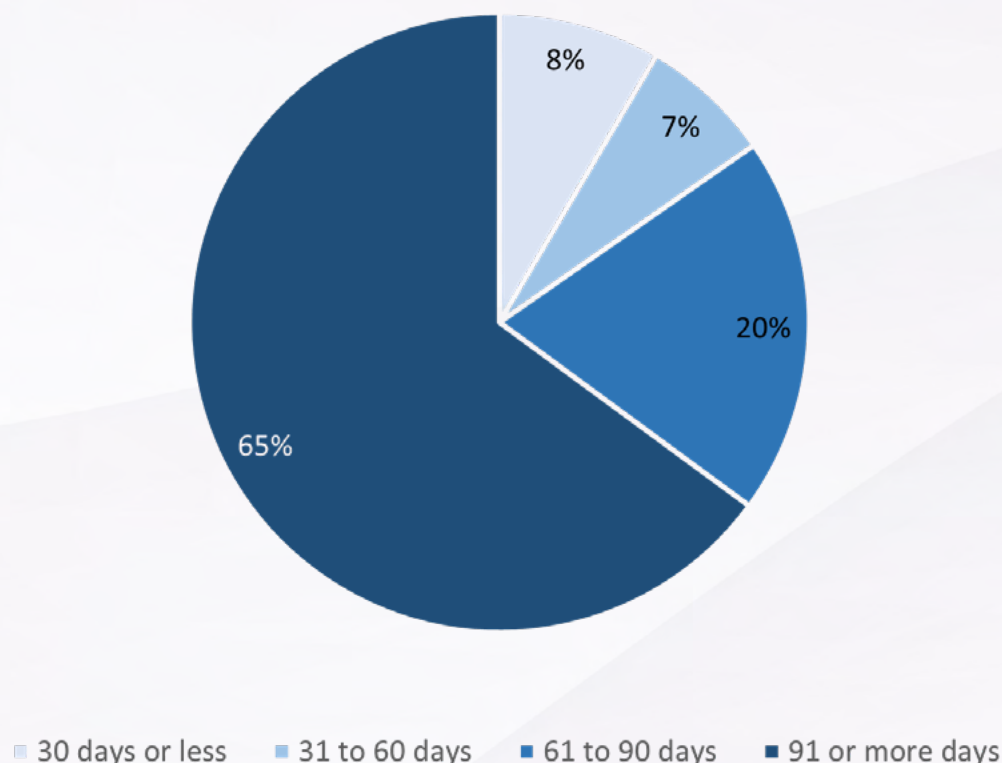
FIPPA requires public bodies to make every reasonable effort to respond to applicants without delay. This report found delays in the days UBC took to respond to requests, non-compliance with FIPPA's maximum time limits, and delays throughout UBC's response to requests for records.

## ***Days to respond***

UBC responded to 8% of sampled requests (21 of 251 files) within 30 business days - the benchmark that FIPPA establishes as the timely expectation for response. This means that over the three-year fiscal period, UBC did not meet FIPPA's benchmark in nine out of every ten requests. While UBC improved its timeliness to 13% in 2023/24, this is not much of an improvement.

Figure 2 shows the percent of requests UBC responded to within 30, 60, 90, or more business days.

## **Percent of requests responded to within 30, 60, 90, or more business days**



*Figure 2*



Much like the findings from the audit of [Vancouver Coastal Health Authority's Duty to Assist](#), it is not surprising that UBC's responses were rarely timely, considering that the FOI team took an average of 18 business days to direct program areas to search for records, and a further average of 28 business days for those areas to provide search results. These averages combined already exceed the 30-day benchmark without considering the time required to review and sever records prior to response.

Overall, UBC took an average of 100 business days to respond to requests. While UBC was slowest to respond to requests received in 2021/22 and 2022/23, it improved the response time in 2023/24 to an average of 83 business days - though this is still significantly longer than FIPPA's benchmark of 30 business days. See Table 2.

<b>Table 2 - Average business days for UBC to respond</b>		
2021/22	2022/23	2023/24
116 days	100 days	83 days

There were no large differences in how long it took UBC to respond by applicant type, with the exception of 2022/23, where UBC was the slowest in responding to requests made by journalist/media applicants. See Table 3.

Table 3 - Average days to respond by applicant type						
Applicant Type		Average (2021/22 to 2023/24)	2021/22	2022/23	2023/24	File Count
Individual	Through lawyer	99	112	92	86	126
	Directly	102	131	86	88	88
Journalist / Media		140	132	214	84	17
Crown Corporation		62	75	74	34	13
Law Firm		16	N/A <sup>31</sup>	N/A	16	1
Organization		131	N/A	131	N/A	1
Business		61	61	N/A	N/A	1
Ministry		99	N/A	99	N/A	1

<sup>31</sup> N/A indicates that there were no applicable requests responded to.

Public bodies are expected to respond to each request without delay, regardless of applicant type or the nature of the records requested. The OUC advised that UBC's FOI processes are generally the same regardless of applicant type. However, journalist/media applicants typically request general records involving unique or sensitive information of public interest, which may require more time to review and sever. The OUC further stated that due to the nature of the information contained in the records requested, FOI staff may take longer to respond to these requests, as can be seen in the data in 2022/23.

