



*Office of the Information and Privacy
Commissioner*

Activity Plan
2007 – 2008

Message from the Speaker of the House of Assembly

I am pleased to present the 2007-2008 activity plan for the Office of the Information and Privacy Commissioner. This plan was prepared under my direction in accordance with the *Transparency and Accountability Act*. It is the product of consultation with the staff of the Commissioner's Office.

This activity plan focuses on a mission and objectives that will facilitate the Office's mandate and guide it in overseeing access to information and protection of privacy issues which affect the citizens of our Province.

I am confident in the timely realization of the goals outlined in this activity plan and the maintenance of the exceptional service standards, which our citizens deserve.

Harvey Hodder, MHA
Speaker

July 12, 2007

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Introduction

The Office of the Information and Privacy Commissioner of Newfoundland and Labrador is accountable to the House of Assembly of the Province and to the people of Newfoundland and Labrador.


This Activity Plan has been prepared in accordance with Government's commitment to accountability as outlined in the *Transparency and Accountability Act* (the "Act"). The Act provides the legislative framework for strengthening accountability of government entities through multi-year performance-based plans and annual performance reports that are presented to the House of Assembly.

This Activity Plan covers the fiscal year ending March 31, 2008. It will allow us to measure and shape our performance and our goals for the current year and will serve as a foundation for the future.

Our office has been designated a Category 3 Government Entity under the *Transparency and Accountability Act*. As such, we are required to prepare an activity plan that sets a clear direction for our activities, taking into account the legislative framework and mandate as well as our resources.

As our office and its operations are to a large extent reactive to issues that are brought to us by the citizens of the Province, it is likely that this Activity Plan will need to be revised and updated on a regular basis to account for changing responsibilities, volumes and complexities as we move forward.

In particular, during the period of this Activity Plan, it is anticipated that the privacy provisions of the *Access to Information and Protection of Privacy Act* (the "ATIPPA") will be proclaimed.



We have attempted to account for these new responsibilities in the Plan. In addition, government has indicated its intention to introduce a new *Personal Health Information Act* in the near future for which this Office will be the oversight mechanism. It is obvious that with respect to both of these new responsibilities, significant revisions to our Activity Plan will be inevitable.

Our Office, its organization and resources will continue to be aware of the changing access and privacy environment and will monitor related issues as we move forward. As the Information and Privacy Commissioner, I am responsible for the preparation of this plan and for the achievement of its goals.

Philip J. Wall
Information and Privacy Commissioner

Overview

The Office of the Information and Privacy Commissioner was created pursuant to Part IV.1 of the *ATIPPA*. The Office has oversight responsibilities under the *ATIPPA* and will soon have similar oversight under the *Personal Health Information Act* when it is proclaimed.

Under *ATIPPA*, the Office is responsible for protecting and upholding access to information and protection of privacy rights. The *ATIPPA* was proclaimed January 17, 2005 and provides individuals with the right of access to information maintained and in the control of public bodies, including provincial government departments, Crown corporations, municipalities, and health care and education bodies. When the privacy provisions (Part IV) are proclaimed it will restrict the collection, use and disclosure of personal information by public bodies.

For the year ending March 31, 2008, the annual budget for the Office is \$439,000 and there is a staffing allotment of 5 plus the Commissioner. We are located on the 5th Floor, East Block of Confederation Building in St. John's and our telephone numbers is 729-6309. Our website, www.oipc.gov.nl.ca provides general information about this Office, instructions on how to submit a Request for Review and copies of our Reports in pdf format. In addition, our website contains appropriate forms and other resources as well as links to the legislation, fee schedule and all provincial and federal oversight offices.

Mandate

The mandate of the Office of the Information and Privacy Commissioner is derived from the provisions of the *ATIPPA* and includes:

- giving the public a right of access to records;
- giving individuals a right of access to, and a right to request correction of, personal information about themselves;
- preventing the unauthorized collection, use or disclosure of personal information by public bodies;
- providing for an independent review of decisions made by public bodies under the *ATIPPA*.

Lines of Business

In delivering its mandate, the Office of the Information and Privacy Commissioner provides the following lines of business.

Investigations

The Office reviews decisions, acts or failure to act by heads of public bodies, with respect to access to information requests, including decisions to extend the timeframe to respond to access requests and decisions with respect to third party claims. The Office also conducts reviews into the failure to respond to access requests within the timeframes required by the *ATIPPA* and the failure or refusal by a head of a public body to correct personal information that is in its control.

