



Report

SPECIAL COMMITTEE TO APPOINT AN INFORMATION AND PRIVACY COMMISSIONER

April 2024



LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

Fifth Session, 42nd Parliament



April 11, 2024

To the Honourable
Legislative Assembly of the
Province of British Columbia

Honourable Members:

We have the honour to present herewith the Report of the Special Committee to Appoint an Information and Privacy Commissioner containing our unanimous recommendation.

Respectfully submitted on behalf of the Committee,

Garry Begg, MLA
Chair

Renee Merrifield, MLA
Deputy Chair

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Composition of the Committee

Members

Garry Begg, MLA, Chair
Surrey-Guildford

Renee Merrifield, MLA, Deputy Chair
Kelowna-Mission

Michele Babchuk, MLA
North Island

Dan Davies, MLA
Peace River North

Adam Olsen, MLA
Saanich North and the Islands

Mike Starchuk, MLA
Surrey-Cloverdale

Committee Staff

Kate Ryan-Lloyd, Clerk of the Legislative Assembly

Jennifer Arril, Clerk of Committees

Darryl Hol, Committee Clerk

Jonathon Hamilton, Committee Researcher

Mary Heeg, Committee Researcher

Alexa Neufeld, Parliamentary Committees Coordinator

Terms of Reference

On February 26, 2024, the Legislative Assembly agreed that a Special Committee to Appoint an Information and Privacy Commissioner be appointed to select and unanimously recommend to the Legislative Assembly the appointment of an individual as Information and Privacy Commissioner, pursuant to section 37 of the *Freedom of Information and Protection of Privacy Act* (R.S.B.C. 1996, c. 165).

That the Special Committee have all the powers of a Select Standing Committee and in addition be empowered to:

- a. appoint of its number one or more subcommittees and to refer to such subcommittees any of the matters referred to the Special Committee and to delegate to the subcommittees all or any of its powers except the power to report directly to the House;
- a. sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- a. adjourn from place to place as may be convenient; and,
- a. retain personnel as required to assist the Special Committee.

That any information and materials previously under consideration by the Special Committee appointed by order of the Legislative Assembly on November 9, 2023 for the same purpose be referred to the Special Committee.

That the Special Committee report to the House as soon as possible; and that during a period of adjournment, the Special Committee deposit its reports with the Clerk of the Legislative Assembly, and upon resumption of the sittings of the House, or in the next following Session, as the case may be, the Chair present all reports to the House.

Introduction

The Information and Privacy Commissioner (the Commissioner) is an independent officer of the Legislature responsible for monitoring and enforcing the *Freedom of Information and Protection of Privacy Act* (FIPPA) and the *Personal Information Protection Act*. The Office of the Information and Privacy Commissioner is responsible for investigating complaints, monitoring general compliance with legislation, promoting freedom of information and protection of privacy principles, and providing advice and information to public bodies on access and privacy issues.

The Commissioner is also designated as the Registrar of Lobbyists and is responsible for enforcing the *Lobbyists Transparency Act* (LTA) and overseeing British Columbia's Registry of Lobbyists. The functions of the Registrar include registering lobbyists, conducting administrative investigations into compliance with the LTA, and promoting awareness of registration requirements.

Section 37 (1) of FIPPA describes the procedure for the appointment of the Information and Privacy Commissioner, stating "On the recommendation of the Legislative Assembly, the Lieutenant Governor must appoint as the Information and Privacy Commissioner a person who has been unanimously recommended by a special Committee of the Legislative Assembly for the appointment." Pursuant to section 37 (3), the Information and Privacy Commissioner holds office for a term of six years.

The headquarters of the Office of the Information and Privacy Commissioner and Registrar of Lobbyists is located in Victoria. The Office's operating budget for the 2024-25 fiscal year is \$11.011 million, which includes funding for approximately 60 FTEs. The Commissioner reports to the Legislative Assembly through the Speaker and its parliamentary committees. Oversight of the Commissioner and other statutory officers is currently assigned to the Select Standing Committee on Finance and Government Services. The Committee is responsible for considering and making recommendations regarding the annual budget of the statutory officers, as well as considering their annual reports, service plans, and any other matters that may arise regarding the administration of their offices.

The current Information and Privacy Commissioner, Michael McEvoy, was appointed for a six-year term on April 1, 2018. On behalf of all Members of the Legislative Assembly, the Committee thanks Mr. McEvoy for his leadership and commitment to public service.