Looking at the number of days to respond based on the volume of responsive records, UBC took 99 days on average to respond to FOI requests that yielded less than 100 pages of responsive records, 108 days for 100 to 500 pages of responsive records, and 137 days where responsive records were over 500 pages.<sup>32</sup> Over the three fiscal years sampled, UBC shortened the time to respond to requests yielding less than 99 pages, and those between 100 to 500 pages of responsive records. UBC's response times for requests yielding over 500 pages remained relatively unchanged. See Table 4.

<b>Table 4 - Average days to respond by volume of responsive records</b>					
<b>Pages of responsive records</b>	<b>Average (2021/22 to 2023/24)</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>	<b>File Count</b>
<b>1 to 99</b>	99	117	100	81	147
<b>100 to 500</b>	108	116	116	83	60
<b>Over 500</b>	137	133	145	134	19

While the volume of pages can impact request response time, there was no clear connection between the average number of responsive pages per request and the average number of days to respond. Instead, response times were more impacted by delay in directing program areas to search, program area responses, and reviewing and preparing records for release.

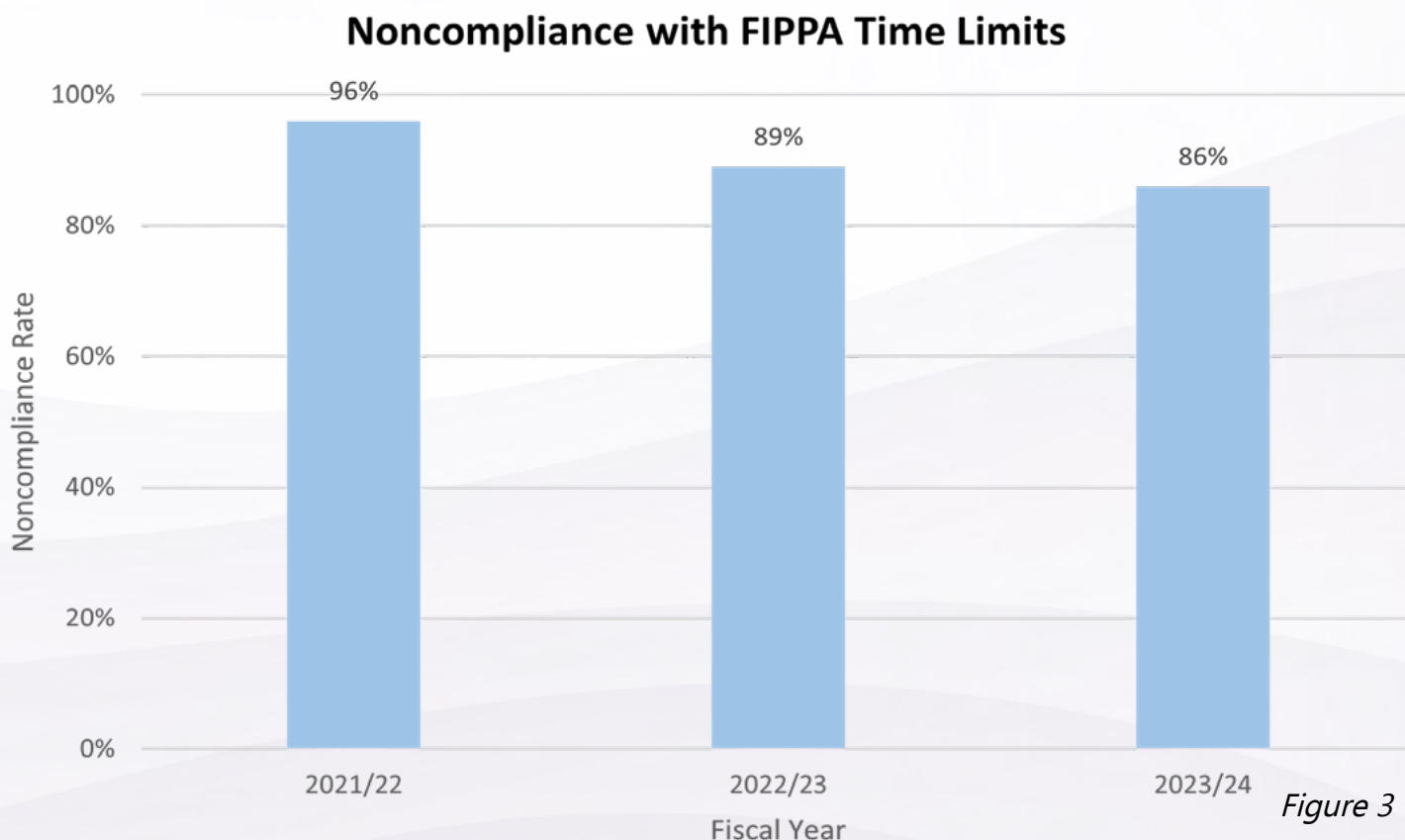
The OUC explained that the FOI team generally processes requests on a first-in, first-out basis. As a result, newer files wait behind files already in progress, regardless of size or complexity. The OUC believes processing requests in the order they are received helps to maintain equity even though it contributes to longer responses times. However, public bodies have a duty to assist applicants in every request. This duty includes responding to each request within 30 days, unless FIPPA authorizes a time extension.

