

May 20, 2026

Martin Girard  
E martin.girard1979@linuxmail.org

Dear Martin Girard:

**Re: Complaint - s.25 Not Applied**  
**City of Victoria – File: VIC-2025-244**  
**OIPC File INV-F-26-00003**

This letter is in response to your complaint that the City of Victoria (City) failed to disclose information as required by s. 25(1)(b) of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

As the Investigator assigned to this matter, I have the delegated authority to make findings, conclusions, and recommendations as appropriate in respect of your complaint.

## **Background**

On November 04, 2025, you submitted an access request to the City for:

*Any document pertaining to the investigation of complaints of discriminatory language or conduct by bylaw officers, within the scope of characteristics enumerated under s. 8 of the BC Human Rights Code (Indigenous identity, race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age).*

*Start Date Range: 2020-11-04*

*End Date Range: 2025-11-04*

On November 18, 2025, the City issued a \$180 fee to process the request.

On November 19, 2025, you narrowed your request to:

*All records of the ten human resources investigations involving Bylaw Services. (Date Range of Search 2020-01-01 to 2025-11-04).*

On November 26, 2025, the City issued a fee of \$75 to process the revised request. You paid the fee the next day.

On December 30, 2025, the City responded to your request by withholding 362 pages of records under s. 22(1) of FIPPA (Disclosure harmful to personal privacy).

On April 20, 2026, once I assumed responsibility for the file, I wrote to you explaining that it is well established that public bodies are required to withhold third-party personal information in human resources files as disclosure of that information would be an unreasonable invasion of their privacy. I also noted that you have raised concerns about the City not applying s. 25(1)(b) to the information at issue and asked if this was what you are seeking to have reviewed.

On April 20, 2026, you confirmed that s. 25(1)(b) is the object of your complaint.

On April 22, 2026, I wrote to the parties confirming that I reclassified the file to an investigation into whether s. 25(1)(b) applies to information pertaining to the investigation of complaints of discriminatory language or conduct by bylaw officers.

## Issue

The issue is whether s. 25(1)(b) of FIPPA requires the City to disclose information pertaining to the investigation of complaints of discriminatory language or conduct by bylaw officers.

## Legislation and interpretation

Section 25(1)(b) of FIPPA requires public bodies to proactively disclose information where the disclosure is clearly in the public interest. It reads as follows:

***25 (1)** Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people or to an applicant, information ...  
 (b) the disclosure of which is, for any other reason, clearly in the public interest.  
 (2) Subsection (1) applies despite any other provision of this Act.*

A number of OIPC orders and investigations have opined on the application of s. 25(1)(b). For example, OIPC Order F20-28 notes that the duty to disclose under s. 25(1)(b):

*...only exists in the clearest and most serious of situations where disclosure is clearly (i.e. unmistakably) in the public interest. The information in dispute must be of clear gravity and present significance to the public interest. Disclosure under section 25(1)(b) is required where a disinterested and reasonable observer, knowing the information and all of the circumstances, would conclude that disclosure is plainly and obviously in the public interest.*

Other factors to consider in the application of s. 25(1)(b), as summarized in OIPC the guidance document, *Section 25: The Duty to warn and Disclose*, include whether:

- the matter is the subject of widespread debate in the media, the Legislature, or by other Officers of the Legislature or oversight bodies; or
- the matter relates to a systemic problem rather than to an isolated situation

And whether the disclosure would:

- educate the public;
- contribute in a substantive way to the body of information that is already available;
- enable or facilitate the expression of public opinion or enable the public to make informed political decisions; or
- contribute in a meaningful way to holding a public body accountable for its actions or decisions.

The test for whether s. 25(1)(b) applies can include weighing the above factors and determining whether they apply to such an extent that they justifiably override the exceptions to disclosure in Part 2 of FIPPA (including disclosure harmful to personal privacy).

### **Analysis**

In my view, human resources investigations at the City have not been subject to widespread debate in the media; I could only find a few CTV news articles or videos, and one post on an HR website on the matter. I am also not aware of this matter being subject to debate in the Legislature, or by other Officers of the Legislature or oversight bodies.