This report contains the Committee's unanimous recommendation to the Legislative Assembly regarding the appointment of the province's next Information and Privacy Commissioner.

Meetings Schedule

The Special Committee met on the following dates for the purposes described below.

Fourth Session, 42nd Parliament

November 28, 2023	Organizational Meeting
January 29, 2024	Deliberations

Fifth Session, 42nd Parliament

February 29, 2024	Organizational Meeting, Interviews
March 1, 2024	Interviews and Deliberations
March 26, 2024	Deliberations and Adoption of Report

More Information on the work of the Special Committee is available at: www.leg.bc.ca/cmt/ipc

Recruitment Process

The Committee began its work to appoint an Information and Privacy Commissioner on November 28, 2023 with an organizational meeting. The Committee elected a Chair and Deputy Chair and adopted a motion to hold all meetings and deliberations on a confidential, *in camera* basis, in keeping with the usual practice of appointment committees. Members also reviewed a workplan for the Committee's activities and discussed the profile and key competencies required for the position of Commissioner.

The Committee accepted applications for the position from December 1, 2023 to January 19, 2024. Advertisements (see Appendix A) were placed in select provincial, national, and Indigenous media, posted on job boards, distributed to relevant professional associations, and shared on the Legislative Assembly's social media accounts. By the closing date, the Committee received 30 applications. Members carefully assessed all applicants for their experience working with information, privacy, and lobbying laws, policies, and principles; leading sensitive and complex investigations; and using mediation and conflict resolution processes. The Committee also considered applicants' leadership experience, work with diverse communities including Indigenous peoples, and personal suitability for appointment as an independent, non-partisan officer of the Legislature. On January 29, 2024, the Committee received a briefing from the current Commissioner on the Office and the challenges and opportunities for the next Commissioner.

On February 29 and March 1, 2024, the Committee interviewed eight applicants. Members considered applicants' experience applying legal principles and provisions, leading investigations, and using conflict resolution processes; perspectives on BC's access to information and privacy protection framework; and experience creating a respectful and inclusive work environment, managing organizational change, and making difficult decisions. The Committee also examined applicants' capacity to effectively communicate and build relationships with public and private sector bodies, experience establishing trusted working relationships with vulnerable individuals or groups, and ability to ensure public confidence in the work of the Office of the Information and Privacy Commissioner and Registrar of Lobbyists.

In conducting its deliberations, the Committee was especially impressed with Michael Harvey. Members noted that his time as Information and Privacy Commissioner for Newfoundland and Labrador will enable him to bring both valuable experience and new ideas to the position. The Committee also valued Mr. Harvey's rights-based approach to access to information and protection of privacy. Members recognized that his experience as an Information and Privacy Commissioner provides useful expertise in applying legal principles and provisions and leading investigations.

The Committee valued Mr. Harvey's extensive and varied public service career, including his experience in several senior public sector leadership positions. Members appreciated Mr. Harvey's approach to leadership and clear respect for the expertise and contributions of employees. The Committee noted Mr. Harvey's experience working with diverse communities, including Indigenous peoples, and commended his focus on building relationships and listening. The Committee recognized Mr. Harvey's commitment to inclusivity, integrity, and service, and felt he was well-suited to uphold public confidence in the Office.

Recommendation

The Committee unanimously recommends to the Legislative Assembly that the Lieutenant Governor appoint Michael Harvey as Information and Privacy Commissioner for a six-year term, pursuant to section 37 (1) of the *Freedom of Information and Protection of Privacy Act* (R.S.B.C. 1996, c. 165).

Biographical Information

Michael Harvey was appointed as the Information and Privacy Commissioner for Newfoundland and Labrador effective August 5, 2019. Michael's public sector career in Newfoundland and Labrador started in 2006 and has been spent divided between Executive Council and line departments.

His first executive appointment was in 2012 as Executive Director of Planning and Coordination in Cabinet Secretariat. In early 2015, he was seconded from that role to another within Cabinet Secretariat to lead a transition team drawn together to spearhead a whole of government change management approach to the implementation of the *Access to Information and Protection of Privacy Act, 2015*.