#### *Compliance with FIPPA time limits*

Overall, UBC failed to comply with FIPPA time limits 90% of the time. This includes requests where UBC failed to respond within FIPPA's 30-day benchmark, and requests where UBC took a lawful time extension (discussed further below) and failed to respond within the extended time limit. This means that UBC delayed responses when it had no legal authorization to do so

<sup>32</sup> It is important to note that the number of responsive records does not necessarily correlate to the number of records that must be searched.

in nine out of every ten requests. Requests received in fiscal years 2021/22 and 2022/23 were unlawfully delayed 96% and 89% of the time respectively, while requests received in fiscal year 2023/24 were late 86% of the time. See Figure 3.



By applicant type, journalist/media applicants were least likely to receive responses to their FOI requests within FIPPA time limits. For example, UBC failed to respond to journalist/media applicants within legislated time limits 95% of the time. UBC also failed to respond to individual applicants over 80% of the time.<sup>33</sup>

In cases where UBC failed to respond to requests within legislated time limits, UBC took a further 74 business days to provide a response, on average. Over the three fiscal year period, UBC reduced the average additional business days to respond from 89 in 2021/22 to 61 days in 2023/24.

## Recommendation 5

UBC should continuously monitor its FOI system and correct delays in responding to FOI requests

<sup>33</sup> UBC failed to respond within legislated time limits to individual applicants 84% of the time and 87% of the time for individuals who submitted FOI requests through a lawyer.

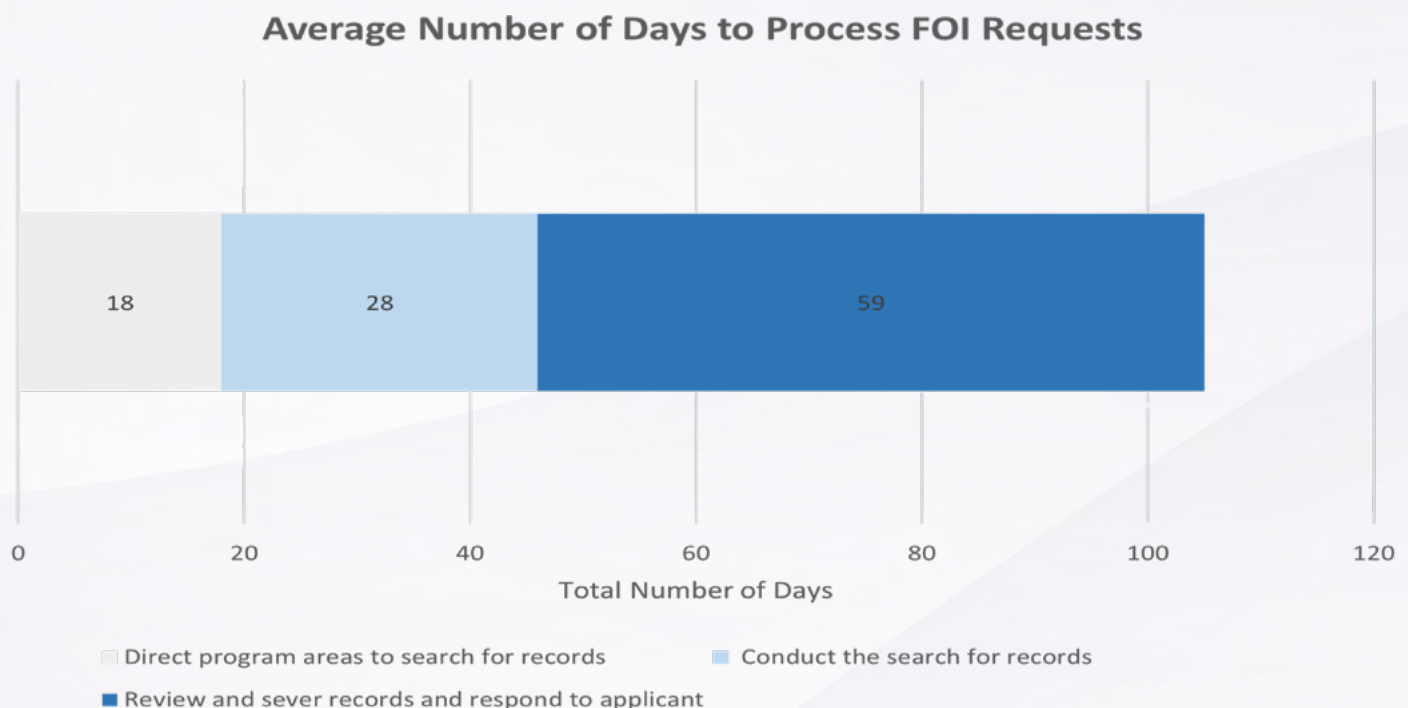


### *Overall file stagnation and UBC's response*

Overall, 51% of sampled requests (153 of 300) remained in a period of slowing or stagnation, meaning several weeks or even months went by without any apparent or documented work by UBC to move the request along. Stagnation commonly occurred at three points in UBC's FOI process:

- initiating searches (18 days on average);
- retrieving records (28 days);
- reviewing and severing records and responding to applicants (59 days).

