



Order F25-95

DISTRICT OF SAANICH

Carol Pakkala
Adjudicator

December 11, 2025

CanLII Cite: 2025 BCIPC 111

Quicklaw Cite: [2025] B.C.I.P.C.D. No. 111

Summary: A complainant requested a public interest fee waiver under s. 75(5)(b) of the *Freedom of Information and Protection of Privacy Act* (FIPPA). The fee was for processing an access request for records related to employee absenteeism in the District of Saanich (District). The District declined the complainant's request to waive the fee in the public interest. The adjudicator found that the requested records did not relate to a matter of public interest and confirmed the District's denial of a fee waiver.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c. 165, ss. 58(3)(c), 75(1)(a), 75(1)(b), 75(5)(b). *Freedom of Information and Protection of Privacy Regulation*, s. 13 and Schedule 1.

INTRODUCTION

[1] This inquiry is about the District of Saanich's (District) refusal to waive the fee it assessed under s. 75(5)(b) of the *Freedom of Information and Protection of Privacy Act* (FIPPA)¹ for processing the applicant's access request. The access request was for anonymized data about absenteeism of District employees over a ten year period.

[2] The access applicant complained (henceforth, the complainant) to the Office of the Information and Privacy Commissioner (OIPC) about the District's refusal to waive the fee. Mediation by the OIPC failed to resolve the complaint, and it proceeded to this inquiry. Both parties provided written inquiry submissions.

¹ From this point forward, unless otherwise specified, whenever I refer to section numbers, I am referring to sections of FIPPA.

ISSUE AND BURDEN OF PROOF

[3] In this inquiry, I will decide whether the District's fee for processing the access request should be waived, in whole or in part, under s. 75(5)(b).

[4] FIPPA does not expressly set out who has the burden in inquiries about s. 75(5) decisions. Previous orders have established that it is the complainant who has this burden.²

DISCUSSION

Background³

[5] The District delivers fire protection services through the District of Saanich Fire Department. The complainant is a trustee of the Saanich Fire Fighters Association (Association).

[6] The complainant was tasked with reviewing workplace trends that may impact the health and well-being of Association members. One area of concern identified by the Association was a potential increase in absenteeism over the past decade. To that end, the complainant requested access to aggregated and anonymized absenteeism data across District departments.

[7] The parties agree that absenteeism caused staffing issues on three specific dates.⁴ The parties differ on whether those staffing issues and the District's contingency measures had a direct effect on the Fire Department's emergency response capacity on those dates.

Fees under FIPPA – s. 75

[8] FIPPA authorizes public bodies to require applicants to pay fees for access to information, subject to certain exceptions.⁵ FIPPA also authorizes public bodies to waive fees in certain circumstances. The relevant provisions state:

² Order F25-90, 2025 BCIPC 106 (CanLII) at para 4; Order F24-19, 2024 BCIPC 25 (CanLII) at para 5; and Order F21-48, 2021 BCIPC 56 (CanLII) at paras 6-10.

³ Except where otherwise noted, these facts are not in dispute and are taken from the materials before me.

⁴ At p.1 of his submission, the complainant identifies staff shortages and the failure of contingency measures to address those shortages on June 21, September 13, and September 23 of 2025. At paras 16-17 of his submission, the District acknowledges two unsuccessful attempts to secure overtime staff and one staffing error. I characterize the attempts and the error as "staffing issues" to provide context for this inquiry.

⁵ FIPPA does not allow public bodies to charge fees for the first three hours spent locating and retrieving a record, or for time spent severing information from a record, or for an applicant's own personal information. See ss. 75(2) and (3).

- 75** (1) The head of a public body may require an applicant who makes a request under section 5 [how to make an access request] to pay to the public body the following:
- (a) a prescribed application fee;
 - (b) prescribed fees for the following services:
 - (i) locating and retrieving the record;
 - (ii) producing the record;
 - (iii) preparing the record for disclosure, except for time spent severing information from the record;
 - (iv) shipping and handling the record;
 - (v) providing a copy of the record.

