

Watchdog's time in B.C. nearly up

Information and privacy: Our loss is Britain's gain, as Denham appears uninterested in a second term

When the B.C. legislature committee charged with appointing an information and privacy commissioner met for the first time last week, it did so amid expectations that it would be offering incumbent Elizabeth Denham a second six-year term.

But before the committee could sound her out for reappointment came word that Denham would be moving on to bigger and better things in the United Kingdom.

"Elizabeth Denham has been confirmed as the government's preferred candidate to be the U.K.'s next information commissioner," said the announcement Tuesday from British Cultural Secretary John Whittingdale.

The appointment is still subject to scrutiny by a parliamentary committee and approval by the Queen.

But with Whittingdale and his colleagues in the Conservative government holding a majority of the seats in the mother of parliaments, Denham is poised to commence a five-year term starting this summer, at which point the U.K.'s gain will be British Columbia's loss. During my three decades covering politics, I would rank Denham as one of the most effective of all the independent watchdogs on government conduct.

On the freedom-of-information side of her bailiwick, she documented the repeated failure of the B.C. Liberals to live up to their promises of openness and transparency, culminating in her watershed report, Access Denied, released last fall.

<https://www.oipc.bc.ca/investigation-reports/1874>

Fallout from the report included the first charges to be laid under the provincial Freedom of Information and Privacy Act, against Liberal staffer (now ex-staffer) George Gretes.

Denham's findings led to a government crackdown on the notorious practice of triple-deleting emails to eliminate all traces from the documentary record. Premier Christy Clark also transferred cabinet responsibility for information management from the feeble Amrik Virk to one of the most effective members of her government, the finance minister and government house leader, Mike de Jong.

The report gave added impetus to Denham's long-standing call for government to legislate against deliberate destruction of documents and in favour of creating a documentary record in support of public policy decisions.

She's also pressured government to disclose information on a routine basis and argued public servants should do more to assist those making applications.

But not all of her focus has been improved access to information, much as that side of the office interests folks in the news media. She's also provided a great deal of leadership on the privacy side.

A recent example was her report on the fiasco where the Ministry of Education loaded confidential information on some 3.4 million British Columbians onto an unencrypted computer drive, stored it in an unsecured warehouse and lost track of it.

In blasting the combination of negligence and incompetence on display in the affair, Denham came up with a memorable analogy.

“If this was actually a situation involving a loss of \$3.4 million” — as opposed to data on 3.4 million individuals — “I believe the government would take rapid, dramatic and decisive action to deal with the situation. Only when ministries view personal information assets with the same attitude and care that they view financial assets entrusted to them will British Columbians’ trust be earned.”

Point taken, Finance Minister de Jong said. “I think it’s a very apropos analogy,” he told reporters after a face-to-face session with Denham. “The measures that are in place to control and guard and monitor the expenditure of dollars are very extensive. We have to take that same culture and discipline and apply it to the protection of private information.”

De Jong also met Denham more than halfway on her call for more proactive disclosure of information.

“We’re signing contracts that expend public money,” he said. “Absent the proprietary exceptions that can exist, I think those documents deserve to be in the public domain. I think they should be there on a proactive basis.”

Even though Denham embarrassed the Liberals on both privacy and access to information, she also earned their respect. As a result, I believe they were prepared to endorse her for a second term, assuming she had sought one.

But as she made it official in a letter to de Jong Tuesday, Denham won’t be seeking reappointment to the term ending July 6.

Consequently, the three Liberals (Sam Sullivan, Doug Bing and John Yap) and two New Democrats (Doug Routley and Kathy Corrigan) on the committee will have to undertake the more time-consuming process of advertising the vacancy and vetting candidates. Only then can they reach the required-by-law unanimous recommendation to the legislature for a successor to Denham.

Nor is there much time to complete the search before she departs in July, which further signals that the Liberals were caught unprepared.

While they look for a replacement for the information-and-privacy watchdog, another committee has just started looking for a new representative for children and youth.

The incumbent overseer of the Ministry of Children and Family Development, Mary Ellen Turpel-Lafond, comes to the end of her second five-year term this fall, which is the maximum permitted by legislation. Even without the legislative limitation, the Liberals likely wouldn’t have supported her reappointment, given the mutual hostility between her office and the ministry that marred much of her second term.

Besides, Turpel-Lafond, like Denham, may also be in line for a promotion. The rumour mill puts her name on the short list of possible members for the federal government’s promised commission of inquiry into missing and murdered aboriginal women.