Over the three fiscal year period, the average time UBC's FOI team spent between receiving records and finalizing its response remained mostly constant, fluctuating between 57 days and 61 days. This is a considerable amount of time, considering FIPPA's 30-day benchmark for public bodies to respond to a request. Figure 4 shows the combined average number of days the FOI team took to direct program areas to search for records, for program areas to conduct the search, and for UBC to review and sever records and to respond to an applicant.



*Figure 4*

The OUC provided several factors that delayed responses to requests and impacted the FOI team's ability to effectively track and manage time limits to respond.

## **UBC's file tracking system**

During the period reviewed, UBC's file tracking system did not have a method of monitoring and adjusting (as appropriate) the due date for files, including whether responses were overdue. The OUC reported that, prior to June 2024, UBC used an Access database system along with multiple spreadsheets to log and track request files. With this system, the FOI team faced challenges tracking time limits to respond, holds, and time extensions. Additionally, it was difficult for the FOI team to accurately sort files and adjust important dates and time limits manually.

The OUC advised that on June 1, 2024, UBC moved to a new FOI request file management system. The OUC stated this new system has improved file tracking features, including more automated calculation and tracking of time limits, holds or pauses to the time limits, and time extensions. Further, the system operates as a central location for staff to monitor and update files and prepare responses more effectively than they previously did.

The OIPC would have recommended that UBC better manage and track its responses to FOI requests. However, UBC has proactively taken steps to modernize its FOI request management tools to improve efficiency, better track time limits, and reduce delays to respond. Updated file management tools can improve efficiency and effectiveness of UBC's FOI system. UBC should continuously monitor the effectiveness of FOI processes.

### **Recommendation 6**

UBC staff should evaluate the effectiveness of its FOI file tracking system within six months.

Since reviewing the findings and recommendations of this report, UBC stated it has used its new FOI file tracking system for over a year and find it to be effective and responsive to improvements.

## **Email conversion tools**

The OUC also stated that outdated technology contributed to delays in processing email records, which make up a large portion of requested records. Staff previously had to convert the email records into pdf format before they could be properly reviewed and redacted – which took considerable time.

Starting in July 2024, the FOI team began using a software tool to convert some forms of emails to pdf, which the OUC stated reduces time spent on formatting records, although staff must still manually convert other types of records and must still sever personal information manually.

## Review and severing workflows

The OUC also stated that since 2014, an FOI specialist would review and sever records, and then another FOI specialist would review them a second time. UBC stated that while this reduced the risk of incorrectly releasing personal information or otherwise triggering a privacy breach, it took longer to review records.

In December 2024, the FOI team modified its severing practice, so that only one FOI specialist, instead of two, would review and sever records.<sup>34</sup> UBC stated this has partially helped to shorten the time spent reviewing and severing records, but not as significantly as it had hoped, as specialists are instead taking more time knowing there will not be a second review.

## File backlog

OUC staff stated that a backlog of requests began in 2015 with an influx of media requests and has existed ever since. Further, it was not until June 2024 that UBC had the means to properly track and monitor due dates and the actual number of backlogged files.

With its new file tracking system (discussed above), UBC states that it is better able to track FOI performance measures, including the number of files closed (within and outside of FIPPA time-limits), average response time, the number of overdue files open, and the number of backlog files it has reduced). UBC now utilizes these and other performance measures on a daily and monthly basis to assess progress towards compliance with FIPPA time limits and the performance and workload of its FOI team.

The OUC stated that while a backlog remains, some progress has been made to reduce it. For example, in June 2024, 89% of files were overdue, which UBC reported reduced to 63% by July 2025.<sup>35</sup>

UBC should formulate a plan to fully eliminate the existing backlog within one year and to prevent newer requests from becoming delayed. This plan should incorporate UBC's new performance measures to track progress to eliminate the backlog. Further, UBC should dedicate additional resources to its FOI team to eliminate the backlog and prevent it from reoccurring.

## Recommendation 7

UBC staff should eliminate the backlog within one year of this report.

<sup>34</sup> A second staff member (such as the FOI Manager) could still review records in some cases, where a complex request or records may require a secondary review.

<sup>35</sup> As this is outside the audit period, OIPC cannot confirm the reduction in backlog files.



### *Time extensions*

Overall, UBC applied a time extension on 14% of requests (41 of 300 sampled requests). UBC did not request permission from the Commissioner for any further extension.

FIPPA allows public bodies to take or seek a time extension to prevent responses from becoming unlawfully delayed. FIPPA has clear parameters for when a public body may extend the time to respond to an FOI request, and it was not apparent that UBC could have extended the time to respond to requests more often.

See Table 5 for the number of time extensions taken by UBC each fiscal year. UBC's most common reason for taking a time extension was due to a large number of records requested or needed to be searched, and that meeting the time limit would unreasonably interfere with the operations of UBC.

