

Time for Alberta government to deliver on promise of greater transparency

Frank Work, Information and Privacy Commissioner

Edmonton Journal July 7, 2011

The Journal recently ran an article about calls by some Tory leadership hopefuls for more government transparency. Since I am on my way out as Information and Privacy Commissioner of this Province and will not be in a position to officially advise whoever becomes leader of the Party, or the next government, I thought I would offer some suggestions on how to actually implement a more transparent government. Having been at this for 15 years, I believe I have some solid ideas.

First, don't say it unless you mean it. Don't toy with us. Don't toss "open", "accountable", "transparent" at us unless you intend to follow through. Someone might actually remember that you promised it and they might actually call you on it.

I think most of the leadership hopefuls know this but, if you are truly transparent, interest groups, other politicians, the media and the public will take the information you have disclosed and use it. They may use it to attack your policies, they may use it to make you look bad and they may not even understand it in the first place. You must expect this: this is not justification to withhold information. Nor are the concerns that "they might not get it right" or "they won't understand" justification for not being transparent.

Remember, the whole idea of the Freedom of Information and Protection of Privacy Act is to ensure that the public has access to information held by government. This information does not belong to government, it belongs to the people who elected you and they deserve to know what you are doing and how you are doing it.

Second, if you do mean to be transparent, recognize that it will not be easy. There are lots of skeletons in lots of closets. There are lots of people who would rather not have their role in making or influencing decisions known. These people are sometimes public servants who will assure you that Armageddon and the Apocalypse will occur if you insist on making that thing public. There will be private interests who will assure you that your campaign will not get a penny from them if you disclose what took place. Your recourse here is to leave it to the law: let the Freedom of Information and Protection of Privacy Act do its thing. But you will still need to lead. More about that later.

Third, please stop using paramountcy provisions to override the FOIP Act. Paramountcy is a clause placed in other legislation to trump provisions of FOIP. You should not carve the access to information law up. Taking specific bits out the Act for administrative or political convenience happens too often. It deprives the Act of its flexibility and it makes it less of an instrument of transparency. In time it would turn the Act into a piece of Swiss cheese.

Fourth, I do not think that simply obeying the Freedom of Information and Protection of Privacy Act makes anyone a leader in accessibility and transparency. Obeying the law is simply what we are all supposed to do. You are not a leader just because you stop at a red light. Leadership, to me, is about

being out there, ahead of the law, showing by example the way things should be. So here are detailed suggestions on how to manifest this leadership, if you become leader and Premier.

- Lead. Lead. Lead. Tell your Cabinet that you expect them to get the information out there. Tell them you will have no patience for and show no mercy to those who deceive or conceal. Don't hide documents, keep Albertans well informed so they know what you are doing, and don't try to skirt the system by, for example, using non-government email accounts to communicate with staff or not taking notes or keeping records. Instruct your Ministers to deliver the same message to Deputy Ministers and Assistant Deputy Ministers. Sadly, these people are sometimes the clog in the information pipeline. Establish, as written policy, that one of the standards by which their performance is evaluated will be how effective their Ministry is at being open and transparent. Rewrite the Chief Information Officer's job description to specifically include finding ways to get more information out to the public in more useful forms.
- Don't wait for an access request: make routine disclosures.
- Give awards to programs which do the best job of communicating with the public. Reward innovation and excellence in transparency and open government.
- Hire and train more FOIP Coordinators. These professionals, if left alone, usually do a good job of applying the law in an even handed way. Remember only about 10% of access requests handled by these people go on to the Commissioner's office for review. This means that 90% of access requests are handled and resolved by the FOIP coordinators in the ministries. More FOIP coordinators would ensure that requests will be responded to more quickly, especially if they have the direction to do so from their supervisors. You could take the money to fund this from the Public Affairs Bureau budget. If more information is going out, there should be fewer demands on the Public Affairs Bureau.
- Rebuild the knowledge and expertise that used to exist within the Access and Privacy Branch of Service Alberta. I think Government needs its own subject matter experts on access and privacy matters to comment and inform Government on initiatives before they become policy or law. Yes, this is one of the Commissioner's responsibilities under the Act but the Commissioner is not privy to policy development within Government offices. Government should have this advice at the time policy is developed in order to forestall problems when the policy is rolled out.
- Listen to these subject matter experts. If they say the FOIP Act requires disclosure, then disclose. If someone disagrees just say you were only obeying the law.
- Institute "open data" for the Government of Alberta. If you are not sure how to do this, look at the City of Edmonton's website or ask me. Edmonton is doing a good job. It is inexplicable why the Government of Alberta has been so slow in getting on board with open government. However, there are signs of promise within government. These should be encouraged and nurtured. How about a Minister responsible for open government?

Finally, remember that this is the age of the internet and now the age of wikileaks. Understand that instead of trying to delay a story or spin an event, you should be out in front of it. Information is now more than ever like water. It is hard to contain and it wants to be free. The essence of leadership in this century will be finding new ways to communicate with and involve the public in government. It remains a universal truth that the public is more forgiving of a screw up than a cover up.

For those of you who promised greater transparency, I say thank you. I humbly beg you to deliver.
Govern us well, govern us fairly and this means letting us in.

Frank Work, Q.C.

(Outgoing) Information and Privacy Commissioner of Alberta