Public Education

The Office ensures that the public is aware of its rights to access information and is aware of how it can exercise those rights. As appropriate, the Office informs the public about the rights through public commentary and education programs aimed at explaining the administration and operations of the *ATIPPA* and our Office.

Oversight

The Office acts as an oversight body and comments on the implications for access to information or for protection of privacy of proposed legislative schemes or programs of public bodies.

Values

January 17, 2007 was the second anniversary of the proclamation of the *ATIPPA* (with the exception of Part IV). The initial priority of this Office was to build an awareness of access to information principles and best practices both within provincial government institutions and within the larger public body sector. We also needed to build our own capacity within this Office including basic knowledge of the legislation, and of our general role and activities plus the key role of accessing and interpreting the relevant judicial and Commissioner rulings and precedents. The challenges in this latter area are many as there has been a worldwide expansion in laws covering access to information and privacy issues. In addition, there are growing challenges related to the changing environment of information technology, and the rapid expansion of surveillance practices throughout the world. It is a key challenge of this Office to be aware and to be current on all advances in the information management field in order to provide citizens of Newfoundland and Labrador with the appropriate and best available assistance as they exercise their information rights.

We made significant progress in this area early on in our mandate. Our main focus has been dealing with requests from the public for reviews of decisions by public bodies. The volume of these requests has increased dramatically over our initial two years. We have also taken considerable time to provide advice and assistance to public bodies on access and privacy related issues. Lastly, as time and resources have permitted, we have promoted education and awareness to the general public through presentations, preparation of brochures and media contact.

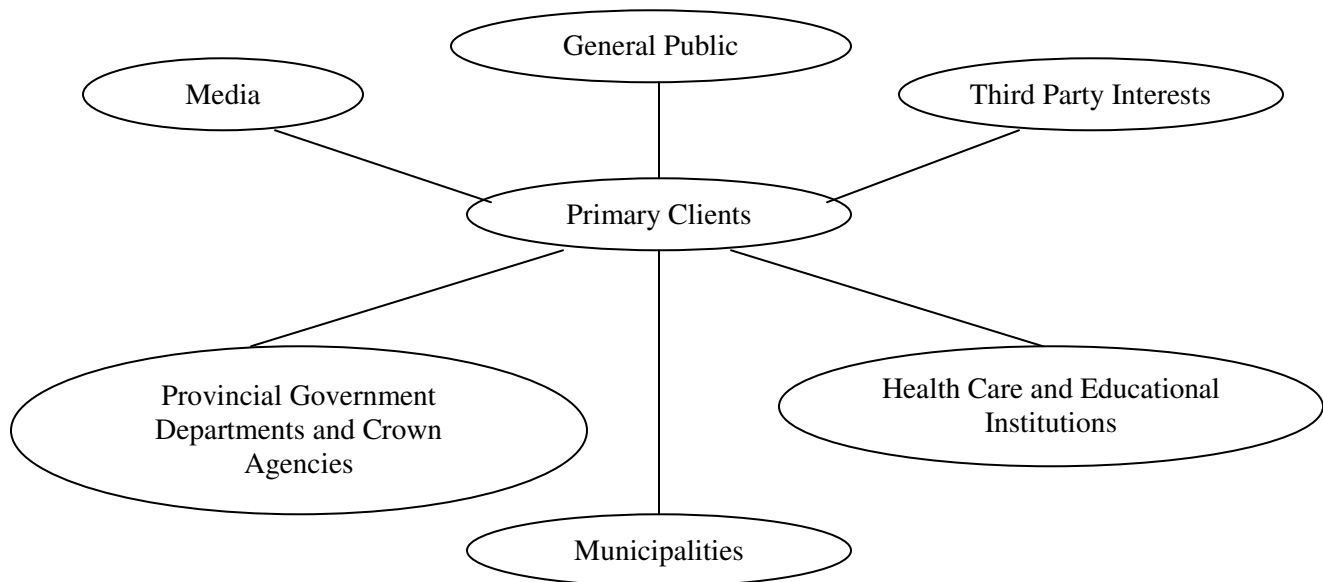
This Office values our role as an independent support and arbitrator for the citizens of the Province. Every effort is taken to insure our integrity such that we are trusted to represent them in their dealings with public bodies. The following actions flow from these value statements and will guide the Office as we move forward.