It is also not clear to me the extent that this is a systemic issue. Three investigations into workplace issues were partially substantiated in 2024 and one was substantiated in 2025. There are also allegations by two former officers about disrespectful behaviour by bylaw staff. And while I agree that these are serious findings and allegations, I do not have enough information to conclude that these investigations are the result of deep rooted, systemic issues.

However, I also think that a disclosure under s. 25(1)(b) could shed light on that question, contribute to the information that is already known on this matter and potentially relate to public body accountability.

What gives me pause is the fact that information about these matters has already come to light through an access to information request. The request yielded a table depicting the number of complaints received and investigations undertaken over the past five years, the type of investigation (discrimination, harassment, etc.), and whether the complaints were unfounded, partially founded or founded.

This request led to the media articles referred to above which included a response from the City, wherein they reference how they respond to complaints, the follow up that occurs after an investigation, and employment standards. The reporting also includes a response from the Mayor, who noted their disappointment about the number of investigations conducted and that it would be unusual for council to intervene in personnel matters.

In other words, it seems to me that the purpose of FIPPA to make public bodies more accountable through greater transparency has somewhat been achieved through a previous access to information request. To me, this makes the case for mandatory disclosure of such information less compelling.

I also note that the City's response to that previous request disclosed information about these investigations while protecting the privacy interests of those involved, whereas the disclosure of information about human resources investigations that you are seeking could result in the public disclosure of highly sensitive personal information.

As noted in OIPC investigation report F15-02, public bodies should consider the purpose of any relevant access exceptions that will be, or could reasonably be expected to be, affected by a disclosure under s. 25(1)(b). In this case, any such disclosure could compromise the privacy protections otherwise afforded to City employees. While I recognize that s. 25(1)(b) can override those protections, the potential disclosure of sensitive personal information is a factor to consider when determining whether the information at issue is of such a compelling nature as to override this concern.

I asked for your opinion about the view that a mandatory disclosure under s. 25(1)(b) was less compelling due to the information already available. In response, you said that the released information did not contain any particulars and that the Mayor's comment suggests that the municipality is "unwilling to put its own house in order." You also referred to the gravity of the allegations and potential workplace training and audit options.

Other points you have previously raised include the fact that there has been media reporting; an individual called for an independent investigation; by speaking to the media the individual waived their right to privacy; eight complaints over the past five years were founded or partially founded; and after the OIPC Mt. Polly report there is no longer a requirement that the matter have temporal urgency for a disclosure to be required under s. 25(1)(b).

I have addressed some of these points above. In terms of the others, the former bylaw officers' allegations to the media does not waive their privacy rights under FIPPA or the City's responsibility to protect them. I also do not see how any recourse or options available to those officers – in terms of making complaints or pursuing legal action – depends on the public disclosure and scrutiny of information pertaining to human resources investigations.

## **Conclusion**

For the reasons giving above, I am not of the view that this matter has been subject to widespread media attention or debate by the Legislature, or by other Officers of the Legislature or oversight bodies. I am also not able to determine whether this matter is a result of a deeply rooted and ongoing systemic issue—but I agree that disclosing information about these investigations could contribute to a better understanding of what occurred and public scrutiny of City administration.

However, the above factors do not, in my view, clearly weigh in favour of a mandatory public interest disclosure that necessarily overrides individuals' right to privacy. This is especially the case when the issue is already known and has been publicly addressed by both the City and its Mayor.

Finally, I also do not see how a public disclosure of human resources matters is necessary for affected individuals to pursue any rights or options that may be available to them.

Therefore, I am unable to substantiate your complaint that the City has failed to public disclose information about human resources investigations under s. 25(1)(b) of FIPPA.

By copy of this letter, I have advised the City of the status of this file.

Sincerely,

Nathan Elliot  
OIPC Director of Investigations

Cc: Bradley Cranwell, City of Victoria