...

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

...

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

[9] Section 13 of the *Freedom of Information and Protection of Privacy Regulation* says the maximum fees for services provided to different categories of applicants are set out in Schedule 1 of the Regulation.⁶

Section 58(3)(c)

[10] Under s.58(3)(c), as the commissioner's delegate, I have the authority to confirm, excuse or reduce the disputed fee in the appropriate circumstances. The jurisdiction conferred by s. 58(3)(c) is broad and it enables me, in appropriate cases, to substitute my decision for that of the head of the public body.⁷

Public interest fee waiver – section 75(5)(b)

[11] Previous orders have established the following two-part test for determining if a public interest fee waiver is appropriate:

1. Do the records relate to a matter of public interest?

⁶ B.C. Reg. 155/2012. Section 13 and Schedule 1 (Schedule of Maximum Fees).

⁷ Order F22-10, 2022 BCICP 14 at para 28 citing Order 332-1999, 1999 CanLII 4202 (BC IPC), p. 3; Order 01-04 2001 CanLII 21558 (BC IPC) at para 14; Order 01-24, 2001 CanLII 21578 (BC IPC), p. 8.

2. If so, should the applicant be excused from paying all or part of the estimated fee?⁸

Relate to a matter of public interest

[12] A public interest fee waiver requires that the requested records *themselves* relate to a matter of public interest.⁹ An applicant's intention to use the records in a manner that relates to the public interest does not suffice.¹⁰ Further, simply identifying public interest issues as the motivation for the access request also does not suffice.¹¹

[13] If the records themselves do relate to the public interest, then it does not matter the degree to which they relate.¹² The only consideration at this stage in the analysis is whether the records "relate" to a matter of public interest.

[14] Previous orders provide a non-exhaustive list of factors to consider in deciding whether records relate to a matter of public interest. Those factors include whether the subject matter of those records:

- has been a matter of recent public debate
- relates directly to the environment, public health or safety
- when disseminated, could reasonably be expected to yield a public benefit by:
 - disclosing an environmental/public health/safety concern,
 - contributing to the development or public understanding of, or debate on, an important environmental or public health or safety issue, or
 - contributing to public understanding or debate about an important policy, law, program or service
- discloses how the public body is allocating financial or other resources¹³

⁸ Order No. 332-1999, 1999 CanLII 4202 (BC IPC), p. 5; Order F17-38, 2017 BCIPC 42 at para 11; Order F19-09, 2019 BCIPC 11 at paras 12-14; Order F21-48, 2021 BCIPC 56 (CanLII) at para 17; and Order F24-19, 2024 BCIPC 25 (CanLII) at para 15.

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

¹⁰ Order F17-38, 2017 BCIPC 42 at para 13, citing Order 01-24, Order 01-24, 2001 CanLII 21578 (BC IPC) at paras 56-62; Order F05-36, 2005 CanLII 46569 (BC IPC); and Order F10-38, 2010 BCIPC 58 at para 20.

¹¹ For example, see Order F09-11, 2009 CanLII 42410 at para 20 where former Commissioner McEvoy (then adjudicator) said "... while the issues identified by the applicant for his research relate to a matter of public interest, this is not the test under s. 75(5) of FIPPA. I must determine whether the requested records themselves specifically relate to this matter of public interest."

¹² Order 03-19, 2003 CanLII 49192 (BC IPC) at paras 36-37.

¹³ Order F22-18, 2022 BCIPC 20 at para 16 referencing for example Order F21-10, 2021 BCIPC 14, at para 33. See also: Order F21-48, 2021 BCIPC 56 (CanLII) at para 20 citing Order No. 332-1999, 1999 CanLII 4202 (BC IPC), p. 5 and Order 01-24, 2001 CanLII 21578 (BC IPC) at para 32.