Value	Action Statements
Independence	Each individual will conduct investigations independent of any influence.
Integrity	Each individual will ensure the provision of accurate, unbiased advice and recommendations.
Confidentiality	Each individual will exercise absolute confidentiality in accordance with the <i>ATIPPA</i> .
Judgment	Each individual will use their professional knowledge and judgment in interpreting policies, practices and procedures in the interests of their clients.
Respect	Each individual listens to and considers the ideas and opinions of others and works collaboratively to achieve results.

Primary Clients

The Office of the Information and Privacy Commissioner defines its primary clients as those individuals who are the principle beneficiaries of the services which it provides. These clients are made up of two groups – those public bodies which have information and those people or groups which have rights to access that information. They include the following.



VISION

Our vision is one where public bodies operate in a fashion that is accountable to the people and transparent, always in consideration of the privacy rights of the citizens of Newfoundland and Labrador.

Mission

The mission statement of the Office of the Information and Privacy Commissioner outlines the priority focus over the next two planning cycles. It represents our plan for the future and identifies various measures and indicators which will assist in the monitoring and evaluation process.

Mission: By 2011, the Office of the Information and Privacy Commissioner will have improved the capacity and effectiveness of the Office such that the citizens of the Province enjoy the full measure of the access to information as well as the privacy rights which are guaranteed by the laws of the Province.

Measure: Improved capacity to provide service and support decisions.

Indicators:

- Reduced timeframes to conduct reviews
- Published review reports and recommendations
- Increased awareness
- Increased ability to deal with privacy complaints

Our Core Business


Goal 1: By 2008, the Office of the Information and Privacy Commissioner will have improved the capacity to provide service and support decisions

Discussion

Under the *ATIPPA*, the Commissioner's office attempts to resolve requests for review under Section 43 or complaints under Section 44 informally to the satisfaction of the applicant and the public body. Where an informal settlement is not successful within 30 days of receipt of the request, a formal review is conducted with a requirement that it be completed within 90 days of the request.

As of March 31, 2007 there are 30 active files for review relating to access to information requests. During the year ended March 31, 2007 the office received 101 Requests for Review compared to 55 Requests during the first fourteen months of operation of the Office ended March 31, 2006. This is an 83.6% increase. Based on these statistics, and our resources being severely stretched, authority was provided by the House of Assembly Management Commission to hire an additional Investigator in February. This brought the staffing level in addition to the Commissioner (part time) to four including the Executive Director, two Investigators and an Office Manager.

To date, meeting the timeframes outlined in the *ATIPPA* has been difficult in some cases, especially those which require the examination of thousands of documents and/or the utilization of specialized knowledge of access law, practices and technology. In such cases, applicants have been understanding, however it is not desirable to experience such instances and every effort is being taken to improve our report timing. As the workload increases, additional resources may indeed be required to achieve this goal.




Accessing information and providing the review mechanism to applicants in a timely fashion is key to enhancing public awareness and confidence about accountability and transparency. Delays, particularly on the review side could result in diminished respect for the Office of the Information and Privacy Commissioner. Delays also reflect on the fundamental right to know of the people of the Province.

When the privacy provisions of the *ATIPPA* are proclaimed this year, our resources will be stretched even further. In recognition of this, authority has also been provided by the House of Assembly Management Commission for an additional investigative position. At this point, we can only speculate on the level of privacy related activity which will ultimately be required of our Office. However, based on activity in other provincial jurisdictions, we expect it to be very demanding. In the meantime, our Office continues to investigate privacy issues on an informal basis leading up to the proclamation.

Measure: Improved capacity to provide service and support decisions.

Indicators:

- Increased capacity of the Office
- Processes for monitoring activity with respect to requests for review are enhanced
- Increased number of requests for review conducted within 90 days compared to the total number of review requests
- Increased number of requests for review which are resolved by informal processes compared to the total number of review requests



Goal 2: By 2008, the Office of the Information and Privacy Commissioner will have in place a comprehensive reporting and tracking process for its request for review reports.

Discussion

As required by the provisions of the *ATIPPA*, this Office conducts formal reviews of decisions, acts or failures to act by the heads of public bodies. Each review results in the preparation of a written report of the Commissioner with recommendations. This process is key to achieving the accountability and transparency commitments of the government.

