

# **New rule targets delays to freedom of information**

## **Change to records ‘lights a fire’ amid slow release of government emails**

B.C. cabinet ministers will no longer be able to delay the release of public records through deliberate stalling or inaction because of changes coming to the province’s freedom of information system, The Vancouver Sun has learned.

Finance Minister Mike de Jong said he’s poised to announce a new rule for public records that will give ministers, their offices and their political staff a deadline to sign off on the release of documents requested under freedom-of-information legislation.

The change “lights a fire” under ministers and their staff, de Jong said, and addresses one of the many issues plaguing B.C.’s system.

“The advantage of presumptive sign-off is if it doesn’t get signed off, it moves on and goes down the line,” he said.

De Jong announced the changes in response to the results of a Vancouver Sun attempt to obtain the emails of B.C.’s 20 cabinet ministers. More than half of the 20 ministers whose emails were requested by The Sun under the Freedom of Information Act failed to produce the records in the time required under law, even after their ministries took time extensions.

Ten ministries simply went silent, allowing weeks to pass without any explanation or request for more time. Six ministries have still not provided any records more than five months after the request was filed.

“I’m not going to try and excuse the delay,” said de Jong, who the premier put in charge of the FOI file earlier this year.

Some delays appeared due to the cabinet ministers not signing off on the release of their own material. For example, Aboriginal Relations Minister John Rustad’s office dragged out the release of emails by two months, without explanation. Energy and Mines Minister Bill Bennett’s office had similar delays, holding up the process from Feb. 29 to April 5.

The Sun asked for any emails sent by cabinet ministers between Oct. 19 and Nov. 2, 2015, the weeks before and after Premier Christy Clark ordered a ban on deleting emails until the completion of a review into government records management.

The government initially tried to charge fees for the emails, sending a \$240 bill for records in the first of 20 ministries to respond. The Sun refused to pay, and all subsequent ministries waived their costs.

Of the more than one thousand pages of emails released, messages include ministers setting up meeting dates with staff, organizing travel, responding to questions from constituents, requesting and receiving briefings, planning for question period, vetting news releases and preparing for media interviews.

None of the emails showed ministers deciding public policy or issuing orders that would substantially impact programs or services — though there were also substantial sections of pages redacted.

Clark has said her government doesn't conduct business by email, and substantial decisions are made in person at cabinet meetings.

"It is not the mechanism that some people think it is for the decision-making process," de Jong said.

The Liberal government has come under fire in recent months amid allegations that staff and politicians triple-delete their emails — a manoeuvre that prevents them from being archived and ever becoming public through FOI.

Transportation Minister Todd Stone has admitted he triple-deletes emails, and one of his former aides is facing charges under the Freedom of Information Act for allegedly lying to the privacy commissioner as part of an investigation into triple-deleting.

The premier has subsequently banned the practice of triple-deleting records.

Former privacy commissioner David Loukidelis, who was appointed by the premier to review the FOI system, recommended hiring non-partisan civil servants to oversee the gathering of public records in the offices of cabinet ministers. That will start later this month as well, de Jong said.

Governments and public bodies in B.C. have 30 business days to produce records and can get an extension of 30 additional days — one of the longest processes in Canada.

It's "critically important" that timeline be met, information and privacy commissioner Elizabeth Denham said.

"We seem to be particularly backlogged for freedom of information in British Columbia," she said.

The government estimates 74 per cent of 8,903 freedom of information requests last year were completed on time, with an average processing time of 39 business days for general requests.