Parties' submissions - matter of public interest

[15] The complainant says the records directly relate to public safety and firefighter health because absenteeism could cause service disruptions.¹⁴ The complainant offers examples of three specific dates where there were staffing shortages.¹⁵ The complainant says that on each of those dates, an apparatus, without specifying what that means, was taken out of service.¹⁶

[16] The complainant expresses concern about the District's response to staffing shortages on the specified dates and says those response measures failed. By way of example, the complainant says that "[f]or a resident experiencing a life-threatening emergency, a delayed response is functionally equivalent to an out-of-service apparatus. This is a direct public-safety impact."¹⁷

[17] The complainant says the District is "encountering staffing shortages frequently enough that it raises the possibility that the Fire Department may require additional staffing to maintain a sufficient buffer between minimum staffing levels and the average rate of absenteeism."¹⁸ The complainant says that the records are needed to gain a better understanding of whether absenteeism has increased over time.

[18] The District says that a direct link between absenteeism and public safety is an oversimplification. The District says that absenteeism is a regular and normal occurrence of any staffing operation.¹⁹ The District acknowledges that while an inability to properly staff the Fire Department may be correlated with public safety, absenteeism information alone cannot establish a meaningful link to public safety outcomes.²⁰

[19] The District says it has established protocols and contingency staffing measures in place²¹ specifically to mitigate the impacts of absenteeism which include cross shift coverage, overtime call-ins, and mutual aid agreements. In other words, the District says absenteeism does not equate a failure to maintain service levels.²²

¹⁴ Complainant's initial submission, p. 2.

¹⁵ See footnote 4.

¹⁶ Complainant's initial submission, p. 1.

¹⁷ Complainant's reply submission, p. 2.

¹⁸ *Ibid*, p. 1.

¹⁹ District's submission at para 12.

²⁰ *Ibid* at para 13.

²¹ The complainant notes that these measures have failed.

²² District's submission at para 14.

[20] To support its position, the District offers an affidavit from its Fire Chief who says the District “mitigates the impact of absenteeism through cross shift coverage, over time call ins and mutual aid agreements.”²³

[21] The Fire Chief explains exactly what happened on the three dates identified by the complainant. On one of the dates, a medic vehicle at a District staff picnic was placed on a delayed response.²⁴ On the second date, during a fire hall open house, some apparatus (not identified) were placed on a delayed response.²⁵ The Fire Chief says that on both of those dates, the minimum staffing levels were maintained and acknowledges service levels had the *potential* to be marginally impacted during the events.²⁶

[22] For the third date identified by the complainant, the Fire Chief says the overtime call in process was used and the staffing shortage filled during the shift.²⁷

Analysis - matter of public interest

[23] For the reasons that follow, I find that the records themselves do not relate to a matter of public interest. While I accept that the provision of emergency services is a matter of public interest, these records are not about the provision of emergency services themselves. Instead, they are about the underlying reasons for employee absenteeism which, in my view, is not a matter of public interest.

Recent public debate

[24] The subject matter of the requested records is the absenteeism of District employees. I understand that such absenteeism may, or may not, lead to inadequate staffing of emergency response teams. There is no evidence before me that absenteeism of District employees or inadequate staffing of emergency response teams has been a matter of recent public debate.²⁸

²³ District Fire Chief's affidavit at para 3. The complainant cites the three examples noted in the background section of this order as failures of those mitigation efforts. As noted there, the parties have different interpretations of those events.

²⁴ Fire Chief's affidavit at para 7.

²⁵ *Ibid* at para 8.

²⁶ *Ibid* at para 9.

²⁷ *Ibid* at para 10.

²⁸ The parties have different views of reasons underlying the staffing issues on the dates identified. No one provided evidence of any adverse outcomes resulting from those staffing issues. Further, no one provided evidence of media coverage or of social media discussion about those staffing issues.

[25] The complainant acknowledges the lack of public debate and says the Association deliberately chose not to escalate these concerns to the public because it was attempting to work cooperatively with the District.²⁹

[26] I find that absenteeism at the District has not been the subject of recent public debate.