<b>Table 5 - Time extensions taken by UBC</b>		
	<b>10(1)(b)</b>	<b>10(1)(d)</b>
Overall	40	1
2021/22	20	1
2022/23	7	0
2023/24	13	0

### *Notifying applicants of time extensions*

When a public body takes a time extension under s. 10, FIPPA requires a public body notify an applicant of three things:

- the reason for the extension,
- when a response can be expected, and
- in the case of an extension under s. 10(1)(a) to (c), that the applicant may complain to the OIPC about the extension under s. 42(2)(b) or s. 60(1)(a).

Most of the time where UBC extended the timeline to respond under s. 10(1)(b) (28 of 40 requests), UBC did not notify applicants that they could complain to the OIPC about the time extensions.

FIPPA requires that public bodies notify applicants of the right to make a complaint to the OIPC should they object or have concerns with the public body taking the time extension. Without being notified, applicants may not be aware that the ability to complain about the time extension exists. UBC must ensure that when it notifies applicants that it is taking a time extension under s. 10(1)(a) through to (c), it informs applicants of their right to complain about the time extension.

OUC staff cited a rush to respond to applicants, and in that rush, time extension notices, and third party consultation notices (discussed below) may have not been provided to applicants in accordance with FIPPA.<sup>36</sup> While UBC did not indicate that staff training was an issue, staff awareness of FIPPA's requirements is a critical component on the path to a successful FOI program. Given the issues identified, UBC should provide staff involved in responding to FOI requests with refresher training on FIPPA's time limits and time extensions.

## Recommendation 8

UBC should provide onboarding and refresher training to FOI staff on its duty to assist applicants, including time limits, time extensions, and required notifications.

Since reviewing the findings and recommendations of this report, UBC stated the FOI team recently attended a multi-session FOI training seminar and will receive further targeted training related to the findings and recommendations. Additionally, UBC is updating its template letters to ensure it is notifying applicants about third party reviews and their right to complain to the OIPC about time extensions.

### ***Openly, accurately and completely***

In addition to responding without delay, FIPPA requires public bodies to respond to each applicant openly, accurately, and completely.

#### *Severing*

After retrieving responsive records, the FOI team reviewed records for severing. In total, UBC applied 223 exceptions to disclosure in 131 requests. The most common exception UBC applied was for disclosure harmful to personal privacy (53% of all exceptions). The second and third most common exceptions to disclosure were, respectively, for policy advice or recommendations (26%) and disclosure harmful to law enforcement (9%).

In 15% of severed requests (37 of 243 requests) key personnel within UBC (such as Media Relations, Managers and Directors, and UBC executives) reviewed the responses after the FOI team's proposed severing, and program area staff reviewed responses 3% of the time (6 of 243 requests). As mentioned, the FOI team provides UBC personnel and program areas with the opportunity to review responses prior to release, to ensure they are aware of what records are being released, confirm all relevant records were included, and to ensure that any records, which should not be disclosed, are not accidentally released. It also serves as an additional measure to ensure UBC is prepared in the event of questions from media (in cases where there may be a potential media story).

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<sup>36</sup> April 30, 2025 Interview with UBC FOI staff.

In six instances, the FOI team provided the name of a journalist/media applicant to UBC personnel when reviewing FOI responses. Further, the FOI team provided the name of one non-journalist/media applicant to UBC personnel when reviewing responses. OUC staff cited that they would provide journalist/media names because these applicants used their work email when submitting requests as business contact information and not personal information.<sup>37 38</sup>

In these instances, the FOI team disclosed the applicant's name alongside the wording of their request to UBC personnel. Disclosing the *wording* of a request to personnel responsible for reviewing the response prior to release is logical and likely necessary, however, providing the *name* of the applicant is not necessary.

While a journalist/media applicant's name or other contact information alone may not be considered personal information, when disclosed with their request this combination is personal information.

UBC's practice of sharing certain applicants' names and their requests with UBC personnel who review responses prior to release raises concern about applicant anonymity and also raises broader questions about the perception of improper handling of FOI responses.

Public bodies are expected to reasonably protect the anonymity of all applicants. For example, in [Investigation Report F13-03](#)<sup>39</sup> and [Investigation Report F11-02](#)<sup>40</sup> the OIPC states that applicants are entitled to remain anonymous when making a request and that identifying an applicant may not be permitted under s. 33 of FIPPA.

FIPPA prohibits the disclosure of personal information except as authorized<sup>41</sup> and UBC must respect applicant anonymity by only disclosing an applicant's name along with the wording of an applicant's request (or other personal information) to UBC personnel when necessary for responding to an FOI request.

## Recommendation 9

UBC should protect applicant anonymity when responding to FOI requests.

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37 "Contact information" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual. "Personal information" means recorded information about an identifiable individual other than contact information; Schedule 1, FIPPA.

38 April 30, 2025, Interview with UBC FOI staff.

39 p. 23.

40 p. 30

41 s. 25.1 FIPPA



### *Third Party Notices*

FIPPA requires that if a public body intends to give access to a record that it believes contains information related to a third party that might be excepted from disclosure,<sup>42</sup> the public body must give both the third party and the applicant written notice.<sup>43</sup> Within 30 days after notice is given, the public body must decide whether to give access to the record or to part of the record and must inform the applicant and third party about its decision.<sup>44</sup>

There were four FOI requests where UBC notified third parties about records UBC believed contained information related to a third party that might be excepted from disclosure. On three of the four requests, UBC did not provide the applicants with the required notice under s. 23(4) FIPPA. Additionally, UBC did not provide applicants with notice of UBC's decision on whether it would disclose the records it believed contained information related to a third party, as required by s. 24(2) of FIPPA.

