

NOV 25 2020

Honourable David B. Orsborn, Committee Chair  
ATIPPA Statutory Review 2020  
3<sup>rd</sup> Floor, Beothuck Building  
20 Crosbie Place  
St. John's, NL A1B 3Y8

Dear Mr. Orsborn:

In response to your letter dated September 29, 2020, please find below the Department of Children, Seniors and Social Development's (CSSD) feedback for the five-year review of the **Access to Information and Protection of Privacy Act, 2015** (ATIPPA). CSSD offers this feedback for your consideration:

- While the duty to assist the applicant is outlined in section 13, there is no obligation for the applicant to work with the ATIPP Coordinator to ensure the access request is completed in a timely and efficient manner. There are many instances when clarification and direction is required from the applicant; however, they may not respond to the Department's request for contact in a timely matter, or at all. I recommend consideration of a legislative amendment which stops the clock while awaiting contact from the applicant and a fixed time, such as 30 days, whereby the request could be disregarded for failure to follow up. Notification could be provided to the applicant in writing and shared with the Office of the Information and Privacy Commissioner (OIPC), this procedure being similar to extension notifications.
- Related to the point above, deadlines assigned to transfers and disregards sometimes place difficult restrictions on public bodies, as they do not take into account the potential need for further clarification from applicants. The time to carry out this clarification (which is not always received) may delay and impede a public body's ability to transfer or apply for a disregard, even when it is clearly necessary. To address this issue, I recommend consideration of a legislative amendment which stops the clock while awaiting contact from the applicant and a fixed time, such as 30 days, whereby the request could be disregarded for failure to follow up.
- Changes stemming from the previous statutory review directed government bodies to provide a full response within 20-business days, introduced a time limit of 10-business day to complete the search for records and no longer allowed an extension of the 20-day response time without approval from the OIPC. CSSD has noted a significant increase in the complexity and number of access requests (CSSD's requests tripled in 2019) that may constitute a critical need for an extension. Additionally, consultations between

departments is also on the rise. I recommend consideration of a legislative amendment that would allow the head of a public body to extend the time to provide a full response from 20 to a maximum of 30 business days where required, with subsequent requests requiring the approval of the OIPC.

- Section 34 provides public bodies with a discretionary exemption that allows for intergovernmental relations or information to be protected from disclosure. While the Nunatsiavut Government is specifically identified in this section, all other Indigenous Government Organizations (IGOs) in the province are excluded. Therefore, we have the ability to withhold information/records concerning the Nunatsiavut Government while information/records related to other IGOs would have to be released. I recommend consideration of a legislative amendment that would treat all Indigenous groups equitably.
- This department currently has three pieces of legislation listed under Schedule A of ATIPPA which prevail over the Act. The provision for the **Adoption Act (AA)**, **Adult Protection Act (APA)** and **Children, Youth and Families Act (CYFA)** should continue to remain as this legislation governs extremely personal information that must be protected and the right to privacy far outweighs the public's right to know.

These Acts primarily involve personal information of the individuals, rather than information respecting governmental operations:

- the CYFA protects the information that must be collected for the safety and well-being of the children who are in need of protective intervention;
- the APA protects the information that must be collected for the safety and well-being of adults who need intervention; and
- the AA protects the information that must be collected for the adoption of a child and in their best interests.

The processes in place for the management of access to and disclosure of information under the ATIPPA are not at all suitable for the management of this sort of information.

Thank you for the opportunity to provide a submission for consideration as you conduct the five-year review of the ATIPPA.

Sincerely,



**HON. BRIAN WARR, MHA**  
District of Baie Verte – Green Bay  
Minister