Michael was appointed as Assistant Deputy Minister of Policy, Planning and Performance Management in the Department of Health and Community Services in August 2015, in which role his interest in access to information and privacy continued to grow. In this capacity, among major policy initiatives, he was responsible for the ongoing statutory review of the Personal Health Information Act. He also worked on Government's eHealth agenda, including promoting and facilitating the development of the Newfoundland and Labrador Centre for Health Information (NLCHI) Data Warehouse and Data Lab, increasing data analytics capacity for clinical decision-making and decision support, and advancing virtual care. He was also responsible for the Department's mandate to promote health research in the province.



During Michael's term as Commissioner, partly because of his professional background and partly because of the demands of the global health pandemic, he gave a significant priority to health privacy issues. He has served as co-chair of Canada Health Infoway's Privacy Forum, was appointed by the federal government to the Expert Advisory Group on a pan-Canadian Health Data Strategy, and has become a sought after speaker on health privacy, speaking at conferences from Whitehorse to New York City and places in between. Michael was privileged to chair the Federal/Provincial/Territorial table of Information and Privacy Commissioners for more than a year, culminating in hosting the 2022 annual meeting in St. John's.

Michael has lectured in political science and public administration at Memorial University, the University of Guelph, and the University of Toronto. He has sat on numerous boards in professional and volunteer capacities, including as President of the St. John's Legends Swim Club, Chair of the Institute of Public Administration of Canada – NL Regional Group, and a Director of the Health Research Ethics Authority and NLCHI. He presently serves as a Director on the Heart Failure Society of Canada and the Atlantic Heart Failure Roundtable and is a participant in the Canadian Heart Function Alliance. Michael holds an International Baccalaureate from the United World College – USA, a BA (Hons) in Political Science from Memorial University, a MA in Political Studies from Queen's University, and an Executive Certificate in Conflict Management from the University of Windsor, Faculty of Law/Stitt Feld Handy Group. He is a father of two, an avid skier when conditions allow, and an avid swimmer even when they don't.

Appendix A: Advertisement

The advertisement was placed in select provincial, national, and Indigenous media, posted on job boards, distributed to relevant professional associations, and shared on the Legislative Assembly's social media accounts.

LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA

Special Committee to Appoint an Information and Privacy Commissioner

Garry Begg, MLA, Surrey-Guildford, Chair | Renee Merrifield, MLA, Kelowna-Mission, Deputy Chair

INFORMATION AND PRIVACY COMMISSIONER

The Information and Privacy Commissioner is a non-partisan, independent statutory officer of the Legislature who provides oversight and enforcement of BC's freedom of information, privacy, and personal information protection laws. The Commissioner is also designated as the Registrar of Lobbyists.

The Commissioner heads the Office of the Information and Privacy Commissioner and the Office of the Registrar of Lobbyists, which share headquarters in Victoria. The combined offices have an annual operating budget of \$10.4 million and approximately 50 full-time equivalent employees.

The successful applicant must have significant experience in the application of legal principles and provisions, leading sensitive and complex investigations, and the use of mediation and conflict resolution processes. A law degree is an asset. The successful applicant must also have experience in senior public or private sector administration, communicating with the public, media, and senior officials, and working with and meeting the needs of diverse communities including Indigenous peoples.

The position requires demonstrated leadership abilities, including setting and achieving strategic organizational goals, building a respectful and inclusive workplace culture, and anticipating and implementing change management initiatives. The successful applicant should also have a good understanding of information and privacy laws, including relevant legal and policy issues, and the principles of administrative and procedural fairness.

The appointment is for a term of six years, with the opportunity to be considered for reappointment for additional terms. The salary is equivalent to the salary paid to a Chief Judge of the Provincial Court of British Columbia.

The Committee welcomes applications from members of racialized communities, Indigenous peoples, people of all genders and sexualities, people with disabilities, and other disadvantaged groups under the B.C Human Rights Code.

All applications (CV and Cover Letter) should be received by email at the address below no later than 12:00 p.m. on Friday, January 19, 2024. Although the Committee appreciates the interest of all applicants, only those who are invited for an interview will be contacted. All applications received will be held in confidence.

Full responsibilities of the Information and Privacy Commissioner are outlined in the Freedom of Information and Protection of Privacy Act and the Personal Information Protection Act. Responsibilities of the Registrar of Lobbyists are outlined in the Lobbyists Transparency Act.

For further information, please visit our website at <https://www.leg.bc.ca/cmt/ipc> or contact:

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