Recommendation 6 above should address this issue to ensure that staff are providing the required notifications.

### *Response letters*

UBC's responses to applicants consistently contained the necessary information, including:

- A summary of the request;
- If staff located responsive records;
- A description of reasons for severing or withholding information, including relevant sections of FIPPA;
- Contact information for the OIPC including a link to the OIPC website; and
- A statement that the applicant can seek review of the response with the OIPC.

### *Records provided for review and released*

Where UBC responded to applicants, UBC provided records in whole or in part 86% of the time (216 of 251 files). There were 26 requests where UBC found no responsive records to release and, in all but one case, UBC provided an explanation to applicants for the lack of records. UBC's explanations appeared appropriate and provided sufficient detail for applicants to understand why UBC did not find responsive records.

UBC denied releasing records on five requests. When denying records, UBC provided applicants

<sup>42</sup> Specifically, under sections 18.1, 21 or 22 FIPPA

<sup>43</sup> s. 23 FIPPA

<sup>44</sup> A public body can not make a decision until the day after receiving the third party's response concerning disclosure of the records, or if 21 days have passed since notice was given (whichever is earlier). s. 24 FIPPA.

with the reasons for doing so in the response letters, such as the disclosure would be harmful to a third party's personal privacy, or the records were subject to solicitor-client privilege.

Table 6 shows the percent of requests over the three-fiscal-year period UBC provided records in whole or in part.

Table 6 - Percentage of responses with records				
	Overall	2021/22	2022/23	2023/24
<b>With records</b>	86%	93%	76%	88%
<b>Total number of files</b>	251	91	80	80

### ***Issues raised by applicants during FOI request process***

Nearly half of all applicants (148 of 300) raised issues with UBC during or after the processing of their FOI requests. Applicants largely raised issues with UBC failing to respond on time or to provide updates or communicate about the status of their requests sooner. In most cases, UBC had not responded to requests within the initial 30-day time limit and had not applied a lawful extension, compelling applicants to contact UBC requesting an update. Table 7 lists the number of each issue applicants raised with UBC.

Table 7 - Issues applicants raised with UBC	
Issue	File Count
Late response	133
Inadequate search	6
Update/communication (not related to response)	5
Response clarification	5
Time extension	2
Severing	2
Fee estimate	2
Re-routed request	1

Overall, UBC was responsive and communicative with applicants when issues or concerns were raised. However, not all issues or concerns raised by applicants were resolved or rectified. In certain cases, such as unlawfully delayed requests, there are limits to the extent that an issue can be rectified after the fact.

It was evident that UBC made efforts to address concerns raised by applicants. However, frequent issues with responding within FIPPA timelines, and the subsequent need to provide updates and revised timelines to applicants, could have been avoided altogether had UBC adhered to the time limits set out in FIPPA.

### ***Documenting requests***

Overall, typical documentation related to the processing of requests was stored in the files in all but 6% (17 of 300) of sampled files. The types of documents missing or otherwise absent from some UBC request files included copies of:

- Results from searches conducted/evidence search was conducted;
- Communication between the FOI team and program areas;
- Communication between applicants and the FOI team concerning their FOI requests; and
- Responses to applicants.

## **Reminder**

***Public bodies should fully document their processing of FOI requests and ensure documentation is accounted for in each file.***



# CONCLUSION OF FILES THROUGH OIPC

Should an applicant have concerns with how a public body handled their request for records, and could not resolve it with the public body, they may contact the OIPC to submit a complaint or request a review.<sup>45</sup> During the period under review, the OIPC received 42 deemed refusal complaints, 35 access-related complaints, and 29 requests for review.<sup>46</sup> Most of the complaints related to adequate search, duties required by FIPPA, and fees applied by UBC.

**Table 8 - OIPC reviews and complaints 2021/22 to 2023/24**

OIPC File Type	Number of Files	Percent of Files
<b>Deemed refusal complaint</b>	<b>42</b>	<b>40%</b>
<b>Complaint</b>	<b>35</b>	<b>33%</b>
Adequate search	17	49%
Duty required by Act	7	20%
Fees	7	20%
Time extension by public body	2	6%
s. 25 not applied	2	6%
<b>Request for review</b>	<b>29</b>	<b>27%</b>
Partial/severed release	23	79%
Deny	3	10%
Refusal to confirm or deny	2	7%
Application	1	3%
<b>Total</b>	<b>106</b>	<b>100%</b>

OIPC declined to investigate or otherwise closed 21 complaint and request for review files.

OIPC investigators have the delegated authority to resolve complaint files, and few proceed to inquiry. During the timeframe under review, investigators substantiated or partially substantiated 20% of complaints received about UBC, found that 53% of the complaints were not substantiated, and mediated the remaining 27%. No complaints proceeded to inquiry.

