



# The FOI Insider

Newsletter of the FOI Champions Network

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In this issue of The FOI Insider, we provide some tips on the retention of records that may be responsive to an FOI request.

## **Retention of Records following an FOI Request**

One of the recent changes to the FIPPA is the introduction of a new offence for anyone who “willfully conceals, destroys or alters any record to avoid complying with a request” for records. Upon conviction for such an offence, individuals may be fined up to \$50,000, and corporations (such as UBC) may be fined up to \$500,000.

Therefore, if you or a member of your team receive an FOI Request, it is essential for you to retain any records that are potentially responsive to the request. Any potentially responsive records should not be deleted until at least 30 days after our response date, which enables an applicant the opportunity to file an appeal with the Office of the Information and Privacy Commissioner.

## **Retention of Records in General**

We are often asked how long records need to be retained. As it relates to FIPPA, there is a provision under section 31 that if an individual’s personal information is used to make a decision that directly affects that individual – those records must be retained for at least one year.

There may be other statutory or business reasons why records should be retained, and the [University Records Management Office](#) is a great resource if you are looking to implement record keeping practices that are compliant with statutory and other retention requirements for your business unit. They can provide guidance on best practices, work with you to identify any records keeping issues, and provide training to ensure that records are being handled in a consistent and secure manner.

The Records Management Office can also provide records [retention schedules](#) and guidelines for a number of different types of commonly held records, such as financial information, human resources and student records.

FIPPA states that FOI requests cannot be made for an “electronic record that has been lawfully deleted by an employee of a public body and can no longer be accessed by the employee”. This means that after you delete records in accordance with an approved retention schedule, these records cannot be requested through FOI. Just remember that after you receive an FOI request, all responsive records are “frozen” and must not be deleted.