Relates directly to the environment, public health or safety

[27] There is insufficient evidence before me of a direct relationship between the subject matter of the requested records (i.e., absenteeism) and a reduction in emergency response services.

[28] I considered the complainant's argument that the District's response to staffing shortages is directly linked to public safety. The missing link in this argument is that the requested records are not about the District's response. As I understand it, the complainant's underlying assumption is that absenteeism leads to staffing shortages which leads to inadequate response measures which leads to a public safety risk. Absenteeism therefore does not relate *directly* to public safety.

[29] For the above reason, I find that the subject matter of the requested records does not directly relate to public health or safety.

Dissemination of records could reasonably be expected to yield a public benefit

[30] For this factor, I considered both the intentions for dissemination of the records and the link between such dissemination and a public benefit.

[31] In his original access request, the complainant clarifies the intent of the access request as gaining an understanding of the scope and possible causes of absenteeism. As for how those results will be disseminated, the complainant says:

This information will help us [i.e., the Association] assess whether any underlying issues may need to be addressed collaboratively, and to support evidence-based discussions that benefit both the workforce and the organization.³⁰

Based on the above, it is clear to me that the records may not even be disseminated at all beyond the Association. The complainant's intent for seeking

²⁹ Complainant's reply submission, p. 3.

³⁰ Complainant's access request dated August 17, 2025.

access to the absenteeism information is to negotiate staffing resources with the District.

[32] The requested records may, or may not, show that absenteeism patterns are reflective of poor management practices, staffing adequacy, and resource allocation. In my view, such issues are internal and of interest to the Association but are not directly related to yielding a public benefit.

[33] For the above reasons, I find that dissemination of the records cannot reasonably be expected to yield a public benefit.

Public body allocation of resources

[34] The access request seeks information about the annual absenteeism rate; categories or reasons for the absences; and the total number of overtime shifts. I cannot see, and the complainant does not say, how this information will show how the District has allocated resources. Instead, it will show information about staff missing regularly scheduled shifts, something which is not exclusively in the District's control.

Conclusion - matter of public interest

[35] I find the complainant has provided insufficient evidence and argument to establish the information he seeks relates to a matter of public interest under s. 75(5)(b).

[36] Given my finding above, I need not decide the second part of the s. 75(5)(b) test which asks whether the complainant should be excused from paying the fee. For the sake of completeness however, and for the reasons that follow, I note that my answer to the second part of the test is also no.

[37] Previous orders have discussed a variety of non-exhaustive factors when deciding if an access applicant should be excused from paying all or part of a fee.³¹ Below, I consider only those factors relevant to this inquiry.

[38] The first factor looks at the intention and ability to publicly disseminate the information. The complainant seeks the information to better inform the Association for its negotiations with the District, not to publicly disseminate it. I have insufficient evidence before me about how the complainant intends to take what it learns from the records and communicate it to the public.

[39] The second factor looks at whether a fee waiver would shift an unreasonable cost burden from the access applicant to the public body. The

³¹ Order F21-48, 2021 BCIPC 56 (CanLII) at para 50 sets out these factors derived from previous orders.

complainant says the Association operates on a lean budget funded by its members. He further says members expect those contributions to be managed with the highest level of responsibility. He also identifies factors having an impact on the Association's budget.³² Other than those statements, I have no information before me about the cost burden of the access request relative to the budgets of either the District or the Association.

[40] After weighing all the above factors, I am not persuaded that the complainant should be excused from payment of the District's estimated fee.

Conclusion

[41] For the reasons given above, under s. 58, I confirm the District's decision to deny the applicant's request for a fee waiver under s. 75(5)(b).

December 11, 2025

ORIGINAL SIGNED BY

Carol Pakkala, Adjudicator

OIPC File No.: F25-01917

³² Complainant's reply submission, pp. 3-4.