<sup>45</sup> OIPC's [Tips for Requesting Records](#), provides guidance to applicants making a request for records and what to do should they disagree with a public body's or organization's response.

<sup>46</sup> In some cases, the OIPC may open more than one complaint file where an applicant has different complaints about the handling of one FOI request. These numbers reflect OIPC files and are not tied to the 300 sample files in this audit.

OIPC investigators resolved 74% of requests for review and 83% of deemed refusal complaints during mediation and sent 15% of requests for review and 2% of deemed refusal complaints to inquiry. A further 7% of deemed refusal complaints were resolved via Consent Order. The five request for review and deemed refusal files sent to inquiry were concluded in the follow ways:

- Two were cancelled.
- In one, the adjudicator confirmed UBC's decision to deny access to most records but ordered UBC provide the rest.
- In another, the adjudicator confirmed UBC's decision to deny access to some of the records but ordered UBC to disclose more and to reconsider its decision to withhold other information.
- In the last, the adjudicator found that UBC had failed to fulfil its duties under FIPPA and ordered it to respond to the applicant by a set date.

# DISCUSSION



# CONCERNS WITH UBC'S DUTY TO ASSIST

During the period audited, UBC frequently struggled with processing and responding to FOI requests in compliance with FIPPA. The findings show that there are multiple factors throughout UBC's FOI process that collectively contributed to considerable delay, incorrect application of FIPPA, and a lack of sufficient communication with applicants.

## ***Considerable delay***

Over the period audited, UBC responded to only 8% of requests within FIPPA's benchmark of 30 business days and UBC took an average of 100 business days to respond to requests – more than three times longer than the benchmark.

Further, UBC failed to comply with FIPPA's maximum time limits in 90% of applicable files, including requests where UBC took a time extension and failed to respond within the time limit. In these cases, UBC took on average an additional 74 business days to respond.

These overall numbers are deeply concerning, and while UBC's timeliness and compliance with time limits improved slightly in 2023/24, they remain far below what FIPPA requires and what applicants expect.

As discussed, more than 50% of all requests fell into one or more periods of stagnation, where UBC took longer to

initiate searches (18 days on average), retrieve records (28 days), process records and respond to applicants (59 days).

In many cases, several weeks or even months went by without any apparent or documented

work by UBC to move the request along. These periods of apparent inactivity contributed to UBC not only failing to meet legislative time limits, but to applicants waiting much longer than necessary to receive a response.

Collectively, these averages make it apparent why UBC often did not respond to requests within FIPPA's benchmark of 30 days.

Over the period reviewed, UBC had a long-standing backlog of requests that also contributed to delays in responding to new requests. The backlog has been in existence since 2015 and will likely continue until UBC establishes an effective way to both address the overdue files and respond without delay to new requests.

UBC has undertaken several changes in its FOI processes to address the delay.

## ***Incorrect application of FIPPA***

UBC incorrectly applied FIPPA when responding to FOI requests. First, when charging an application fee, UBC did not start counting the 30-day time limit to respond until the applicant paid the application fee. As such, UBC incorrectly calculated the days to respond, as it missed the days between receiving the request and notifying the applicant that a fee was due.

Further, on multiple occasions UBC provided time extensions notices to applicants that did not inform applicants that they can complain to the OIPC about the time extension.

Finally, where UBC consulted with third

parties prior to releasing records, UBC did not provide the applicants with the notice about the consultation or about UBC's decision on whether it would disclose the related records.

### ***Lacking communication with applicants***

When charging an application fee, UBC provides alternatives for applicants seeking a payment option other than UBC's online payment portal. However, these alternate payment options are not proactively communicated to applicants at the time UBC charges the fee, and limited knowledge regarding all payment options available can create a barrier for applicants.

Applicants commonly raised issue about the status of their FOI requests once the initial 30-day time limit to respond passed with no update from UBC. UBC should proactively communicate with applicants regarding the status of requests if a response is taking longer than expected.

When notifying applicants about time extensions, UBC must ensure that its notices inform applicants that they can complain to the OIPC about the time extension. Additionally, when UBC consults with third parties prior to releasing records, it must notify applicants about the consultation and about UBC's decision on whether it would disclose the related records.



# LOOKING AHEAD

During the period audited, UBC's FOI system was struggling with a longstanding backlog of FOI requests which, in part, contributed to further delay of responses to FOI requests. Public bodies must have a culture of transparency and accountability for FOI from executive down to program areas, as well as adequate resources and processes in place to manage the FOI workload, prevent the accumulation of overdue requests, and to comply with the requirements of FIPPA.

UBC has taken and continues to canvas potential steps to improve its performance, and recognizes the importance of tracking FOI requests and time limits to respond. In June 2024, UBC moved to a new FOI request file management system designed to assist with ensuring requests are responded to appropriately and within FIPPA time limits. Also in 2024, the FOI team restructured review and severing workflows and obtained bulk file conversion software for some types of files. In addition, UBC has been proactive in streamlining disclosure from program areas instead of through FOI where the applicant has consented to the disclosure, for example, for academic and employment records. The FOI team expressed commitment to improving its FOI program, aimed at enhancing UBC's timeliness in responding to requests.