In publishing such reports, applicants are provided with accurate and definitive discussions of the issues involved and the rationale for recommendations. Reports provide useful guidance to departmental coordinators, heads of government departments and institutions, and heads of government agencies and municipalities. In some cases, they should hopefully improve compliance with the legislation and the government's policies and procedures. They also provide information to the media and the general public and are an avenue for citizens to be aware of what is transpiring on issues that they may have an interest in, or on issues that they may have previously requested information.

Measure: Publish review reports and recommendations.

Indicators:

- Post the full text of all reports from this Office to our website www.gov.nl.ca/oipc


- Reports will indicate the name of the public body, but for privacy reasons not the applicant's name or other identification
- Develop an index by topic and by public body, to readily identify those reports which involve specific sections of the legislation

Goal 3: By 2008, the Office of the Information and Privacy Commissioner will have improved processes in place to increase awareness on the part of government departments and agencies, health and education bodies, and municipalities with respect to statutory requirements.

Discussion

During the two year period leading up to the proclamation of the access provisions of the *ATIPPA*, the Department of Justice which has responsibility for the administration of this *Act* conducted training programs aimed at informing all public bodies covered by the legislation about the access provisions of the *ATIPPA*. In addition, a comprehensive Policy and Procedures manual was prepared and distributed to those public bodies.

The Department of Justice is currently providing similar training with respect to the protection of privacy provisions of the *ATIPPA*. This Office is very supportive of those efforts and encourages the Department of Justice to continually review and update their training programs as well as their Policy and Procedures manual.




Despite the Department's efforts, this Office has encountered many instances of inconsistency in the treatment of applicants and their access requests. Various public bodies continue to demonstrate lower accountability standards than are required by the legislation. Often basic administrative standards are found to be lacking. This may be the result of complacency, staff turnover, lack of commitment/attention to the principles of accountability and transparency or even incompetence. Whatever the reason, this Office is often faced with attempting to resolve issues between applicants and public bodies which can and should be resolved through the exercise of good judgment, common sense and proper interpretation of the law.

This Office will continue to work with the Department of Justice and public bodies in the Province to promote effective training materials related to the *ATIPPA*. We will continue to correspond and meet with appropriate officials in public bodies to attempt to better explain the role and responsibilities of our Office and their obligations under the legislation.

Measure: Increase Awareness.

Indicators:

- Co-host a major conference in Newfoundland and Labrador focused on *ATIPPA*
- Maintain a close contact with the Department of Justice with respect to interpretation of the provisions of the *ATIPPA*
- Regularly address any misinterpretation of the *ATIPPA* with the related public bodies



Goal 4: By 2008, the Office of the Information and Privacy Commissioner will have adequate resources and procedures in place to deal with privacy complaints on a timely basis.

Discussion

The privacy rights of the people of the Province are equally important as their access to information rights. Consequently many of the above discussions related to access also apply to privacy rights as well. Government has clearly identified privacy protection as a priority and this Office is committed to investigate complaints under the privacy provisions of the *ATIPPA* in a timely fashion and without undue delay.

Since the inception of this Office, we have dealt in an informal fashion, ie. without legislative responsibility, with various privacy related issues and complaints. As the privacy provisions of the *ATIPPA* become law, and as the public bodies and the citizens of the Province become more aware of their responsibilities and rights, the efforts of this Office will be divided based upon activity and need between access and privacy. It is critical that the perception of public cynicism about privacy rights stemming from the many privacy breaches which have occurred on the national scene be addressed. Citizens must be reassured of their fundamental right of privacy and all efforts must be taken to renew their confidence in public bodies and in particular the collection, use and disclosure by public bodies of their personal information.

Consequently, as privacy complaints are channeled to this Office, citizens must understand that their issues will be given priority and attention. Where appropriate, their complaints will be the

subject of a full investigation, they will be contacted for further information and confirmation of issues, and they will be kept up to date on progress and provided with the results of our investigation.



Measure: Increase the ability to deal with privacy complaints.

Indicators:

- Hire an additional investigator to assist in dealing with privacy issues by September 30, 2007
- Acknowledge privacy complaints within two days of receipt
- Conduct investigations of privacy complaints and resolve the issues and/or issue a report within 90 days
- Publish reports on significant privacy complaints on our website www.gov.nl.ca/oipc