While there is much room for improvement, UBC is making efforts to fix its FOI system and address issues identified during the audit; however, the FOI team cannot do this alone, and these efforts require the full support of executive and program areas. The OIPC's recommendations emphasize the need for a stronger culture of transparency, additional focus on FIPPA's requirements and compliance, better proactive communication with applicants and management of FOI requests, and further internal evaluation to correct any lags to responding to all requests within the time limits authorized by FIPPA.

Implementing these recommendations, along with the work UBC is already undertaking to strengthen its FOI program, should aid in improving UBC's compliance with FIPPA going forward. The OIPC welcomes the positive changes UBC has undertaken and plans to undertake and will follow-up on UBC's progress in implementing the report recommendations.

The OIPC encourages all public bodies, to review the findings from this audit and incorporate all applicable best practices and recommendations to enhance their own FOI systems and compliance with FIPPA. Further, public bodies should not delay reviewing their own FOI programs and should be critically evaluating their FOI systems and making necessary changes before problems arise.



# SUMMARY OF RECOMMENDATIONS

1. UBC begin counting the time limit to respond on the day after an FOI request is received and only suspend the time after notifying the applicant of the requirement to pay the application fee.
2. Public bodies that administer an application fee clearly inform applicants of all available payment options.
3. UBC executive promote a culture of transparency throughout all program areas to improve FOI responsiveness. This includes monitoring program area accountability.
4. UBC staff follow up promptly if searches for records become overdue.
5. UBC continuously monitor its FOI system and correct delays in responding to FOI requests.
6. UBC evaluate the effectiveness of its FOI file tracking system within six months.
7. UBC eliminate the backlog within one year of this report.
8. UBC provide onboarding and refresher training to FOI staff on its duty to assist applicants including time limits, time extensions, and required notifications.
9. UBC protect applicant anonymity (including journalist/media applicant anonymity) when responding to FOI requests.

# RESOURCES

## Getting started

- [Access to data for health research](#)
- [BC physician privacy toolkit](#)
- [Developing a privacy policy under PIPA](#)
- [Early notice and PIA procedures for public bodies](#)
- [Guide to OIPC processes \(FIPPA and PIPA\)](#)
- [Guide to PIPA for business and organizations](#)
- [Privacy impact assessments for the private sector](#)
- [Privacy management program self-assessment](#)

## Access (General)

- [Common or integrated programs or activities](#)
- [Guidance for conducting adequate search investigations \(FIPPA\)](#)
- [Guidance on FIPPA's FOI process](#)
- [How do I request records?](#)
- [How do I request a review?](#)
- [Instructions for written inquiries](#)
- [PIPA and workplace drug and alcohol searches: a guide for organizations](#)
- [Proactive disclosure: guidance for public bodies](#)
- [Requesting records of a deceased individual](#)
- [Section 25: The duty to warn and disclose](#)
- [Time extension guidelines for public bodies](#)
- [Tip sheet: requesting records from a public body or private organization](#)

## Privacy (General)

- [Direct-to-consumer genetic testing and privacy](#)
- [Disclosure of personal information of individuals in crisis](#)
- [Employee privacy rights](#)
- [Guide for organizations collecting personal information online](#)
- [Identity theft resources](#)
- [Information sharing agreements](#)
- [Instructions for written inquiries](#)
- [Obtaining meaningful consent](#)
- [Political campaign activity code of practice](#)
- [Political campaign activity guidance](#)
- [Privacy guidelines for strata corporations and strata agents](#)
- [Privacy-proofing your retail business](#)
- [Privacy tips for seniors: protect your personal information](#)
- [Private sector landlord and tenants](#)
- [Protecting personal information away from the office](#)
- [Protecting personal information: cannabis transactions](#)
- [Reasonable security measures for personal information disclosures outside Canada](#)
- [Responding to PIPA privacy complaints](#)
- [Securing personal information: A self-assessment for public bodies and organizations](#)



## Comprehensive privacy management

- [Accountable privacy management in BC's public sector](#)
- [Getting accountability right with a privacy management program](#)

## Privacy breaches

- [Privacy breaches: tools and resources for public bodies](#)
- [Privacy breach checklist for private organizations](#)
- [Privacy breach checklist for public bodies](#)
- [Privacy breaches: tools and resources for the private sector](#)

## Technology and social media

- [Guidance for the use of body-worn cameras by law enforcement authorities](#)
- [Guidelines for online consent](#)
- [Guidelines for conducting social media background checks](#)
- [Mobile devices: tips for security & privacy](#)
- [Tips for public bodies and organizations setting up remote workspaces](#)
- [Use of personal email accounts and messaging apps for public body business](#)

## Infographics

- [FIPPA and the application fee](#)
- [How to identify deceptive design patterns](#)
- [How to make a complaint](#)
- [How to make an access request](#)
- [How to request a review](#)
- [Identifying and mitigating harms from privacy-related deceptive design patterns](#)
- [Responsible information sharing in situations involving intimate partner violence](#)
- [Requesting records of deceased individuals](#)
- [Tips for requesting records](#)
- [Transparency by default: information regulators call for a new standard in government review](#)
- [Tip sheet: 10 tips for public bodies managing requests for records](#)



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